

(7) Include, pursuant to § 80.12 of this subchapter, a certified copy of the flood plain management regulations setting forth standards for State-owned properties within A, AO, AH, AI-30, AE, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, VI-30, VE, and E Zones.

(b) The Administrator shall determine the adequacy of the insurance provisions whether they be based on available funds, an enforceable commitment of funds, commercial insurance, or some combination thereof, but has discretion to waive specific requirements under this part.

[41 FR 46991, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44544, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 49 FR 5621, Feb. 14, 1984; 50 FR 36029, Sept. 4, 1985; 59 FR 53601, Oct. 25, 1994]

§ 75.12 Application by a State for exemption.

Application for exemption made pursuant to this part shall be made by the Governor or other duly authorized official of the State accompanied by sufficient supporting documentation which certifies that the plan of self-insurance upon which the application for exemption is based meets or exceeds the standards set forth in § 75.11.

§ 75.13 Review by the Director.

(a) The Administrator may return the application for exemption upon finding it incomplete, or upon finding that additional information is required in order to make a determination as to the adequacy of the self-insurance plan.

(b) Upon determining that the State's plan of self-insurance is inadequate, the Administrator shall in writing reject the application for exemption and shall state in what respects the plan fails to comply with the standards set forth in § 75.11 of this subpart.

(c) Upon determining that the State's plan of self-insurance equals or exceeds the standards set forth in § 75.11 of this subpart, the Director shall certify that the State is exempt from the requirement for the purchase of flood insurance for State-owned structures and their contents located or to be located in areas identified by the Director as

A, AO, AH, AI-30, AE, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, VI-30, VE, and E Zones. Such exemption, however, is in all cases provisional. The Director shall review the plan for continued compliance with the criteria set forth in this part and may request updated documentation for the purpose of such review. If the plan is found to be inadequate and is not corrected within ninety days from the date that such inadequacies were identified, the Director may revoke his certification.

(d) Documentation which cannot reasonably be provided at the time of application for exemption shall be submitted within six months of the application date. The Administrator may revoke his certification for a State's failure to submit adequate documentation after the six month period.

[41 FR 46991, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44544, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 49 FR 5621, Feb. 14, 1984; 50 FR 36029, Sept. 4, 1985; 59 FR 53601, Oct. 25, 1994]

§ 75.14 States exempt under this part.

The following States have submitted applications and adequate supporting documentation and have been determined by the Administrator to be exempt from the requirement of flood insurance on State-owned structures and their contents because they have in effect adequate State plans of self-insurance: Florida, Georgia, Iowa, Kentucky, Maine, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Tennessee, and Vermont.

[48 FR 44544, Sept. 29, 1983, as amended at 57 FR 19542, May 7, 1992]

PART 76 [RESERVED]

PART 77—ACQUISITION OF FLOOD DAMAGED STRUCTURES

General Provisions

Sec. 77.1 Definitions.

77.2 Criteria for acquisition.

AUTHORITY: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12148.

(1) Include the flood loss experience for State-owned structures and their contents based upon incurred losses for period of not less than the 5 years immediately preceding application for exemption, and certify that such historical information shall be maintained and updated.

(2) Provide the flood loss experience for State-owned structures and their contents based upon incurred losses for period of not less than the 5 years immediately preceding application for exemption, and certify that such historical information shall be maintained and updated.

(3) Include an estimate of the current replacement costs of such structures and their contents, or of their current economic value; and

(4) Include an estimate of the anticipated annual loss due to flood damage.

(5) Provide the flood loss experience for State-owned structures and their contents based upon incurred losses for period of not less than the 5 years immediately preceding application for exemption, and certify that such historical information shall be maintained and updated.

GENERAL PROVISIONS

§ 77.1 Definitions.

(a) Definitions found in § 59.1 of this subchapter are applicable to this section.

(b) Furthermore, the following definitions are established:

Damaged, substantially beyond repair means where (a) damages to the improved real property are such that as a condition of repair as imposed by a State or local government, the structure must be elevated or floodproofed to or above the 100-year flood elevation, or (b) damages to the improved real property equals or exceed 50 percent of the structure's fair market or actual cash value, whichever is less, or (c) where damages to the improved real property are such that repair is physically impossible or infeasible.

Flood risk area See definition for Special Hazard Area in § 59.1, or other area subject to flooding as determined by the Administrator.

Significantly increased construction cost occurs when a specific State or local statute, ordinance, or code requires that improvements be made to a structure as a condition of the repair of damages sustained, such that the actual cost of repair would be greater by 25 percent than the cost which would be required for repair of the damages only.

Sound land management and use The process wherein the governmental body responsible for land use regulation in a political jurisdiction plans and regulates the use of land within its jurisdiction in order to promote the reduction of property exposure to flood hazard and the protection of environmental values of flood plains. Sound use of land acquired by FEMA and transferred to local governments pursuant to section 1362 of Public Law 95-128 is use for primarily open-space and recreational purposes to minimize potential for any future flood damage, with a general prohibition of enclosed structures unless functionally dependent for some recreational or open space use. The criteria set forth in paragraphs (d)(1) through (4) of § 77.2 and restrictions to be placed in deeds used to convey title to real property from the Federal Government to local governments will set

75.2 Definitions.

75.3 Burden of proof.

75.2 Definitions.

75.3 Burden of proof.

Subpart B—Standards for Exemption

75.10 Applicability:

75.11 Standards.

75.12 Application by a State for exemption.

75.13 · Review by the Director.

75.14 States exempt under this part.

AUTHORITY: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 378.

SOURCE: 41 FR 46991, Oct. 26, 1976, unless otherwise noted. Redesignated at 44 FR 31177, May 31, 1979.

Subpart A—General

§ 75.1 Purpose of part.

The purpose of this part is to establish standards with respect to the Director's determinations that a State's plan of self-insurance is adequate and satisfactory for the purposes of exempting such State, under the provisions of section 102(c) of the Act, from the requirement of purchasing flood insurance coverage for State-owned structures and their contents in areas identified by the Director as A, AO, AH, AI-30, AE, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, VI-30, VE, and E Zones, in which the sale of insurance has been made available, and to establish the procedures by which a State may request exemption under section 102(c).

§ 75.2 Definitions.

The definitions set forth in part 59 of this subchapter are applicable to this part.

§ 75.3 Burden of proof.

In any application made by a State to the Administrator for certification of its self-insurance plan, the burden of proof shall rest upon the State making application to establish that its policy of self-insurance is adequate and equals or exceeds the standards provided in this part.

(1) The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;

(2) A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;

(3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

(4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

(5) A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

§ 73.4 Restoration of flood insurance coverage.

(a) Insurance availability shall be restored to a property upon a finding by the Administrator of a valid rescission of a declaration of a violation.

(b) A valid rescission shall be submitted to the Administrator and shall consist of:

(1) The name of the property owner(s) and an address or legal description of the property sufficient to identify the property and to enable FEMA to identify the previous declaration;

(2) A clear and unequivocal statement by an authorized public body rescinding the declaration and giving the reason(s) for the rescission;

(3) A description of and supporting documentation for the measures taken in lieu of denial of insurance in order to bring the structure into compliance with the local flood plain management regulations; and

(4) A clear statement that the public body rescinding the declaration has the authority to do so and a citation to that authority.

PART 74 [RESERVED]

PART 75—EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF-INSURANCE PLAN

Subpart A—General

Sec. 75.1 Purpose of part.

2 - Definitions:

Denial of Flood Insurance coverage. Restoration of Flood Insurance coverage.

AUTHORITY: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.
SOURCE: 51 FR 30318, Aug. 25, 1986, unless otherwise noted.

3.1 Purpose of part.

This part implements section 1316 of a National Flood Insurance Act of

3.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in part 59 of this subchapter are applicable to this part.

...or the purpose of this part a *duly authorized State or local zoning authority* means an *other authorized public body* means an official or body authorized under State or local law to declare a structure to be in violation of a law, regulation or ordinance.

(c) For the purpose of this part, State local laws, regulations or ordinances intended to discourage or restrict development or occupancy of flood-prone areas are measures such as those defined as flood plain management regulations in § 9.1 of this subchapter. Such measures are referred to in this part as State or local flood plain management regula-

73.3 Denial of flood insurance coverage.

(a) No new flood insurance shall be provided for any property which the Administrator finds has been declared a disaster area by the Administrator, unless the property is owned by a duly constituted State or local government, or by a duly authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(b) New and renewal flood insurance shall be denied to a structure upon a finding by the Administrator of a valid declaration of a violation.

(c) States and communities shall determine whether to submit a declaration to the Administrator for the denial of insurance.

(d) A v. Declaration shall consist of: