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intended to discourage or restrict development or occupancy of flood-prone areas are measures such as those defined as *Flood plain management regulations* in § 59.1 of this subchapter. Such measures are referred to in this part as State or local flood plain management regulations.

§ 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 by a duly constituted State or local zoning authority or other 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 valid declaration shall consist of:

(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.

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(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.

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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.

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 Administrator's determinations that a State's plan of self-insurance is adequate and satisfactory for the purposes of exempting such State, under the

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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 Administrator 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, 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).

[62 FR 55719, Oct. 27, 1997]

§ 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.

Subpart B—Standards for Exemption

§ 75.10 Applicability.

A State shall be exempt from the requirement to purchase flood insurance in respect to State-owned structures and, where applicable, their contents located or to be located in areas identified by the Administrator 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, and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, provided that the State has established a plan of self-insurance determined by the Administrator to equal or exceed the standards set forth in this subpart.

[62 FR 55719, Oct. 27, 1997]

§ 75.11 Standards.

(a) In order to be exempt under this part, the State's self-insurance plan shall, as a minimum:

(1) Constitute a formal policy or plan of self-insurance created by statute or

regulation authorized pursuant to statute.

(2) Specify that the hazards covered by the self-insurance plan expressly include the flood and flood-related hazards which are covered under the Standard Flood Insurance Policy.

(3) Provide coverage to state-owned structures and their contents equal to that which would otherwise be available under a Standard Flood Insurance Policy.

(4) Consist of a self-insurance fund, or a commercial policy of insurance or re-insurance, for which provision is made in statute or regulation and that is funded by periodic premiums or charges allocated for state-owned structures and their contents in areas identified by the Administrator 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. The person or persons responsible for such self-insurance fund shall report on its status to the chief executive authority of the State, or to the legislature, or both, not less frequently than annually. The loss experience shall be shown for each calendar or fiscal year from inception to current date based upon loss and loss adjustment expense incurred during each separate calendar or fiscal year compared to the premiums or charges for each of the respective calendar or fiscal years. Such incurred losses shall be reported in aggregate by cause of loss under a loss coding system adequate, as a minimum, to identify and isolate loss caused by flood, mudslide (i.e., mudflow) or flood-related erosion. The Administrator may, subject to the requirements of paragraph (a)(5) of this section, accept and approve in lieu of, and as the reasonable equivalent of the self-insurance fund, an enforceable commitment of funds by the State, the enforceability of which shall be certified to by the State's Attorney General, or other principal legal officer. Such funds, or enforceable commitment of funds in amounts not less than the limits of coverage that would be applicable under Standard Flood Insurance Policies, shall be used by the State for the repair or restoration of State-owned structures and their contents damaged

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as a result of flood-related losses occurring in areas identified by the Administrator 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.

(5) Provide for the maintaining and updating by a designated State official or agency not less frequently than annually of an inventory of all State-owned structures and their contents within 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. The inventory shall:

(i) Include the location of individual structures;

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

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

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

(7) Include, pursuant to § 60.12 of this subchapter, a certified copy of the flood plain management regulations setting forth standards for State-owned properties within 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.

(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; 62 FR 55719, Oct. 27, 1997]

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§ 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 Administrator 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 Administrator 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 Administrator 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 Administrator 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

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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; 62 FR 55719, Oct. 27, 1997]

§ 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]

PARTS 76–77 [RESERVED]

PART 78—FLOOD MITIGATION ASSISTANCE

Sec.

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- 78.4 Applicant eligibility.
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AUTHORITY: 42 U.S.C. 4001 *et seq.*; 42 U.S.C. 4104c, 4104d; 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.

SOURCE: 62 FR 13347, Mar. 20, 1997, unless otherwise noted.

§ 78.1 Purpose.

(a) The purpose of this part is to prescribe actions, procedures, and requirements for administration of the Flood Mitigation Assistance (FMA) program,

authorized by Sections 1366 and 1367 of the National Flood Insurance Act of 1968, 42 U.S.C. 4104c and 4104d.

(b) The purpose of FMA is to assist State and local governments in funding cost-effective actions that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other insurable structures. The long-term goal of FMA is to reduce or eliminate claims under the National Flood Insurance Program (NFIP) through mitigation activities. The program provides cost-shared grants for three purposes: Planning Grants to States and communities to assess the flood risk and identify actions to reduce that risk; Project Grants to execute measures to reduce flood losses; and Technical Assistance Grants that States may use to assist communities to develop viable FMA applications and implement FMA projects. FMA also outlines a process for development and approval of Flood Mitigation Plans.

§ 78.2 Definitions.

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

(b) *Community* means:

(1) A political subdivision, including any Indian tribe or authorized tribal organization or Alaskan native village or authorized native organization, that has zoning and building code jurisdiction over a particular area having special flood hazards, and is participating in the NFIP; or

(2) A political subdivision of a State, or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of paragraph (b)(1) of this section.

§ 78.3 Responsibilities.

(a) *Federal*. The Director will allocate available funds to each FEMA Region. The FEMA Regional Director will:

(1) Allocate Technical Assistance and Planning Grants to each State through the annual Cooperative Agreements;

(2) Approve Flood Mitigation Plans in accordance with § 78.6; and

(3) Award all FMA project grants, after evaluating applications for minimum eligibility criteria and ensuring