

(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, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1-30, 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.

**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 forth more specific requirements to be used in determining what constitutes sound Land Management and Use for individual land parcels.

[45 FR 50282, July 28, 1980, as amended at 48 FR 44553, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

#### § 77.2 Criteria for acquisition.

(a) The objectives of the Flooded Property Purchase Program under the National Flood Insurance Program are:

(1) To reduce future flood insurance and disaster assistance costs by removing repetitively and/or substantially damaged structures from flood risk areas;

(2) To provide an opportunity for owners of repetitively and substantially damaged structures to be permanently removed from flood risk areas, and to reduce risk to life from flooding; and

(3) To complement Federal, State and local efforts to restore flood plain values, protect the environment and provide recreational and open space resources.

(b) The Administrator will, when he or she deems it to be in the public interest, enter into negotiation with property owners whose improved real property has been damaged by flooding for the purpose of purchasing such buildings and associated land or lot for transfer by sale, lease, or donation to a community when the following conditions are met:

(1) The property must be located in a flood risk area as determined by the Administrator;

(2) The property must have been covered by a flood insurance policy under

the National Flood Insurance Program at the time damage took place.

(3) The building, while covered by flood insurance under the National Flood Insurance program, must have been damaged substantially beyond repair or must have been damaged not less than three previous times during the preceding five year period, each time the cost of repair equalling 25 percent or more of the structure's value, or must have been damaged from a single casualty of any nature so that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at significantly increased cost.

(4) A State or local community must enter into an agreement authorized by ordinance or legally binding resolution to take title to and manage the property in a manner consistent with sound land management use as determined by the Administrator.

(5) The community must agree to remove without cost to the Federal Emergency Management Agency (FEMA), by demolition, relocation, donation or sale any damaged structures to which the community accepts title from FEMA, provided the Administrator may, when it is in the public interest to do so, agree to assume a part or all of the cost of such removal.

(c) Title to the real property acquired by FEMA shall be conveyed to local communities subject to specific restrictive covenants, conditions and agreements which will run with the land and be binding on subsequent successors, grantees and assigns. These restrictive covenants, conditions and agreements will be recited in the deed a community receives from FEMA and the community shall join in the execution of the deed.

(d) The general criteria from which specific deed restrictions will be developed may include, among other things, that:

(1) The land must be dedicated in perpetuity for open space purposes, or such other purposes as the Administrator may agree are consistent with the objectives set forth in paragraphs (a)(1) through (3) of this section; that the community shall faithfully manage the land for its dedicated purposes; that the community shall not erect or

permit to be erected and structures or other improvements on the land unless such structures are, except for restrooms, open on all sides and functionally related to a designated open space use without the prior approval in writing of the Administrator; and that the community shall not permit any use which will create a threat to human life from flooding.

(2) In general, allowable open space uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved parking lots, buffer zones, or open space areas that are part of Planned Unit Developments (PUD's). Structures functionally related to these uses are open-sided picnic and camping facilities, kiosks and refreshment stands or non-habitable, elevated or floodproofed service structures associated with a marina.

(3) The rights to enforce the restrictive covenants shall be assigned to the Administrator as assignee, together with a declaration that any future violation of the restrictive covenants or agreements, delivered in writing to the Chief Executive Officer within thirty (30) days from the date the Administrator receives actual notice of the violation, shall be deemed at the Administrator's option to cause a reversion of title to FEMA.

(4) The property shall be transferred subject to zoning and building laws and ordinances; easements, agreements, reservations, covenants and restriction of record; any state of facts an accurate survey might show; encroachments and variations from the record lines of hedges, retaining walls, sidewalks and fences;

(e) Any structures, as described at paragraph (d)(2) of this section, and built in accordance with the deed restrictions shall be floodproofed or elevated to withstand the effects of the 500 year or .02 percent chance flood.

(f) Appraisals for the determination of compensation for flood damaged real property will be undertaken in conformance with the "Uniform Appraisal

Standards for Federal Land Acquisitions" published by the Inter-agency Land Acquisition Conference, GPO (1973). Appraisals will reflect the adjusted (for time) pre-damage fair market value (FMV) of the structure and land to the extent that this FMV may have been reduced or depressed in the open market as a result of flooding. Actual compensation of FMV will be inclusive of any flood insurance claim payments made or to be made as a result of the most recent flood event to the extent that repairs have not yet been made.

(g) Agreement to sell real property on the part of owners will be completely voluntary. No property owners will be required to sell their properties under section 1362.

(h) Relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 *et seq.*) is not available to property owners who sell their properties under section 1362.

[45 FR 50282, July 28, 1980, as amended at 48 FR 44553, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 49 FR 33879, Aug. 27, 1984]

**PARTS 78–79 [RESERVED]**

FEDERAL CRIME INSURANCE PROGRAM

**PART 80—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS**

- Sec.
- 80.1 Definitions.
- 80.2 Description of program.
- 80.3 Operation of program and inapplicability of State laws.
- 80.4 Offer to pay commissions to State licensed property insurance agents and brokers for submitting applications on behalf of purchasers for Federal crime insurance.
- 80.5 Duties of servicing companies.
- 80.6 Name and address of invoicing company.

AUTHORITY: 12 U.S.C. 1749bbb *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

**§ 80.1 Definitions.**

(a) As used in this subchapter and in the crime insurance policies issued by the Federal Insurance Administrator, unless otherwise defined in the text of such policies—