H. Where Are the Revised State Rules Different From the Federal Rules?

Delaware's regulations now require that within 10 days of acceptance by a transporter, a copy of the manifest must be sent to the State in which the generator is located and to the State in which the facility is located. Only the 10-day deadline is a new requirement. The Federal program does not require routine transmission of manifests to States. Therefore, the State requirement remains broader in scope than the Federal program.

I. Who Handles Permits After This Authorization Takes Effect?

After authorization, Delaware will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits, or portions of permits, which we issued prior to the effective date of this authorization until such time as formal transfer of EPA permit responsibility to Delaware occurs and EPA terminates its permits. EPA and Delaware agree to coordinate the administration of permits in order to maintain consistency. EPA will not issue any new permits or new portions of permits for the provisions listed in the chart in section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Delaware is not yet authorized.

J. What is Codification and is EPA Codifying Delaware's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR 272. We reserve the amendment of 40 CFR part 272, subpart I for this authorization of Delaware's program changes until a later date.

K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action does not have tribal implications within meaning of Executive Order 13175 (65 FR 68249, November 6, 2000). This action does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant and does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the Attorney Generals' ''Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report continuing this document and other required information to the U.S. Senate, the U.S. House Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective April 29, 2002.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 15, 2002.

Donald S. Welsh,

Regional Administrator, EPA Region III.

[FR Doc. 02–4528 Filed 2–26–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067–AD27

National Flood Insurance Program (NFIP); Increased Rates for Flood Coverage

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: We (the Federal Insurance and Mitigation Administration of FEMA) are increasing the amount of premium policyholders pay for flood insurance coverage under the NFIP for ''pre-FIRM'' buildings in coastal areas subject to high velocity waters, such as storm surges and wind-driven waves (*i.e.,* ''V'' zones). (The term ''pre-FIRM buildings'' means buildings whose construction began on or before December 31, 1974, or the effective date of the community's Flood Insurance Rate Map (FIRM), whichever date is later. Pre-FIRM buildings and their contents are eligible for subsidized rates under the NFIP.) This rate increase brings the premiums we charge for pre-FIRM, V-zone properties more in line with their actual risk.

EFFECTIVE DATE: May 1, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Hayes, Federal Emergency Management Agency, Federal Insurance and Mitigation Administration, 500 C Street SW., Washington, DC 20472, 202–646–3419, (facsimile) 202–646–7970, (email) *Thomas.Hayes@fema.gov.*

SUPPLEMENTARY INFORMATION:

Summary of Comments

On December 3, 2001, we published at 66 FR 60176 a proposed rule to increase the rates we charge under the NFIP for flood insurance coverage for pre-FIRM properties located in V-zone areas.

During the comment period, we received four sets of comments. Two writers supported the proposal; two opposed it.

The two supporting the proposal represent insurance companies participating in the NFIP's Write Your Own program. The two opposing the rate changes are a State Coordinator for the NFIP and the Insurance Committee of the Association of State Floodplain Managers, a national association promoting sound floodplain management and flood hazard mitigation as well as flood preparedness, warning and recovery.

Lower Rates in Non-SFHAs

One of the insurance companies supporting the proposed rate increase suggested that there should also be a decrease in rates for ''very low risk exposures in non-SFHA zones.'' (''SFHA'' zones are ''special flood hazard areas'' shown on FEMA's flood maps.)

We are already doing this. The NFIP currently offers lower rates for flood coverage under the Preferred Risk Policy (PRP), available only to properties in Zones B, C, and X. (These zones are areas of moderate or minimal flood hazards from the primary water source.) One may buy a PRP totaling $30,000 worth of building coverage and $8,000 worth of contents coverage for a building without a basement or enclosure for $131—well below the premium for comparable coverage in an A-zone area or a V-zone area. The lower premium we charge for PRPs is consistent with the commenter's recommendation.

Opposition to the Rate Increase

The two opponents of the rate change raised questions about the need for a comprehensive approach to reduce flood losses, the amount of the rate increase, the accuracy of the maps used for ratemaking, and erosion mapping. We will address their issues under the headings below.

Need for a Comprehensive Approach

The Insurance Committee of the Association of State Floodplain Managers (ASFPM) contended ''that any rate increase must be part of an overall effort to evaluate all measures to reduce flood losses, and such measures must not be based solely on increasing income by increasing the cost of flood insurance, but need to focus on mitigation measures to reduce claims against the NFIP.''

We agree with this recommendation. This rate increase is part of a comprehensive approach we are currently pursuing to reduce the subsidy for the NFIP. We have also developed strategies for addressing the costliest drain on the NFIP—repetitive loss properties insured under the NFIP. Ten thousand of those properties currently insured under the NFIP have had four or more flood losses, or two or three losses that cumulatively exceed the value of the building. Within the scope of our budget authority for fiscal year 2002, we will target the riskiest flood-prone properties, especially the repetitive flood loss structures, for mitigation activities, such as relocation, elevation, floodproofing, and other mitigation measures through mitigation grants with the States.

This rate increase is only one incremental step in a much larger campaign to reduce the exposure of property to flood damages, insure more of the Nation's property owners against flood loss, and mitigate future flood losses so that we can continue to operate the NFIP on a financially sound basis.

Taking this step—a modest rate increase for the first layer of coverage for pre-FIRM, V-zone properties—is not at odds with nor does it prevent us from proceeding in other areas such as mitigating repetitive flood loss properties, reducing the subsidy for the NFIP, and promoting the sale of flood insurance. We will also continue to use every opportunity, such as this modest rate increase, to reduce the NFIP's subsidy and mitigate future flood damage.

Amount of Rate Increase

The Insurance Committee of the ASFPM, which opposes the rate increase, also said that the rate increases ''range from 10% to 11.5% in rates for pre-FIRM Velocity Zone structures.'' This is inaccurate. As we said in the proposed rule, ''these proposed increases apply only to the rates for the ''first layer'' of flood insurance coverage.'' It is estimated that the average total premium for all pre-FIRM, V-zone policyholders will increase to $936, an increase of 6.3% over their current average premium.

This rate increase, therefore, falls within the statutory limit for rate increases imposed by Section 572 of the National Flood Insurance Reform Act of 1994, Pub. L. 103–325, 42 U.S.C. 4015. The corresponding rate increases for other classes of property affected by this rule also fall under this statutory limit.

Exposure to Loss for V-Zone Properties

One opponent of the rate increase argued that we should not increase rates for pre-FIRM, V-zone properties since pre-FIRM, V-zone policyholders in the State of Alaska are already paying ''far beyond what the already high premiums have paid out in claims.'' This opponent also pointed out that a review of the total claims paid for pre-FIRM, V-zone properties in Alaska ''does not support the FEMA assertion that pre-FIRM, V-zone properties are 'a particularly risky class of properties.' ''

The H. John Heinz III Center for Science, Economics and the Environment, which conducted for FEMA a Congressionally-mandated study evaluating erosion hazards, disagrees with this position. The Heinz Center's report characterizes the ''V zone'' as the ''most hazardous coastal flood risk zone.'' (See page 39 of *Evaluation of Erosion Hazards,* April 2000). The report, which can be found on FEMA's web site at: *http://www.fema.gov/library/erosion.pdf,* also points out that current insurance rates under the NFIP ''do not reflect the magnitude of the erosion risk faced by any individual policyholder.'' Since V-zone areas—the areas affected by this rule—contain areas subject to erosion, this rate increase will help close the gap somewhat for this rate insufficiency

under the existing mapping authority FEMA has.

We would also point out that there are 4.3 million policies currently in force under the NFIP nationwide; 2,260 flood insurance polices are currently in force in Alaska. Of Alaska's 2,260 flood insurance policies, only eleven (11) are written on properties located in V-zone areas. Those eleven policies for V-zone properties in Alaska do not represent a credible group on which to make ratemaking decisions for pre-FIRM, V-zone properties across the entire country. We need a much larger population of risks to make ratemaking decisions—decisions that will affect similar classes of risks for a national program. We estimate that the proposed rates for first layer V-zone coverage are less than 20% of the full-risk actuarial rate for that layer. We have based this rate increase on the loss experience and loss expectations for all-pre-FIRM, V-zone properties under the NFIP.

Also, we would argue that the limited losses experienced by V-zone properties in Alaska does not result from their lower exposure to loss but rather from the low number of flood insurance policies (eleven) written on properties in Alaska's V-zone areas and the resulting extended time periods needed for the true exposure to emerge.

The Issue of Erosion

The commenter says, ''A much riskier class of properties appears to be structures subject to the threat of coastal erosion where a large percentage—at least in Alaska—are paying Preferred Risk Premium Rates but probably are subject to catastrophic loss or substantial damage and not located within a mapped flood zone.''

The Heinz Center study for FEMA concluded that the risk to properties in coastal areas is increasing, that the premium rates for flood insurance in coastal areas will in the future be too low, and that Congress should give FEMA the funds and mandate to map areas subject to coastal erosion—about ⅓ of the properties along the coast. Lacking the authority at present to isolate properties in V-zone areas that are subject to erosion risks, this modest rate increase for V-zone properties is a step toward bringing premiums in line with a risk that the Heinz Center study demonstrates is worsening.

Comparison of May 1, 2002 Rate Increases With Current Rates

The following chart compares the current rates we charge for pre-FIRM, V-zone properties with the rate increases for pre-FIRM, V-zone properties to go into effect May 1, 2002. The rates for pre-FIRM, A-zone properties are unaffected by this change. Also these increases apply only to the rates charged for the ''first layer'' of flood insurance coverage set by Congress in Section 1306 of the National Flood Insurance Act of 1968, as amended (Pub.L. 90–448):

Type of structure	Current V zone[1] rates per year per $100 coverage on:		To take effect May 1, 2002: V zone rates per year per $100 coverage on:	
	Structure	Contents	Structure	Contents
1. Residential:				
No Basement or Enclosure	.82	.95	.91	1.06
With Basement or Enclosure	.88	.95	.98	1.06
2. All other including hotels and motels with normal occupancy of less than 6 months duration:				
No basement or Enclosure	.95	1.90	1.06	2.10
With basement or Enclosure	1.01	1.90	1.12	2.10

[1] V zones are zones V1–V30, VE, and unnumbered V zones.

Adequacy of FEMA's V-zone Maps

The opponents of the rate increase also argued that V-zone maps need to be updated, and that, until such updating is made and inaccuracies corrected, the rate increase is inappropriate. We recognize that flood maps need to be updated periodically—especially those containing erosion-prone areas where the flood hazard is increasing. That is why we are committed to a multi-million dollar map modernization effort for this fiscal year and beyond; however, to delay needed rate adjustments for a national program on the basis of specific disputed maps or studies would be an overreaction. There are procedures in place for restudying and remapping flood-prone areas; we also have regulatory procedures in place for appealing flood elevations derived from our studies and for correcting or amending published maps by letter. We will refer the expressions of concern about our V-zone maps in general, as well as the specific examples of Alaska's V-zone maps, for consideration and appropriate action within the Federal Insurance and Mitigation Administration.

Request for an Extension of the Comment Period

The two opponents of the rule also pointed out that the 30-day comment period fell within the holiday season, and they asked us to consider an extension beyond January 2, 2002. We contacted the Association of State Floodplain Managers to let them know that, while we will not extend the comment period, we would wait until January 14, 2002—an additional two weeks—to assure them that we would consider any comments that may have been in transit at the close of the comment period. We also pointed out that the proposed rule also offered the public the options to submit comments by email and facsimile. The FEMA Rules Docket Clerk reported that no additional comments were received between January 2, 2002—the official end of the comment period—and January 14, 2002, the last day we would accept any outstanding comments or comments that may have been in the mail at the end of the comment period. In line with the Association's suggestion during that telephone conversation, we will do our best to ensure that any future proposed rate increase will be published well before the holiday season to avoid any potential inconvenience to the public or interested stakeholders.

National Environmental Policy Act of 1969

Under section 102(2) (C) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4317 *et seq.*, the implementing regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, and FEMA's regulations on Environmental Considerations, 44 CFR part 10, we

conducted an environmental assessment of this rule. The assessment concludes that there will be no significant impact on the human environment as a result of the issuance of this final rule, and no Environmental Impact Statement will be prepared. Copies of the environmental assessment and Finding of No Significant Impact are on file for inspection through the Rules Docket Clerk, Federal Emergency Management Agency, room 840, 500 C St. SW., Washington, DC 20472.

Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this rule under the provisions of E.O. 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

For the reasons that follow we have concluded that the rule is neither an economically significant nor a significant regulatory action under the Executive Order. The rule would result in a modest increase in premiums for V-zone, pre-FIRM buildings and their contents. The adjustment in premiums rates will increase by slightly less than $3 million the amount of premium collected and deposited in the National Flood Insurance Fund each year. It will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, the insurance sector, competition, or other sectors of the economy. It will create no serious inconsistency or otherwise interfere with an action taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Office of Management and Budget has not reviewed this rule under the provisions of Executive Order 12866.

Paperwork Reduction Act

This rule does not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act.

Executive Order 13132, Federalism

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this rule under E.O.13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. The rule would adjust the premiums for pre-FIRM buildings in V-zone areas. The rule in no way that we foresee affects the distribution of power and responsibilities among the various levels of government or limits the policymaking discretion of the States.

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, we amend 44 CFR Part 61 as follows:

PART 61—INSURANCE COVERAGE AND RATES

1.The authority citation for part 62 continues to read as follows:

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.

2. Revise § 61.9(a) to read as follows:

§ 61.9 Establishment of chargeable rates.

(a) Under section 1308 of the Act, we are establishing annual chargeable rates for each $100 of flood insurance coverage as follows for pre-FIRM, A zone properties, pre-FIRM, V-zone properties, and emergency program properties.

Type of structure	A zone rates [1] per year per $100 coverage on—		V zone rates [2] per year per $100 coverage on—	
	Structure	Contents	Structure	Contents
1. Residential:				
No Basement or Enclosure	.68	.79	.91	1.06
With Basement or Enclosure	.73	.79	.98	1.06
2. All other including hotels and motels with normal occupancy of less than 6 months duration:				
No Basement or Enclosure	.79	1.58	1.06	2.10
With Basement or Enclosure	.84	1.58	1.12	2.10

[1] A zones are zones A1–A30, AE, AO, AH, and unnumbered A zones.
[2] V zones are zones V1–V30, VE, and unnumbered V zones.