Street, SW., Washington, D.C. 20460, Toll free: (800-424-9065).
In Washington, D.C.: (554-1404).
Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number 2070-0004.

I. Background

Pursuant to section 8(d) of the Toxic Substances Control Act (TSCA), EPA promulgated a model Health and Safety Data Reporting Rule (40 CFR Part 716). The section 8(d) model rule requires manufacturers, importers, and processors of listed chemical substances and mixtures (henceforth referred to as substances) to submit to EPA copies and lists of unpublished health and safety studies on the listed substances that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, and 8. Since promulgation of the model rule, EPA has amended the rule 7 times to list approximately 117 substances.

On the same date that EPA promulgated the section 8(d) model rule, EPA listed the substances found at § 716.17(a)(1). The reporting period for these substances began on October 4, 1982. Section 716.19, the sunset provision, provides that the reporting period shall last 3 years, in this instance until October 4, 1985. However, in order to provide for a full three years of reporting, EPA must publish in the **Federal Register** a document that establishes October 4, 1985 as the termination date. Failure to publish such a **Federal Register** document, would allow an automatic termination provision in § 716.19 to cut short the reporting period by up to 6 months (in this instance 5 months, May 1, 1985). Hence this **Federal Register** document sets the termination date for the reporting period on the substances listed at 40 CFR 716.17(a)(1) as October 4, 1985.

In a separate and future **Federal Register** document, EPA will propose to amend the section 8(d) Health and Safety Data Reporting Rule by: Revising the rule's sunset provision, limiting two reporting exemptions, and clarifying the rule's confidentiality provisions. EPA believes that these three amendments will increase the number and usefulness of the health and safety data reports submitted to EPA, and will provide these reports during the same time period that EPA performs its chemical testing, hazard/risk assessment, and risk management determinations.

II. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it will not have an effect of $100 million or more on the economy. It is not anticipated to have a significant effect on competition, costs, or prices.

This final rule was not submitted to the Office of Management and Budget (OMB) for review, because a 3-year reporting period is provided for in 40 CFR 716.19. Both the proposed and final rule which developed § 716.19 were previously reviewed by OMB as required by Executive Order 12291.

B. Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial number of small entities. In a study of submitters reporting under the section 8(d) model rule, EPA found that only 1 of 69 submitters had less than $100 million in sales. EPA does not expect this action to affect this distribution. Therefore, in accordance with the Regulatory Flexibility Act (Pub. L. 95-354), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0004.

List of Subjects in 40 CFR Part 716

Chemicals, Environmental protection, Hazardous substances, Health and safety, Recordkeeping and reporting.

(Sec. 8, 90 Stat. 2029 (15 U.S.C. 2607(d))

Dated: April 18, 1985.

John A. Moore,
Assistant Administrator for Pesticides and Toxic Substances.

PART 716—[AMENDED]

Therefore, Chapter I of Title 40, is amended by revising the introductory text of § 716.17(a)(1) to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a)(1) *Substances.* The following substances are subject to this subpart as of October 4, 1982. Unless extended by rule, the reporting period for these substances will terminate on October 4, 1985.

* * * * *

[FR Doc. 85-9994 Filed 4-24-85; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6601

[ES-27765]

Florida; Transfer of Jurisdiction From the Department of Defense to the Forest Service

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order transfers jurisdiction of 281.97 acres of lands from the Department of Defense to the Forest Service to be restored to the Choctawahtchee National Forest. The lands have been and remain open to surface entry, mining and mineral leasing.

EFFECTIVE DATE: April 25, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Weaver, BLM Eastern States Office, 350 South Pickett Street, Alexandria, VA 22304, 703-274-0121.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the President pursuant to Executive Order 10335 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. The following described lands which were transferred from the Department of Agriculture to the Department of Defense under Pub. L. 76-668 (54 Stat. 655), dated June 27, 1940, are hereby returned to the jurisdiction of the Department of Agriculture for management by the Forest Service:

Tallahassee Meridian, Florida

T. 2 N., R. 23 W.,
Sec. 2: NW¼NE¼ and NE¼NW¼; approx. 79.90 acres.
T. 2 N., R. 23 W.,
Sec. 4: NW¼NE¼; approx. 40.85 acres.
T. 3 N., R. 20 W.,
Sec. 22: NE¼; approx. 160.00 acres.
T. 3 N., R. 21 W.,
Sec. 22: Lot 2 Mossy Head Tract; approx. 1.22 acres.

The areas described aggregate 281.97 acres in Walton and Okaloosa Counties, Florida.

2. This transfer is effective immediately. The lands have been and remain open to such forms of disposition as may by law be made of national forest lands, including mineral location

and entry under the United States mining laws, and applications and offers under the mineral leasing laws, subject to valid existing rights and the requirements of applicable regulations.

Robert N. Broadbent,

Assistant Secretary of the Interior.

April 16, 1985.

[FR Doc. 85-10045 Filed 4-24-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 62

[Docket No. FEMA-FIA]

National Flood Insurance Program; Assistance to Private Sector Property Insurers

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises the National Flood Insurance Program (NFIP) regulations dealing with the issuance of flood insurance policies and the adjustment of claims arising under such contracts of insurance and sets forth pertinent detail relative to the underwriting, claims adjustment and financial control operational procedures established by the Federal Insurance Administrator in connection with the Financial Assistance/Subsidy Arrangements (the Arrangement) which may be entered into by and between the Administrator and private sector insurers under the "Write-Your-Own" (WYO) program authorized pursuant to Subpart C, Part 62 of these regulations and section 1310 of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-448, 42 U.S.C. 4001 et seq.).

Under the WYO Program, the Standard Flood Insurance Policy (the form and substance of which is approved by the administrator) may be issued by insurers signatory to the Arrangement in their own names. Insurers are then responsible for all aspects of service, including policy issuance to new policyholders and to those policyholders insured by them under other lines of property insurance; endorsements to and renewals of policies; and the adjustment of claims brought under the policies. The insurers pay losses and loss adjustment expenses, as well as the commissions of agents, out of written premiums. Under the Arrangement, the Government backs the policies. Thus, insurers are able to offer flood insurance in the private insurance market, the NFIP will increase its policy-in-force base by reason of WYO Companies' marketing efforts, and policyholders will benefit from an infusion into the NFIP of considerable private sector insurance expertise and service.

EFFECTIVE DATE: June 1, 1985.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 C Street, SW., Washington, D.C. 20472, Telephone number (202) 646-3419.

SUPPLEMENTARY INFORMATION: These amendments more fully effectuate the propose of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-448, 42 U.S.C. 4001), while providing a direct and tangible benefit to persons insured against property insurance perils, other than flood, by setting forth the general parameters of the procedural approach being taken in respect to the WYO program by the Administrator and the WYO Companies engaged in this program in the provision of NFIP flood insurance coverage to policyholders insured by these companies for other lines of property insurance business.

Regarding the purposes of the 1968 Act, the NFIP enabling legislation establishes the direction of having the program "carried out to the maximum extent practicable by the private insurance industry" (42 U.S.C. 4011) and authorizes the Director, FEMA, to "encourage and arrange for . . . appropriate financial participation and risk sharing in the program by insurance companies" (42 U.S.C. 4011). The rationale for the enabling legislation recognizes the benefits to be derived from the operation of a national program of flood insurance by private sector property insurers, who are the traditional providers of insurance to the public. In this connection, the Act declares, as its purpose, that there be "a flood insurance program by means of which flood insurance, over a period of time, can be made available on a nationwide basis through the cooperative efforts of the Federal Government and the private insurance industry" (42 U.S.C. 4001).

Against this background, FEMA published a final rule, on October 14, 1983, entitled "National Flood Insurance Program; Assistance to Private Sector Property Insurers" (48 FR 46789), which established the WYO program authorized under Pub. L. 90-448 under the rulemaking procedures of the Administrative Procedure Act, following notice of proposed rulemaking (48 FR 34482, July 29, 1983) and receipt of public comment. During the first year of operation, forty-eight private sector insurers were signatory to WYO arrangements with the Administrator and twelve of these commenced the underwriting of over 131,000 flood insurance policies. On May 29, 1984, the Administrator published an "Offer to Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy" (49 FR 22438), inviting private sector property insurers to enter into similar arrangements for WYO program year October 1, 1984 to September 30, 1985. As of this writing, over two hundred and fifteen (215) insurance companies have become signatory to the Arrangement for the current year.

It is the intention of the regulation to publish pertinent procedural details of the WYO program regarding its operations in the areas of under writing, claims adjustment, and the financial controls which have been and will continue to be exercised with respect to the program and to normalize the business of issuing flood insurance policies by WYO Companies along the lines of the customary business practices engaged in by these insurers in their other lines of property insurance business. In this way, persons insured by WYO Companies against the peril of flood under the WYO program and against the usual property insurance peril under their traditional policies of insurance with the companies (e.g., Homeowners insurance) will not be discriminated against as to the effective date of their coverage, for example, by the flood insurance policy issued under the Arrangement.

Toward these ends, on December 13, 1984 (49 FR 48652), FEMA published a proposed rule, which proposed that both the Arrangement and the WYO financial control plan be included in the program's rules, as Appendices to Subpart C.

Publication of the Arrangement in this rule also constitutes, for the WYO Program Arrangement year of October 1, 1985-September 30, 1986, the Administrator's "Offer to Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy" (see last year's offer, at 49 FR 22438, published on May 29, 1984).

It was also proposed that the Arrangement should be amended to set forth a constant formula for the reimbursement of operating and administrative expenses (at Article III [B] and to recognize, as a "Loss Cost" or expense of doing business under the Arrangement, an award or judgment of punitive damages arising out of the scope of the Arrangement, assuming timely notice of any claim for such damage being given to FEMA, (at Article III [D]). Rules were proposed, as well, to conform, to the extent practicable, the policy issuance, premium payment and claims adjustment procedures of the flood insurance contract with the procedures employed by WYO Companies in their other lines of property insurance business. The Agency received seven (7) comments, including two from FEMA regional offices seeking clarification of the WYO program and offering advice, one from a national association of mortgage lenders supporting the proposed rule as a benefit to policyholders by reason of the infusion of private sector experience and expertise into the flood program, and four from private sector property insurers providing input and raising issues for clarification. One of these, from an Assistant Counsel of one of the leading property insurers, provided technical suggestions and viewed the proposed rulemaking "as a sincere effort to deliver flood insurance coverage on a comprehensive national basis through the active efforts of the private insurance industry in cooperation with the Federal Government".

Regarding the comments from FEMA's regional offices, a Regional Counsel pointed out that the operational procedures did not specifically reference that WYO companies would cooperate with FEMA's Office of General Counsel in matters pertaining to litigation and subrogation and report claims litigation to the Agency. These matters have been addressed in the final rule at § 62.23(i)(6) and (11). The other Agency comments, from a Regional Director, were extensive. What follows, repeated in their entirety, are the Regional Director's comments followed, in each case, by FIA's response:

49 FR 48653 (of the Proposed Rule)

Part 61—Insurance Coverage and Rates

at f(1) Does this waive the waiting period for WYO applicants?—
Amend the "cancellation" rules for the WYO insureds?

Response: Yes, as to both questions, but only in cases in which the WYO Company's flood insurance policy is underwritten with an effective date identical with the effective date of a companion policy, e.g., Homeowners, to be issued to the same named insured. To allow the placing in effect of a flood insurance contract at the same time as companion Homeowners business without regard to the waiting period, in addition to normalizing the provision of flood insurance coverage with other private sector lines of property insurance business, is somewhat analogous to the waiver of the waiting period, at §61.11, in cases in which flood insurance becomes effective, at a real property closing or settlement, at transfer of title, without regard to any waiting period. Concerning cancellation mid-term with premium refund, it would be impermissible unless the companion policy was also cancelled. Also, as to any installment plan for the payment of premiums covering both a flood insurance policy and a companion policy, in case of default, the WYO Company will remain liable for the premium under the flood insurance policy until it has effected cancellation as to both the companion policy and the WYO Policy (see § 61.11(f)(1) of the final rule and discussion, below).

at f(2) Are envelopes retained by NFIP and does NFIP use "postmark" or is WYO operating differently?

Response: No, envelopes are not retained by the NFIP. The retention of envelopes and utilization of the "postmark" date was, as the rule states, intended to relate to the operations of insurers which underwrite their business directly with the policyholders, and not through an agent. In the final rule, as the discussion below indicates, care has been taken to assure that policyholders insured by WYO Companies are subject to the same effective date rules as are applicable to NFIP business, so long as the flood insurance policy has the same effective date and named insured as a companion policy issued by the WYO Company on the property.

49 FR 48654

at h(5) Why is WYO Company permitted to reject or decline flood insurance, if risk is eligible under NFIP? Will NFIP use original submission date to WYO Company for "effective date"?

Response: The WYO Company is acting in its capacity as an insurer which, under State law, has the right to reject or decline insurance business. In this case, it is not in the best interests of the program for the NFIP to seek to impose a different set of rules on insurers in the States in which they do business, particularly since a flood insurance risk rejected by a WYO Company can readily be insured under the NFIP. The acceptance of such a risk by the NFIP would be governed by the effective date rule, at §61.11. As a matter of practice, the "rejection" would, typically, occur in the office of the WYO Company's agent, who would place the business, instead, with the NFIP. In such a case, so long as the application and premium are timely received, the effective date will be the same as it would have been had the WYO Company underwritten the risk.

at (1) Why is WYO adjustment binding on FIA, while CSC adjustments (independent adjustors) are not until accepted/approved by FIA?

Response: In the case of the WYO adjustment, the WYO Company, having issued the policy in its own name, is the insurer, adjusting a loss sustained by one of its policyholders. The NFIP servicing agent is not the insurer under NFIP business, in which case the policy is issued by the Federal Government.

at i(2) Do staff adjustors of WYO Company have to be approved by FIA? Why not? What effect of fee schedule in multi-peril adjustments—How is entire loss adjustment cost allocated—% to flood and % to other peril(s)?

Response: Basic to an understanding of the WYO Program is the concept that "Write-Your-Own" describes the undertaking between the government and the insurer. In exchange for the provision of marketing and property insurance skills to the benefit of the government and the taxpayer, the WYO Company, when it issues its flood insurance policy, becomes the insurer of its own policyholder and is responsible for the adjustment of claims brought under that policy. It is responsible, under the program's financial controls, for the premium income derived from its policyholders and responds to government operational reviews of its underwriting, claims and financial practices. These responsibilities, however, do not detract from the WYO Company's essential role as the *insurer* of flood insurance coverage. As such, it would be an unnecessary exercise for the government to approve or disapprove of the use or hiring of staff adjusters by WYO Companies. As a practical matter, if these adjusters are qualified to adjust claims arising under the Company's other lines of business, they should be able to adjust flood insurance losses, as well. To assure this result, FIA has provided companies with specialized claims adjustment information, through documentary matter and training sessions conducted by the NFIP servicing agent.

The fee schedule only relates to the flood portion of a combined wind and flood loss and each loss would be allocated, depending upon the degree of flood and wind damage involved in the total damages.

at i(9) What is ". . . above normal adjustment practices"?

Response: A special investigation fee, for example, the use of a real estate appraiser to determine the value of a building totally damaged by flood, based on comparable values in the neighborhood, would be "above normal adjustment practices".

49 FR 48655

Article II—Undertaking of the Company

at 2.0 2nd sentence—Why not require the use of FIA developed materials?

Response: There is nothing to be gained by the imposition of a number of requirements to use FIA developed materials when the provision of these documents as guides serves the same purpose. The WYO Arrangement is not an undertaking in which the parties impose requirements on each other. It is a cooperative Arrangement and, to repeat the words to the Rules Docket of the Assistant Counsel from one of the companies, is "a sincere effort to deliver flood insurance coverage on a comprehensive national basis through the active efforts of the private insurance industry in cooperation with the Federal Government".

49 FR 48656

at 4.0 Why reserved to "licensed" companies only?

Response: The several States do not normally permit one to engage in the business of insurance without being licensed by the State in which the business is to be conducted. Through the licensure procedures, the States can monitor the insurer's operations and solvency. FIA, which does not license or regulate insurers, believes it best for flood insurance coverage to be issued by licensed insurers.

at F. See comment on P. 48654 [i(1)]

Response: See response to "P. 48654, at i(1)."

Article III—Loss Costs, Expenses, etc.

at B. "taxes"—What taxes does the Federal government pay? NFIP is a "federal" program whether direct or as "re-insurer"—all "premium" are taxpayers monies.

15.0% commission—Why no mention of max/min commission to agents? Why doesn't graduated commission scale apply to WYO Company's (see P. GR22 of Flood Insurance Manual)?

Response: Regarding the reference to taxes, the Federal government is not paying any taxes. The reference is part of a formula or convention used to establish a reasonable level of company operating and administrative expense reimbursement, in connection with WYO business, which level is keyed to the average of what property insurers report to the several States as to their operating and administrative expense ratios for other aquisition, general expenses and company taxes. Concerning the commission allowance, it is intended that the companies pay commissions to their agents "pursuant to their customary business practices" (see § 62.23[a]. Again, the idea is to normalize the flood insurance business with other lines of property insurance engaged in by WYO Companies.

at D. Does this include the "agent" of WYO Company who have been ajudged guilty of "wrong doing/unfair claims practices, etc." and the awards and/or judgments against them? If not, why?

Response: No, because the provision relates to loss payments, via award or judgment, including punitive damages, arising under policies of flood insurance and the Arrangement. Agents are not insurers nor are they parties to the Arrangement.

Article IV—Undertakings of the Government

at C. What if WYO Company cancels its "agent" for any reason—what happens to "agents book of flood business"?

Response: The handling of the "agents book of flood business" would be a contractual matter between the company and the agent.

49 FR 48657

Article IX—Errors and Omissions

at 1st paragraph—Is the NFIP liable? If not, why?

Article XIII—Restriction on Other Flood Insurances

at 2nd paragraph—Why? Max limits available from NFIP should be required to be placed with the NFIP and all other coverage written as "excess of NFIP available limits".

Response: Regarding liability of the parties to the Arrangement, as a negotiated provision, neither is liable to the other for acts or omissions of ordinary negligence. As to the comment regarding the "Restriction on other Flood Insurance", the provision relates to flood insurance coverage provided by a WYO Company as part of a multi-peril policy or excess flood insurance coverage issued by the company under conditions whereby the company has assumed the entire financial underwriting risk. The NFIP would not discourage the private sector from offering flood insurance coverage under such circumstances.

49 FR 48658

Exhibit A—G Schedule

Why is "fee" limited to the "amount of insurance purchased"?

Response: The NFIP does not pay losses in excess of policy limits and, consistent with this, the fee is limited by the amount of insurance purchased. See the reference to "Range (by covered loss)".

Appendix E—NFIP

A Plan to Maintain Financial, etc.,

at 1st paragraph—What/whose definition of "eligible property"?

Response: The Arrangement is subject to the National Flood Insurance Act of 1968 and regulations issued pursuant thereto. Accordingly, only properties eligible under the NFIP's enabling legislation and implementing rules are eligible under the WYO program.

at 2nd paragraph—Who pays for State examinations of WYO flood business? Max/Min? Have "States" agreed to audit "NFIP" business?

Response: The extent to which States may review WYO Program business will evolve through efforts of the State insurance departments and the individual insurers signatory to the Arrangement.

at 3rd paragraph—Who pays auditing fees? Which re-insurance markets have access to State, NAIC Zone exams and independent CPA audits?

Response: Audits of insurers by independent CPA firms are paid for by the insurers. The relevance of the second question is unclear. The Arrangement is not a re-insurance policy.

at 5th paragraph, 9.—restricted to "fraud"—Why? How about OGC?

Response: As indicated, above, this suggestion has been accommodated, at § 62.23(i)(11).

49 FR 48659

Underwriting Audit Outline

at 3. Verify compliance only to WYO Company procedures? What about NFIP procedures?

Response: WYO Company procedures may not be the same as NFIP procedures or, for that matter, the procedures of other insurers. As long as the business is written in accordance with NFIP regulations, company procedures may differ from NFIP operational procedures.

at 4. a. Policies are issued *on* eligible risks?

b. Whose rates? Government/or WYO

Company?

f. Any "Guides" authorizations given to anyone? If so, should be listed.

k. all material S/B in one file

l. Example?

Response: a. No, policies are issued *for* the insuring of eligible risks.

b. The rates utilized by WYO Companies are established by the Federal Insurance Administrator for both NFIP and WYO Program policyholders.

f. The NFIP regulations, which are adhered to by WYO Companies, adequately cover the subject of risk binding authority.

k. This is a procedural matter for companies to handle in such way as to assure availability of these documents for FIA operational review.

l. An example of an unavailable file will not be available until the occurrence of such an event.

49 FR 48662

at 6. Rating Data Verification

"Phone calls or on-site * * * of the WYO Company *and* should be 'or' the FIA * * *"

Response: The substitution of the disjunctive would provide a less efficient method of reviewing risks. As written, the system allows for *both* the WYO Company and the FIA to undertake review of the individual risk.

49 FR 48665

as Part 6 Financial Audits and State Insurance Department Examinations

1st paragraph—Why is it expected? Who pays for?

Response: As indicated above, the extent to which these audits will occur will evolve from the normal activities of State insurance departments and insurers and be paid for in the manner customary as to each state. FIA cannot view such State-insurer interaction involving WYO policies of flood insurance as being anything but beneficial to the NFIP.

With respect to comments from the private sector, a national association of mortgage bankers viewed the WYO program as a benefit to flood insurance policyholders and expressed the belief "that the rule will make clear the processes, requirements, and benefits of WYO participation to private insurance companies.

The Assistant Counsel for one private sector property insurer viewed as unfair to policyholders the proposed rule, at § 61.11(f)(2), which would permit insurers who deal directly with their applicants for insurance and policyholder (rather than through an insurance agent or broker), to calculate the waiting period under the effective date rule from the postmark date on the envelope transmitting the premium payment. Under the example given, it is conceivable that an applicant for flood insurance to be purchased from a direct writer, by inadvertently delaying the posting of premium several days, would be unable to place the insurance in effect as early as an applicant could who dealt directly with an insurance agent. For example, if an applicant were to order flood insurance on the telephone on April 1, 1985 from a direct writer (the application form being completed by the WYO Company), then, fail to post the premium payment until April 8, 1985, the proposed effective date rule would, normally, provide for the inception of flood insurance coverage as of April 13, 1985 (five days from the postmark date). Further, if the envelope did not bear a postmark date, the waiting period, under the rule as proposed, would not commence until 12:01 A.M. on the day prior to the actual receipt date by the WYO Company. Thus, in the example given, if there was no discernable postmark on the evelope and the insurer received the premium on April 11, 1985, the earliest date on which coverage could be effectuated would be April 15, 1985 (five-day waiting period calculated from 12:01 A.M. of the day prior to receipt).

On the other hand, applicants for flood insurance who request their coverage from the NFIP through their insurance agent will always have the effective date of the policy calculated from the date of the application, provided the premium payment is received by the NFIP within ten (10) days of the date of the application. In the example given, above, the effective date of the coverage, if placed with the NFIP or a WYO Company which operates through insurance agents, brokers or other producers, such as employees, would be April 6, 1985, even if the postmark was April 8, 1985 and provided that the premium payment was received on or before April 11, 1985. To alleviate the unfairness to applicants of direct writers which the proposed "postmark" rule engenders, the final rule provides for uniform effective date treatment to be accorded all applicants for NFIP flood insurance coverage, whether the coverage is being applied for from the NFIP, or a WYO "Agency" company or direct writer. Similarly, the effective date rules as to renewals of in-force policies and endorsements to existing policies, which add coverage or increase the limits of coverage, are being made uniform for all NFIP insurance business.

In connection with these changes, the Financial Control Plan (Appendix E) self-audit procedures and FIA's Underwriting operational review procedures are being expanded to facilitate adherence to the Section 61.11 effective date rules by WYO Companies and the review of effective date procedures by FIA's underwriting examining staff. In so doing, the Financial Control Plan recognizes that normal company procedures in this regard may differ from company to company, yet produce the same documented result in respect to premium receipt dates, application dates and the like. For this reason, specific procedures, such as use of postmark date and envelope retention; date-stamping of documents and checks received in payment of premium; computer input of financial receipt transactions; and other reasonable insurer methods of verifying requests for coverage and receipts of premium will be acceptable in this regard.

Recognition of these alternative methods of policy effective date/premium receipt verification has additional merit in that it removes the paperwork burden of retaining envelopes, as a requirement, leaving verification to the insurer's customary practices and procedures. It should be noted that the Assistant Counsel for the major insurer, in this regard, commented that the retention of envelopes, as a requirement, "is unduly burdensome" to his company "in this 'paper-less' age of processing information." This particular company inputs premium receipt dates into its computer system on date of receipt and the system cannot be adjusted to back-date a premium receipt.

Another recommendation made by this gentleman concerns the underwriting procedures (proposed at § 62.23(h)) to be utilized by WYO Companies. The recommendation was made that the final rule expressly recognize that, when a NFIP policy of insurance is converted to the WYO Company, at the request of the agent of record, who signs a specific document authorizing the transaction, State countersignature laws should not apply to the issuance of a new policy, at renewal time, insuring the same property.

The countersignature laws generally require that all insurance contracts covering persons or property in a State be countersigned by a representative of the insurer in that State, usually a licensed resident insurance agent. the rationale for concluding that the countersignature procedure is satisfied by the insurance company's representative's signed request for conversion of the policy to the WYO Company's book of business and, thereby, creating a limited exception to the State countersignature procedure by a preemptive federal rule is that it would "reduce the unnecessary administrative burden upon both producers and WYO insurers in beginning the WYO program * * * [and] * * * facilitate the introduction of the WYO program by agents and brokers in states with high concentrations of flood insurance policies". It is noted, further, that these NFIP policies designated by the agent or record for conversion to his WYO Company's book of business, as issued by the Administrator, are not now subject to State countersignature laws.

In view of the statutory framework within which the National Flood Insurance Program is administered, to pre-empt State countersignature laws by rule in the case of Administrator-issued policies of flood insurance (which are not subject to countersignature provisions), which are assumed by WYO Companies, is a reasonable accommodation of the Congressional policy that the Administrator exercise the basic authority to "carry out a national flood insurance program" under which the Administrator "shall to the maximum extent practicable, encourage and arrange for * * * appropriate participation on other than a risk-sharing basis, by insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organization * * *" To submit WYO Company issuances of policies, which have been issued and renewed by the Administrator, to a countersignature process would place an impracticable and expensive burden on the WYO Companies, but, more important, from the NFIP standpoint, the added process would put a strain on a smooth policy conversion process and create an obstacle to the successful implementation of the WYO Program. The logistics of accommodating countersignature laws as to NFIP policies being converted to WYO status, since the Administrator issued contracts were not countersigned by federal representatives in the several States, would most likely require the new insurer to copy the policy and send it to its agent (who, as NFIP agent of record, has already authorized the NFIP to send the policy to the WYO company at the outset of the conversion process) whereupon, the agency would be required to formally countersign the policy he or she authorized to be sent to the insurer in the first place, and mail it back to the insurer. What follows is the form of Authorization the agent of record executes to start the conversion process:

BILLING CODE 6718-01-M

EXHIBIT #1

REPRODUCE THIS FORM ON YOUR LETTERHEAD

AUTHORIZATION TO RELEASE POLICY INFORMATION AND/OR CHANGE PAYOR ADDRESS FOR BOOK OF BUSINESS

NAIC # ☐☐☐☐☐

REGION # ☐☐

The undersigned, having determined to place flood insurance policies with one or more participating Write Your Own (WYO) companies, effective the ______ day of ______________________, 19______, authorizes the National Flood Insurance Program (NFIP) to do the following: (Check the appropriate item(s) and provide the requested information.)

Tax Identification No.'s

☐ Release policy data for the entire book of business currently written with the NFIP for the tax identification numbers shown, and forward it to the address shown below. Identify ☐ Company ☐ Agent ☐ Region ☐ Other

(NOTE: Information can only be sent to ONE recipient.)

____
Name

____
Address

____

____
City State Zip Code

☐ Change the payor (section 2 of the flood insurance application) on the entire book of NFIP business for tax identification numbers shown to "Bill Other" [5] at the following address: Identify ☐ Company ☐ Agent ☐ Region ☐ Other

____
Name

____
Address

____

____
City State Zip Code

As agent(s) of record for these policies, I (we) assume responsibility to notify the insured and other interested parties of the change of insurer, and to assure that continuity of coverage is not affected by this authorization.

NOTARY ACKNOWLEDGEMENT

Subscribed and sworn to me this __________ day of, ______________, 19______ A Notary Public in and for the State of ______________

____
Signature

My commission expires______________
(SEAL)

____
Name (Agent-Agency-Broker)

____
Authorized Signature

____
Print Name and Title

The NFIP's enabling legislative does not require that impractical, expensive, and vain acts be undertaken to effectuate its purpose. The initiating of the conversion process by the agent, in a real sense, is the equivalent of and complies with the spirit of the countersignature process and vitiates the need for the more formalized procedure, expecially since the latter is not in the best interests of the NFIP WYO Program.

Therefore, the final rule, at § 62.23(h)(8), provides a limited exemption from the countersignature process for only the issuance of policies, which were formerly issued by the Administrator by a WYO Company where the NFIP policy has been converted to the WYO Company at the written and signed request of a licensed agent acting in the capacity of an agent of that company and under contract to the company, or an employee of the company. All other WYO Company policies of flood insurance may be subject to the countersignature process, depending upon the requirements of the several States.

Another major insurer, commenting on the self-audit standards in the "Plan to Maintain Financial Control for Business Written Under the Write-Your-Own Program", expressed the view that these standards "may be adopted so as to conform to the company's usual and customary audit procedures . . . " and inquired whether claims reinspection costs are part of the operating and administrative expense allowance. As to the first inquiry, as long as "Part 1—Model Self—Audit Program's Minimum Standards" (p. 48659 of the proposed rule) are complied with, the company could follow its usual and customary audit procedures. With respect to the expense of claims reinspections, these are subsumed under the 3.3% allowance for unallocated loss adjustment expenses (Article III, Section C [1] of the Arrangement, at p. 48656 of the proposed rule).

Representatives of another major property insurer recommended technical changes to the Arrangement from an accounting standpoint and suggested changes to the proposed rule dealing with the effective date rule and premium collection, which would further normalize the issuance of flood insurance coverage by private sector property insurers by making the procedures compatible with the practices of insurers as to its companion lines of property insurance business.

The accounting changes include amendments to Article III, Sections D and E of the Arrangement to make clear that loss payments and premium refunds made to policyholders are to be reimbursed to the WYO Company from bank account funds containing collected premium funds and, if depleted, from the letter of credit established with the United States Treasury. In addition, an editorial misprint (Article VII, Section C) was pointed out, as well as a redundancy in the reporting requirements relative to loss reserves, at Part 2, Exhibit A of the financial control plan (the plan calls for the production of the same data, both monthly and quarterly and the suggestion is to delete the quarterly reporting requirement in favor of the monthly requirement). The final rule incorporates these changes.

In addition, regarding policy effective date and premium collection, the final rule makes clear what was intended in the proposed rule, at proposed § 61.11(f)(1), at page 48653, which proposed that the procedures for the submission of an application or renewal with the proper premium in the case of a flood insurance policy issued be a WYO Company in tandem with a "companion policy" (Homeowners, Farmowners, or Standard Fire Insurance Policy) should be the same as the company's procedures for issuance of the companion policy. To clearly effectuate this purpose, the final rule provides additional language at § 61.11(f)(1) acknowledging that, while a WYO Company may collect flood insurance premium on the same installment payment basis as it uses in respect to a companion policy, in the event of default as to any installment by the policyholder, the WYO Company will remain liable to the Administrator for the premium until it has effected cancellation for nonpayment of premium of both the companion policy or policies and the flood insurance policy. By providing for installment payments of premiums in this manner, the insurance consumer benefits and the NFIP also benefits, in terms of the marketing advantages inherent in premium installment plans. Also, with regard to cancellation, the final rule will include, at § 61.11(f)(1), the recommended provision that, should a policyholder cancel a companion policy before its expiration, but not the flood insurance policy, to facilitate the insurer's accounting and computer system practices, the flood insurace policy may be continued in effect to the end of its term or may be cancelled, with retention of the premium for the remainder of the term, which premium will be applied to a re-issue, with no lapse in coverage, of a new policy to the policyholder having the same expiration date as the cancelled policy. Renewal of the new policy will be offered by the WYO Company for, at least, a term of one year.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have signficant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 "C" Street SW., Washington, D.C. 20472.

These regulations do not have a significant economic impact on a substantial number of small entities and have not undergone regulatory flexibility analysis.

The rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981 and, hence, no regulatory analysis has been prepared.

FEMA has determined that the rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 61 and 62

Flood insurance.

Accordingly, Parts 61 and 62 of Subchapter B of Chapter 1 of Title 44 are amended as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. Section 61.11 (e) is amended by the removal of its last sentence.

2. Section 61.11 is amended by the addition of a new paragraph (f) to read as follows:

§ 61.11 Effective date and time of coverage under the Standard Flood Insurance Policy—New Business Applications and Endorsements.

* * * * *

(f) With respect to the submission of an application in connection with new business, a renewal of a policy in effect and an endorsement to a policy in effect, the payment by an insured to an agent or the issuance of premium payment to a Write-Your-Own (WYO) Company by the agent, accompanied by a properly completed application, renewal or endorsement form, as appropriate, shall commence the calculation of any applicable waiting period under this section, provided that the agent is acting in the capacity of an agent of a Write-Your-Own (WYO) Company authorized by 44 CFR 62.23, is under written contract to or is an employee of such Company, and such WYO Company is, at the time of such submission of an application in connection with new business or a renewal of or endorsement to flood insurance coverage, engaged in WYO business under an arrangement entered into by the Administrator and the WYO Company pursuant to § 62.23.

(1) It is further provided that:

(i) With respect to any submission of an application with the proper premium in connection with new flood insurance business to a WYO Company and a renewal, with the proper premium of a flood insurance policy in effect by a WYO Company, which flood insurance policy is to be issued with an effective date identical to the effective date of a Homeowners, Farmowners, or Standard Fire Insurance Policy ("companion policy") to be issued to the same named insured and insuring the same property, the flood insurance policy may be issued in accordance with the WYO Company's customary business practices, as are used in the case of the companion policy, including premium receipt practices, and may have the same effective date as the companion policy, anything to the contrary in this section notwithstanding; provided, the flood insurance policy may not be cancelled by the named insured with a return of premium during its term unless the companion policy, or policies, is also cancelled by the named insured, effective the same date of cancellation as the flood insurance policy.

(ii) Provided, further, if the premium payments in repect to a companion policy, or policies, are being made on an installment basis, the premium payments in respect to the flood insurance policy may be made by the insured on the same basis; however, should the insured default in the payment of any installment of flood insurance premium when it is due, the WYO Company shall remain liable to the Administrator for any uncollected flood insurance premium until it effects cancellation of both the companion policy, or policies, and the flood insurance policy.

(iii) Provided, further, in the event the named insured of a flood insurance policy cancels a companion policy before its expiration, but does not cancel the flood insurance policy, the WYO Company may continue the flood insurance policy in effect to the end of its term or may cancel the flood insurance policy and, effective upon its cancellation, issue a new flood insurance policy with the same expiration date as the cancelled policy, which policy, if renewed by the named insured, will be renewed for a term of, at least, one (1) year.

(2) With respect to any renewal of an NFIP policy in effect by a WYO Company, or any renewal of a flood insurance policy issued by a WYO Company, where payment of premium is not tendered to an agent under written contract to the WYO Company or to an employee of such WYO Company but, instead, is mailed by the policyholder directly to the WYO Company, the renewal premium payment shall be deemed to be received by the WYO Company prior to the expiration date of the policy if the renewal premium payment is mailed to the WYO Company prior to the expiration date and is received by the WYO Company prior to or within five (5) days following the expiration date.

(3) Subject to the provisions of this paragraph (f), the rules set forth in paragraphs (a), (b), (c), (d) and (e) of this section apply to WYO Companies, except that premium payments and accompanying applications and endorsements shall be mailed to and received by the WYO Company, rather than the NFIP.

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Subpart C—Write-Your-Own (WYO) Companies

3. Section 62.63 is redesignated as § 62.23 (and will remain in Subpart C).

* * * * *

4. Newly designated § 62.23 (a) is amended by the addition of the following at the end thereof:

§ 62.23 WYO Companies authorized.

(a)* * * Arrangements entered into by WYO Companies under this Subpart shall be in the form and substance of the standard arrangement, entitled "Financial Assistance/Subsidy Arrangement", a copy of which is included in Appendix A of this part and made a part of these regulations.

* * * * *

5. Newly designated § 62.23(f) is amended by the addition of the following at the end thereof:

§ 62.23 WYO Companies authorized.

* * * * *

(f)* * * In furtherance of this end, the Administrator has established "A Plan to Maintain Financial Control for Business Written Under the Write-Your-Own Program", a copy of which is included in Appendix B of this part and made a part of these regulations.

* * * * *

6. Newly designated § 62.23 is amended by the addition of new paragraphs (h), (i), (j), and (k) and of an OMB control number at the end of the section to read as follows:

§ 62.23 WYO Companies authorized.

* * * * *

(h) To facilitate the underwriting of flood insurance coverage by WYO Companies, the following procedures will be utilized by WYO Companies:

(1) To expedite business growth, the WYO Company will encourage its present property insurance policyholders to purchase flood insurance and to transfer to the WYO Company, at the time of policy renewal, business placed by its producers with the NFIP Servicing Agent.

(2) To conform its underwriting practices to the underwriting rules and rates in effect as to the NFIP, the WYO Company will establish procedures to carry out the NFIP rating system and to provide its policyholders with the same coverage as is afforded under the NFIP.

(3) The WYO Company may follow its customary billing practices to meet the Federal rules on the presentment of premium and net premium deposits to a Letter of Credit bank account authorized by the Administrator and reduction of coverage when an underpayment is discovered.

(4) The WYO Company is expected to meet the recording and reporting requirements of the WYO Statistical Plan. Transactions reported by the WYO Company under the WYO Statistical Plan will be analyzed by the NFIP Servicing Agent. A monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of WYO Company submissions, the disposition of transactions which have not passed systems edits and the reconciliation of the totals generated from transaction reports with those submitted on the WYO Company's reconciliation reports.

(5) If a WYO Company rejects an application from a producer, the producer should be notified so that the business can be placed through the NFIP Servicing Agent, or another WYO Company.

(6) Flood insurance coverage will be issued by the WYO Company on a separate policy form and will not be added, by endorsement, to the Company's other property insurance forms.

(7) Premium payment plans can be offered by the WYO Company so long as the net premium depository requirements specified under the NFIP/WYO Program accounting procedures are met. A cancellation by the WYO Company for non-payment of premium will not produce a pro-rata return of the net premium deposit to the WYO Company.

(8) NFIP business will not be assumed by the WYO Companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO Company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrency of expiration dates with other policies covering the property. Where the insurance agent or producer of record of a flood insurance policy issued by the Administrator has authorized the NFIP, in writing, to release policy information for the conversion of the NFIP coverage to a designated WYO Company represented by the agent or producer of record, in order to facilitate policy issuance and reduce administrative burdens upon the NFIP and WYO Companies and their agents and producers, countersignature requirements in the several States shall not apply.

(i) To facilitate the adjustment of flood insurance claims by WYO Companies, the following procedures will be utilized by WYO Companies.

(1) Under the terms of the Arrangement set forth at Appendix A of this part, WYO Companies will adjust claims in accordance with general Company standards, guided by NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims its the responsibility of the WYO Company.

(2) The WYO Company may use its staff adjusters and/or independent adjusters. It is important that the Company's Claims Department verifies the correctness of the coverage interpretations and reasonableness of the payments recommended by the adjusters.

(3) An established loss adjustment Fee Schedule is part of the Arrangement and cannot be changed during an Arrangement year. This is the expense allowance to cover costs of independent or WYO Company adjusters.

(4) The normal catastrophe claims procedure currently operated by a WYO Company should be implemented in the event of a claim catastrophe situation. Flood claims will be handled along with other catastrophe claims.

(5) It will be the WYO Company's responsibility to try to detect fraud (as it does in the case of property insurance) and coordinate its findings with FIA.

(6) Pursuant to the Arrangement, the responsibility of defending claims will be upon the Write-Your-Own Company and defense costs will be part of the unallocated or allocated claim expense allowance, depending on whether a staff counsel or an outside attorney handles the defense of the matter. Claims in litigation will be reported by WYO Companies to FIA upon joinder of issue and FIA may inquire and be advised of the disposition of such litigation.

(7) The claim reserving procedures of the individual WYO Company can be utilized.

(8) Regarding the handling of subrogation, if a WYO Company prefers to forego pursuit of subrogation recovery, it may do so by referring the matter, with a complete copy of the claim file, to FIA. Subrogation initiatives may be truncated at any time before suit is commenced (after commencing an action, special arrangement must be made). FIA, after consultation with FEMA's Office of General Counsel (OGC), will forward the cause of action to OGC or to the NFIP Servicing Agent for prosecution. Any funds received will be deposited, less expenses, in the National Flood Insurance Fund.

(9) Special allocated loss adjustment expenses will include such items as: nonstaff attorney fees, engineering fees and special investigation fees over and above normal adjustment practices.

(10) The customary content of claim files will include coverage verification, normal adjuster investigations, including statements where necessary, police reports, building reports and investigations, damage verification and other documentation relevant to the adjustment of claims under the NFIP's and the WYO Company's traditional claim adjustment practices and procedures. The WYO Company's claim examiners and managers will supervise the adjustment of flood insurance claims by staff and independent claims adjusters.

(11) The WYO Company will extend reasonable cooperation to FEMA's Office of General Counsel on matters pertaining to litigation and subrogation, under paragraph (i)(8) of this section.

(j) To facilitate establishment of financial controls under the WYO Program, the WYO Company will:

(1) Conduct an annual self-audit of flood insurance business in respect to which the audit standards, level and frequency of financial, claims and underwriting audits are set forth at Appendix B of this part.

(2) Submit an annual report of the WYO Company self-audit activities to the Standards Committee established pursuant to Appendix B of this part.

(3) Participate in an evaluation of the WYO Company self-audit plan on at least a triennial basis. The evaluation will be conducted by FIA and the WYO Company internal audit manager. A report of the evaluation will be filed with the Standards Committee and the Administrator.

(4) Participate in WYO Company/FIA Operational Reviews. The FIA Claims Director and the FIA Underwriting Director will conduct a review of the WYO Company flood insurance activities at least once every three (3) years. These reviews, like the internal audit evaluation, will be conducted at the offices of the WYO Company. As a part of these reviews, actual files (up to fifty [50]) will be reconciled with a listing of transactions submitted by the Company under the WYO Statistical Plan. A report of the Operational Review will be filed with the Standards Committee.

(5) Meet the recording and reporting requirements of the WYO Statistical Plan. Transactions reported to the National Flood Insurance Program's (NFIP's) Servicing Agent by the WYO Company under the WYO Statistical Plan will be analyzed by the Servicing Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company submissions, the disposition of transactions which do not pass systems edits and the reconciliation of the total generated from transaction reports with those submitted on WYO Company reports.

(6) Cooperate with FEMA's Office of the Comptroller on Letter of Credit matters.

(7) Cooperation with FIA's Claims Director in the implementation of a claims reinspection program.

(8) Cooperation with FIA's Underwriting Director in the verification of risk rating information.

(9) Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

(k) To facilitate the operation of the WYO Program and in order that a WYO Company can utilize its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act the Administrator, for good cause shown, may grant exceptions to and waivers of the regulations contained in this Title relative to the administration of the NFIP.

(Information collection requirements contained in this section approved by Office of Management and Budget under Control No. 3067–0169)

Appendices A and B are added to Part 62 to read as follows:

Appendix A to Part 62

Federal Emergency Management Agency—Federal Insurance Administration

Financial Assistance/Subsidy Arrangement

Purpose: TO ASSIST THE COMPANY IN UNDERWRITING FLOOD INSURANCE USING THE STANDARD FLOOD INSURANCE POLICY

Accounting Data: Pursuant to section 1310 of the Act, a Letter of Credit shall be issued under Treasury Department Circular No. 1075, Revised, for payment as provided for herein from the National Flood Insurance Fund.

Effective Date: October 1, 1985.

Issued by: Federal Emergency Management Agency, Federal Insurance Administration, Washington, D.C. 20472.

Article I—Findings, Purpose, and Authority

Whereas, the Congress in its "Finding and Declaration of Purpose" in the National Flood Insurance Act of 1968, as amended, ("the Act") recognized the benefit of having the National Flood Insurance Program (the Program) "carried out to the maximum extent practicable by the private insurance industry"; and

Whereas, the Federal Insurance Administration (FIA) recognizes this Arrangement as coming under the provisions of section 1310 of the Act; and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (section 1304 of the Act); and

Whereas, the Program, as presently constituted and implemented, is subsidized, and the insurer (hereinafter the "Company") under this Arrangement shall charge rates established by the FIA; and

Whereas, this Arrangement will subsidize all flood policy losses by the Company; and

Whereas, this Financial Assistance/Subsidy Arrangement has been developed to involve individual Companies in the Program, the initial step of which is to explore ways in which any interested insurer may be able to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act; and

Whereas, over time, the Program is designed to increase industry participation, and, accordingly, reduce or eliminate Government as the principal vehicle for delivering flood insurance to the public; and

Whereas, the direct beneficiaries of this Arrangement will be those Company policyholders and applicants for flood insurance who otherwise would not be covered against the peril of flood.

Now, therefore, the parties hereto mutually undertake the following:

Article II—Undertakings of the Company

A. In order to be eligible for assistance under this Arrangement the Company shall be responsible for:

1.0 Policy Administration, including

1.1 Community Eligibility/Rating Criteria
1.2 Policyholder Eligibility Determination
1.3 Policy Issuance
1.4 Policy Endorsements
1.5 Policy Cancellations
1.6 Policy Correspondence
1.7 Payment of Agents Commissions

The receipt, recording, control, timely deposit and disbursement of funds in connection with all the foregoing, and correspondence relating to the above in accordance with the Financial Control Plan requirements.

2.0 Claims processing in accordance with general Company standards. The FIA Claims Manual and Adjuster Management Outline, and Adjuster handbook can be used as guides by the Company, along with the National Flood Insurance Program (NFIP) Write-Your-Own (WYO) Financial Control Plan, Claims Questions and Answers Manual, the Flood Insurance Claims Office (FICO) Manual and other instructional materials.

3.0 Reports.

3.1 Monthly Financial Reporting and Statistical Transaction Reporting shall be in accordance with the requirements of Natonal Flood Insurance Program Statistical Plan for the Write-Your-Own (WYO) program and the Financial Control Plan for business written under the WYO Program. These data shall be validated/edited/audited in detail and shall be compared and balanced against Company financial reports.

3.2 Monthly financial reporting shall be prepared in accordance with the WYO Accounting Procedures.

3.3 The Company shall establish a program of self audit acceptable to the FIA or comply with the self audit program contained in the Financial Control Plan for business written under the WYO Program. The Company shall report the results of this self-audit to the FIA annually.

B. The Company shall use the following time standards of performance as a guide:

1.0 Application Processing—15 days (Note: If the policy cannot be mailed due to insufficient or erroneous information or insufficient funds, a request for correction or added monies shall be mailed within 10 days);

1.1 Renewal Processing—7 days;
1.2 Endorsement Processing—7 days;
1.3 Cancellation Processing—15 days;
1.4 Correspondence, Simple and/or Status Inquiries—7 days;
1.5 Correspondence, Complex Inquiries—20 days;
1.6 Supply, Materials, and Manual Requests—7 days;
1.7 Claims Draft Processing—7 days from completion of file examination;
1.8 Claims Adjustment—45 days average from receipt of Notice of Loss (or equivalent) through completion of examination.
1.9 For the elements of work enumerated above, the elapsed time shown is from date of receipt through date of mail out. Days means working, *not* calendar days.

In addition to the standards for timely performance set forth above, all functions performed by the Company shall be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing industries.

These standards are for guidance. Although no immediate remedy for failure to meet them is provided under this Arrangement, nevertheless, performance under these standards can be a factor considered by the Federal Insurance Administrator (the Administrator) in determining the continuing participation of the Company in the Program.

C. The Company shall coordinate activities and provide information to the FIA or its designee on those occasions when a Flood Insurance Catastrophe Office is established.

D. Policy Issuance

1.0 The Flood insurance subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act.

2.0 The Company shall issue policies under the regulations prescribed by the Administrator in accordance with the Act;

3.0 All such policies of insurance shall conform to the regulations prescribed by the Administrator pursuant to the Act, and be issued on a form approved by the Administrator;

4.0 All policies shall be issued in consideration of such premiums and upon such terms and conditions and in such States or areas or subdivisions thereof as may be designated by the Administrator and only where the Company is licensed by State law to engage in the property insurance business;

5.0 The Administrator may require the Company to immediately discontinue issuing policies subject to this Arrangement in the event Congressional authorization or appropriation for the National Flood Insurance Program is withdrawn.

E. The Company shall establish a bank account, separate and apart from all other Company accounts, at a bank of its choosing for the collection, retention and disbursement of funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article III, and the operation of the Letter of Credit established pursuant to Article IV. (Reference: Article IV, Section A). The Company shall invest all funds held in the accounts established pursuant hereto, which funds are not necessary to meet current expenditures, in obligations of the United States Government. Such income as is derived from these investments shall be utilized to meet the obligations of the Company pursuant to flood insurance policies issued hereunder.

F. The Company shall investigate, adjust, settle and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company shall be binding upon the FIA.

G. The Company may market flood insurance policies in any manner consistent with its customary method of operation.

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company shall be liable for operating, administrative and production expenses, including any taxes, dividends, agent's commissions or any board, exchange or bureau assessments, or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement.

B. The Company shall be entitled to withhold as operating and administrative expenses, other than agents or brokers commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's operating and administrative expenses, except for allocated and unallocated loss adjustment expenses described in C. below, which amount shall equal the average of industry expense ratios for "Other Acq." "Gen. Exp." and "Taxes" as published in the latest available (as of March 15 of the prior Arrangement year) "Best's" Aggregates and Averages Property Casualty, Industry Underwriting—by Lines (1982) for Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril combined (weighted average using premiums earned as weights) calculated and promulgated by the Administrator. Premium income net of reimbursement (net premium income) shall be deposited in a special account for the payment of losses and loss adjustment expenses (see Article II, Section E).

The Company shall be entitled to withhold 15.0% of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet commissions and/or salaries of their insurance agents, brokers, or other entities producing qualified flood insurance applications and other marketing expense.

With the agreement of the Administrator, the company may pay 3% of the company's written premium on the policies covered by this Arrangement for the right to obtain a reimbursement of state or municipal tax paid on the policies covered by this Arrangement.

C. Loss Adjustment Expenses shall be reimbursed as follows:

1. Unallocated loss adjustment shall be an expense reimbursement of 3.3% of the incurred loss (except that it does not include "incurred but not reported").

2. Allocated loss adjustment expense shall be reimbursed to the Company pursuant to Exhibit A, entitled "Fee Schedule."

3. Special allocated loss expenses shall be reimbursed to the Company for only those expenses the Company has obtained prior approval of the Administrator to incur.

D. Loss payments under policies of flood insurance shall be made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

Loss payments may include payments as a result of awards or judgments for punitive damages arising under the scope of this Arrangement and policies of flood insurance issued pursuant to this Arrangement provided that prompt notice of any claim for punitive damages is received by the Assistant Administrator of the FIA's Office of Insurance Policy Analysis and Technical Services, along with a copy of any material pertinent to the claim for punitive damages.

E. Premium refunds to applicants and policyholders required pursuant to rules contained in the National Flood Insurance Program (NFIP) "Flood Insurance Manual" shall be made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV.

Article IV—Undertakings of the Government

A. A Treasury Financial Communication System Letter(s) of Credit shall be established by the Federal Emergency Management Agency (FEMA) against which the Company may withdraw funds daily, if needed, pursuant to prescribed Federal Reserve Letter of Credit procedures as implemented by FEMA. The amounts of the authorizations will be increased as necessary to meet the obligations of the Company under Article III, Sections (C), (D), and (E). Request for funds shall be only when net premium income and income derived from investments and disinvestments have been depleted. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for allowable Letter of Credit costs.

Request for payment on Letters of Credit shall not ordinarily be drawn more frequently than daily nor in amounts less than $5,000, and in no case more than $5,000,000 unless so stated on the Letter of Credit. This Letter of Credit may be drawn against the Company for any of the following reasons:

1. payment of claim as described in Article III, Section D; and

2. refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund as described in Article III, Section E; and

3. allocated and unallocated Loss Adjustment Expenses as described in Article III, Section C.

B. The FIA shall provide technical assistance to the Company as follows:

1. The FIA's policy and history concerning underwriting and claims handling.

2. A mechanism to assist in clarification of coverage and claims questions.

3. Other assistance as needed.

Article V—Commencement and Termination

A. Upon signature of authorized officials for both the Company and the FIA, this Arrangement shall be effective for the period October 1 through September 30. The FIA shall provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. By June 1, of each year, the FIA shall publish in the **Federal Register** and make available to the Company the terms for the re-subscription of this Financial Assistance/Subsidy Arrangement. In the event the Company chooses not to re-subscribe, it shall notify the FIA to that effect by the following July 1.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, or the FIA chooses not to renew the Company's participation, the FIA, at its option, may require (1) the continued performance of this entire Arrangement for one (1) year following the effective expiration date only for those policies issued during the original term of this Arrangement, or any renewal thereof, (2) the transfer to the FIA of:

a. All data received, produced, and maintained through the life of the Company's participation in the Program; and

b. A plan for the orderly transfer to the FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

c. All claims and policy files, including those pertaining to receipts and disbursements which have occurred during the life of each policy. In the event of a transfer of the services provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date.

D. Financial assistance under this Arrangement may be cancelled by the FIA in its entirety upon 30 days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (1) Fraud or misrepresentation by the Company subsequent to the inception of the contract, or (2) nonpayment to the FIA of any amount due the FIA. Under these very specific conditions, the FIA may require the transfer of data as shown in Section C., above. If transfer is required, the unearned expenses retained by the Company shall be remitted to the FIA.

E. In the event the Act is amended, or repealed, or expires, or if the FIA is otherwise without authority to continue the Program, financial assistance under this Arrangement may be cancelled for any new or renewal business, but the Arrangement shall continue for policies in force which shall be allowed to run their their term under the Arrangement.

F. In the event that the Company is unable to, or otherwise fails to, carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any Jurisdiction to which the Company is subject, the Company agrees to transfer, and the Government will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event the Government will assume all obligations and liabilities owed to policyholders under such policies arising before and after the date of transfer and the Company will immediately transfer to the Government all funds in its possession with respect to all such policies transferred and the unearned portion of the Company expenses for operating, administrative and loss adjustment on all such policies.

Article VI—Information and Annual Statements

The Company shall furnish to the FIA such summaries and analyses of information in its records as may be necessary to carry out the purposes of the National Flood Insurance Act of 1968, as amended, in such form as the FIA, in cooperation with the Company, shall prescribe. The Company shall be a property/casualty insurer domiciled in a State or territory of the United States. Upon request, the Company shall file with the FIA a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof, as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII—Cash Management and Accounting

A. The FEMA shall make available to the Company during the entire term of this Arrangement and any continuation period required by FIA pursuant to Article V, Section C., the Letter of Credit provided for in Article IV drawn on a repository bank within the Federal Reserve System upon which the Company may draw for reimbursement of its expenses as set forth in Article IV which exceed net written premiums and interest income collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw.

B. At the end of each fiscal year, the Company shall remit to the FIA any funds in excess of those required to meet expenses for loss and loss adjustment. Such liabilities shall be defined as liabilities established for case reserves and reserves established for losses incurred but not reported, plus $5,000.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, the Company and FIA shall make a provisional settlement of all amounts due or owing within three months of the termination of this Arrangement. This settlement shall include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FIA agree to make a final settlement of accounts for all obligations arising from this Arrangement within 18 months of its expiration or termination, except for contingent liabilities which shall be listed by the Company. At the time of final settlement, the balance, if any, due the FIA or the Company shall be remitted by the other immediately and the operating year under this Arrangement shall be closed.

Article VIII—Arbitration

A. If any misunderstanding or dispute arises between the Company and the FIA with reference to any factual issue under any provisions of this Arrangement or with respect to the FIA's non-renewal of the Company's participation, other than as to legal liability under or interpretation of the standard flood insurance policy, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding upon approval by the FIA. The Company and the FIA may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make a determination. If the Company and the FIA cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the FIA.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the FIA.

The Company and the FIA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section, upon objection by FIA or the Company, shall be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article IX—Errors and Omissions

The parties shall not be liable to each other for damages caused by ordinary negligence arising out of any transaction or other performance under this Arrangement, nor for any inadvertent delay, error, or omission made in connection with any transaction under this Arrangement, provided that such delay, error, or omission is rectified by the responsible party as soon as possible after discovery.

Article X—Officials Not to Benefit

No Member or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this Arrangement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article XI—Offset

At the settlement of accounts the Company and the FIA shall have, and may exercise, the right to offset any balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, its successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and the FIA. This right of offset shall not be affected or diminished because or insolvency of the Company.

All debt of credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry, or any order of conservation, receivership, or liquidation, shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset. Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XII—Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XIII—Restriction on Other Flood Insurance

As a condition of entering into this Arrangement the Company agrees that in any area in which the Administrator authorizes the purchase of flood insurance pursuant to the Program, all flood insurance offered and sold by the Company to persons eligible to buy pursuant to the Program for coverages available under the Program shall be written pursuant to this Arrangement.

However, this restriction applies solely to policies providing only flood insurance. It does not apply to policies provided by the Company of which flood is one of the several perils covered, or where the flood insurance coverage amount is over and above the limits of liability available to the insured under the Program.

Article XIV—Access to Books and Records

The FIA and the Comptroller General of the United States, or their duly authorized representatives, for the purpose of investigation, audit, and examination shall have access to any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records which fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records of accounts and records relating to financial assistance shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. The FIA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

Article XV—Compliance With Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto shall be subject to the provisions of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, as amended, and Regulations issued pursuant thereto and all Regulations affecting the work that are issued pursuant thereto, during the term hereof.

Article XVI—Relationship Between the Parties (Federal Government and Company) and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended.

The Company is not the agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any flood policy issued pursuant hereto.

In witness whereof, the parties hereto have accepted this Arrangement on this——day of——————, 1985.

Company

The United States of America Federal Emergency Management Agency

By ——————————————

(Title)

By ——————————————

(Title)

Exhibit A

FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous assignment	$40.00
CWP	70.00
$0.01 to $200.00	70.00
$200.01 to $400.00	90.00
$400.01 to $600.00	110.00
$600.01 to $800.00	130.00
$800.01 to $1,000.00	150.00
$1,000.01 to $1,500.00	180.00
$1,500.01 to $2,000.00	200.00
$2,000.01 to $2,500.00	220.00
$2,500.01 to $3,000.00	240.00
$3,000.01 to $3,500.00	260.00
$3,500.01 to $4,000.00	280.00
$4,000.01 to $4,5000.00	300.00
$4,500.01 to $5,000.00	320.00
$5,000.01 to $6,000.00	350.00
$6,000.01 to $7,000.00	370.00
$7,000.01 to $8,000.00	380.00
$8,000.01 to $9,000.00	400.00
$9,000.01 to $10,000.00	420.00
$10,000.01 to $15,000.00	460.00
$15,000.01 to $20,000.00	490.00
$20,000.01 to $25,000.00	520.00
$25,000.01 to $30,000.00	550.00
$30,000.01 to $35,000.00	580.00
$35,000.01 to $40,000.00	610.00
$40,000.01 to $45,000.00	640.00
$45,000.01 to $50,000.00	670.00
$50,000.01 to $75,000.00	800.00
$75,000.01 to $100,000.00	950.00
$100,000.01 to $125,000.00	1,100.00
$125,000.01 to $150,000.00	1,250.00
$150,000.01 to $175,000.00	1,400.00
$175,000.01 to $200,000.00	1,550.00
$200,000.01 to limits	1,700.00

Allocated fee schedule entry value is the covered loss under the policy based on the standard deductibles ($500 and $50) and limited to the amounts of insurance purchased.

Appendix B to Part 62

National Flood Insurance Program

A Plan to Maintain Financial Control for Business Written Under the Write-Your-Own Program

Under the Write-Your-Own (WYO) Program, the Federal Insurance Administrator (Administrator) may enter into arrangements with individual private sector insurance companies that are licensed to engage in the business of property insurance, whereby these companies may offer flood insurance coverage to eligible property owners utilizing their customary business practices. To facilitate the marketing of flood insurance coverage, the Federal Government will be a guarantor of flood insurance coverage for WYO Company policies issued under the WYO Arrangement. To ensure that any taxpayer funds are accounted for and appropriately expended, the Federal Insurance Administration (FIA) and WYO Companies will implement this Financial Control Plan. Any departures from the requirements of this Plan must be approved by the Administrator. The authority for the WYO Program is contained in 44 CFR Parts 61 and 62, §§ 61.13 and 62.63. The WYO Financial Assistance/Subsidy Arrangement (Arrangement) is hereby made a part of this Plan, and a copy is contained in Part 8 of this Plan.

WYO Companies are subject to audit, examination, and regulatory controls of the various states. Additionally, insurance company operating departments are customarily subject to examinations and audits performed by Company internal audit (and/or quality control) departments and independent CPA firms. It is intended that this Plan utilize to the extent possible, the findings of these examinations and audits as they pertain to business written under the WYO Program (Parts 6 and 7).

The WYO Financial Control Plan contains several checks and balances which can, if properly implemented by the WYO Company, significantly reduce the need for extensive on-site reviews of Company files by the FIA staff or their designee. Furthermore, we believe that this process is consistent with customary reinsurance practices and avoids duplication of examinations performed under the auspices of individual State Insurance Departments, NAIC Zone examinations, and independent CPA firms.

The WYO Financial Control Plan requires the WYO Company to meet the minimum requirements established by the Standards Committee. The Standards Committee consists of three (3) members from FIA, one (1) member from the Federal Emergency Management Agency's (FEMA's) Office of the Inspector General, one (1) member from FEMA's Office of the Comptroller, and one (1) member from each of five (5) designated WYO Companies, pools or other entities.

The WYO Financial Control Plan must require the WYO Company to:

1. Conduct self-audit programs to meet the minimum requirements established by the Standards Committee and the AICPA Insurance Industry Audit Guide.

2. Submit an annual report of the WYO Company self-audit activities to the Standards Committee.

3. Participate in an evaluation of the WYO Company self-audit plan on at least a triennial basis. The evaluation will be conducted by the FIA Examination Division and the WYO Company's internal audit manager. A report of the evaluation will be filed with the Standards Committee and the Administrator.

4. Participate in a WYO Company/FIA Operation Review. The FIA Claims Director or designee and the FIA Underwriting Director or designee will conduct a review of the WYO Company's flood insurance activities at least once every three (3) years. These reviews, like the internal audit evaluation, will be conducted at the offices of the WYO Company. As a part of these reviews, acutal files (up to fifty (50)) will be reconciled with a listing of transactions submitted by the Company under the WYO Statistical Plan. A report of the Operation Review will be filed with the Standards Committee (Parts 3 and 4).

5. Meet the recording and reporting requirements of the WYO Statistical Plan. Transactions reported to the National Flood Insurance Program's (NFIP's) Servicing Facility by the WYO Company under the WYO Statistical Plan will be analyzed by the Servicing Facility and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company's submissions, the disposition of transactions which do not pass systems edits, and the reconciliation of the total generated from transaction reports with those submitted on the WYO Company's reports (Part 2).

6. Cooperate with FEMA's Office of the Comptroller on Letter of Credit matters.

7. Cooperate with FIA's Claims Director or designee in the implementation of a claims reinspection program (Part 5).

8. Cooperate with FIA's Underwriting Director or designee in the verification of risk rating information.

9. Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

The Standards Committee will review and make a recommendation to the Administrator concerning any adverse action arising from the implementation of the Financial Control Plan. Adverse actions include, but are not limited to:

1. FIA Examination Division's recommendation to perform extensive on-site audits of WYO Company files. On-site audits will be conducted by third-party, independent firms as selected by FEMA.

2. FIA Examination Division's recommendation to not renew a particular Company's WYO arrangement.

3. Complaints by the WYO Company of unprofessional and/or uncooperative actions of FIA staff and/or the NFIP Servicing Facility.

This Plan includes the following guidelines:

Part 1—Model Self-Audit Program's Minimum Standards
Part 2—Statistical Plan Reconciliation Procedures
Part 3—Underwriting Operation Review Procedures
Part 4—Claims Operation Review Procedures
Part 5—Claims Reinspection Program
Part 6—Financial Audits and State Insurance Department Examinations
Part 7—Reports Certifications
Part 8—WYO Financial Assistance/Subsidy Arrangement (Incorporated by Reference)
Part 9—Statistical Plan (Incorporated by Reference)
Part 10—Write-Your-Own (WYO) Accounting Procedures (Manual)

Part 1—Model Self-Audit Program's Minimum Standards

Self-Audit Program Objectives

The objectives are to establish minimum requirements by which all WYO Companies will conduct annual self-audits in the areas of underwriting, claims, financial control and statistical reporting. These requirements are consistent with guidelines established by the Standards Committee and the AICPA Insurance Industry Audit Guide.

These self-audits should:

1. Evaluate individual risk underwriting and claims handling based on the underwriting and claims examination process.

2. Ensure that standard underwriting and claims programs, systems and procedures are being utilized in an effective and proper manner.

3. Ensure that all financial and statistical reporting is reconcilable and conforms with established goverment procedures.

4. Review the quality of service and identify reasons for problems where applicable.

5. Provide recommendations to correct deficiencies and follow progress until deficiencies have been corrected.

6. Departures from these minimum standards require the written approval of the Federal Insurance Administrator.

Types of Samples

The use of any of the following samples is suitable in meeting the minimum standards of this self-audit program:

1. Judgment Sample—a sample based upon the judgment of the auditor.

2. Block Sample—a sample selected on the basis of consecutive time, with a 100% verification of all items in the "block".

3. Random Sample—a sample based on the concept that each item in the population has an equal chance of being in the sample.

4. Stratified random sample—a sample based on a specific portion of the population (i.e., A Zones, structures with basements, etc.) and random within that portion.

The sample size is adequate if it contains a sufficient number of items to show the same results as would be found in another sample of the same size from the same population. The sample should be a systematic representation of files selected based on a profile amount of premium represented in policy size groups. By using this method, a more meaningful file review could be made approaching 90% accuracy. The following sample sizes are suggested with the random sample or stratified random sample:

Population size	Sample size
0 to 99	27
100 to 149	36
150 to 249	40
250 to 399	45
400 to 599	48
600 to 1499	50
1,500 to 3,499	52
3,500 and up	54

Any other reviews which are conducted such as special ratings, large losses, repetitive losses should be specified and labeled as "special reviews".

Underwriting Audit Outline

1. Review of the Underwriting Department's responsibilities, authorities and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. Through examination of a random sample of underwriting files to measure the quality of work. At a minimum, files should be reviewed to verify the following:

Application Processing

a. Policies are issued for eligible risks.

b. Rates are correct and consistent with the amount of insurance requested on the application.

c. Waiting period for new business is consistent with government regulations.

d. Elevation certification or difference is correctly shown on application.

e. The coverage does not include more than one principal building and/or its contents per policy.

f. No binder is effective unless issued with the authorization of FIA.

g. The FIRM zone shown on the application is applicable to the community in which the property is located.

h. Community shown on application is eligible to purchase insurance under the NFIP.

i. Information on type of building, etc. is fully completed.

j. Applicable deductibles are recorded.

k. A new, fully completed application or a photocopy of the most recent application, or similar documentation, with appropriate updates to reflect current information is on file for each risk, including those formerly written by the NFIP Servicing Facility.

l. If any files to be audited are unavailable, determine the reason for their absence.

Endorsement Processing

a. Complete tasks above as applicable.

b. Review requests for additional coverage to ensure that they are subject to the waiting period rule.

c. Review controls established to ensure that no risk is insured under endorsement provisions that is not acceptable as a new business risk (i.e., a property located in a suspended community).

Cancellation Processing

Verify controls to ensure that one of the necessary reasons for cancellation exists and that the transaction is accompanied by proper documentation.

Renewal Processing

Determine controls to ensure that all necessary information needed to complete the transaction is provided.

Expired Policies

Determine controls to ensure that each step is carried out at the proper time.

Observance of Waiting Period

Establish procedures to document, as a matter of WYO Company business record and in each transaction involving a new application, renewal, and endorsement, that any applicable effective date and premium receipt rules have been observed (44 CFR 61.11). Documentation reasonably suitable for the purpose includes retention of postmarked envelopes (for three (3) years from date, or until the performance of an operational underwriting review, whichever is sooner); date-stamping and retention (via hard-copy or microfilm process) of application, renewal, and endorsement documents and checks received in payment of premium; computer input of document and premium receipt transactions and retention of such records in the computer system; and other reasonable insurer methods of verifying transactions involving requests for coverage and receipts of premium.

Claims Audit Outline

1. Review of the Claims Department's responsibilities, authorities and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. Thorough examination of a random sample of claims files to measure the quality of work. At a minimum, the files should be reviewed to verify the following:

a. Verify controls to ensure that a file is set up for each Notice of Loss received.

b. Review adjuster reports to determine whether they contain adequate evidence to substantiate the payment or denial of claims, including amount of losses claimed, any salvage proceeds, depreciation and potential subrogation.

c. Ascertain that building and contents allocations are correct.

d. Determine whether file contains evidence identifying subrogation possibilities.

e. Verify that partial payments were properly considered in processing the final draft or check.

f. Verify that loss payees are listed correctly (consider insured and mortgagee).

g. Verify that the total amount of the drafts or checks is within the policy limits.

h. Ascertain the relevance and validity of the criteria used by the carrier to judge effectiveness of its claim servicing operation.

i. Confirm that when information is received from an independent adjuster, the examiner either acts promptly to give proper feedback with instructions or takes action to pay or deny the loss.

j. Determine whether the Claims Department is using an "impression of risk" program in reporting misrated policies, etc.

k. Where attempts at fraud occur, verify that these instances are being reported to FIA's Assistant Administrator for Insurance Policy Analysis and Technical Services for referral to FEMA's Inspector General.

l. If any files to be audited are unavailable, determine the reason for their absence.

Statistical Plan Audit Outline

1. Review of the Accounting and Statistical/Data Processing Departments' responsibilities, authorities and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. Review general controls in data processing system to determine whether (1) the controls have been designed according to management direction and known requirements of the Arrangement, (2) the controls are operating effectively to provide reliability of and security over the data being processed, (3) the reporting is made timely and (4) error resubmissions receive appropriate priorities.

Financial Audit Outline

1. Review of the Accounting Department's responsibilities, authorities and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. The reviewer shall test the transactions and operations of the WYO Company to determine whether the program is in conformity with compliance requirements that have a material effect upon the NFIP financial position. Specifically, the auditor shall establish whether the carrier has incurred any unrecorded liabilities—contingent or actual—through failure to comply with, or through violation of, pertinent laws and regulations.

5. The reviewer shall determine whether the carrier is: (1) maintaining an effective control on revenues, expenditures, assets and liabilities; (2) properly accounting for resources, liabilities and operations; (3) submitting external financial reports that contain accurate, reliable, and useful financial data and that they are fairly presented including proper statistical reconciliation procedures; and (4) expending federal funds for authorized purposes.

6. The review of the financial system will be used to determine whether:

a. Accounting is fully responsive to the reporting requirements of FEMA.

b. Financial transactions are executed as authorized and properly recorded.

c. Effective cash management is exercised. The management of cash includes the areas of accounts' receivable and payable and the custodial responsibilities and control systems over cash and the use of Letters of Credit cash advances.

d. Retention of various allowances and/or reimbursements are in conformity with the "Financial Assistance/Subsidy Arrangement".

Part 2—Statistical Plan Reconciliation Procedures

Statistical Plan Reconciliation Objectives

The objectives are: to reconcile transaction detail with monthly financial statements submitted by the WYO Companies; to assess the quality and timeliness of submitted data; and to provide for the identification and resolution of discrepancies in the data. The reliance on computer processing to perform the review of submitted data will help minimize the necessity for on-site audits of WYO Companies. Reconciliation of the statistical reports submitted will be performed by the WYO Companies and independently by CSC (Computer Sciences Corporation), the NFIP servicing contractor.

The review of monthly financial statements and transaction level detail will involve five areas:

1. Financial control;
2. Quality control (audit trails);
3. Quality review of submitted data;
4. Policy rating; and
5. Timeliness of reporting.

Financial Control

1. WYO Companies are required to submit a reconciliation report (Exhibit "A") with the submission of transaction level detail. This report will reconcile the transaction records data to the financial report, explaining any discrepancies.

2. The NFIP will review, at a minimum, the categories on the attached format and produce a similar report reconciling the transaction data to the monthly financial statement submitted by each WYO Company.

3. To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NFIP to review the quality of submitted data will be so identified, but still maintained until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP.

Quality Control

Transaction level detail will be maintained in policy and claim history files for recordkeeping and audit purposes.

Quality Review of Submitted Data

1. Transaction records will be edited for correct format and values.

2. Relational edits will be performed on individual transactions as well as between policy and claim transactions submitted against those policies.

3. Record validation will be performed to check that the transaction type is allowable for the type of policy or claim indicated.

4. Errors will be categorized as critical or non-critical. The rate of critical errors in the submission of statistical data will be the basis by which company performance is reported to the Standards Committee. Critical errors include those made in required data elements (Type A record transactions). Non-critical errors are those made in data elements reported by the WYO Companies at their option (Type B record transactions).

Policy Rating

The rating will be validated by the NFIP for all policies for which the following transactions have been submitted:

1. New Business;
2. Renewals;
3. Endorsements involving type A transaction records; and
4. Corrections of type A transaction records previously submitted for premium transactions.

Incorrect rating will be considered a critical error.

Timeliness of Reporting

WYO Companies will be expected to submit monthly statistical and financial reports within thirty days of the end of the month of record.

The NFIP will produce reports based on review of submitted data within thirty days after the due date or receipt date of WYO Company submissions, whichever is later.

Monthly Reports

Reports for each WYO Company's data submission will be sent to the respective WYO Company and the FIA explaining any discrepancies found by the NFIP review.

Report to WYO Companies:

1. Transaction records that fail to pass the quality review or policy rating edits will be reported to the appropriate Company in transaction detail with error codes, classification of errors as either critical or non-critical and any codes used by the Company to identify the source of the transaction data.

Reports to WYO Companies and the FIA:

2. Summary statistics will be generated for each monthly submission of transaction data, separately for initial and correction transactions. These will include:

a. Absolute numbers of transactions read, transactions accepted and transactions in error, separately for Type A and Type B transactions.

b. Relative values for the number of Type A transactions containing errors stated as percentages of total Type A transactions read.

c. Absolute numbers of critical and non-critical errors.

3. Summary statistics for all policy and claim records submitted to date (which may each be the result of multiple transactions) will be generated, separately for critical and non-critical errors. These will include:

a. Absolute number of policy and claim records on file and those containing errors.

b. Relative values for the number of records containing critical errors.

4. Control totals will be generated for tapes submitted to and processed by the NFIP. These will include:

a. Number of records submitted according to the WYO Company.

b. Number of records actually submitted according to NFIP.

5. In cases where the NFIP reconciliation of transaction level detail with the financial statements does not agree with the reconciliation report submitted by the WYO Company, a separate report will be generated and transmitted to the Company for resolution and to the FIA.

Reporting of Company Rating to the Standards Committee and the Administrator

Satisfactory Rating

An annual end of the year report will be submitted to convey the satisfactory rating of WYO Companies' submission of transaction data and the reconciliation of this data with financial reports.

Unsatisfactory Rating

The report of an unsatisfactory rating will be submitted as soon as errors and problems reach critical threshold levels. This rating will be based on: continuing problems in reconciling transaction data with financial reports; statistics on the percentage of transactions submitted with critical errors; the percentage of policy and claim records on file that contain critical errors; and, late submission of statistical and financial reports.

BILLING CODE 6718-01-M

EXHIBIT "A"

MONTHLY RECONCILIATION - NET WRITTEN PREMIUMS

COMPANY NAME ____________ COMPANY NUMBER ____________

MONTH/YEAR ENDING ____________ DATE SUBMITTED ____________

PREPARER'S NAME ____________ TELEPHONE NO. ____________

	MONTHLY FINANCIAL REPORT	MONTHLY STATISTICAL TRANSACTION REPORT
NET WRITTEN PREMIUMS	____________ (Income Statement-Line 100)	____________ Total of Pre-Paid premium transactions (11, 17, 20, 23, 26, 29)-
UNPROCESSED STATISTICAL:		
+ Prior Month	____________	
- Current Month	____________	
OTHER - EXPLAIN		
(1)	____________	
(2)	____________	
TOTAL ABOVE	____________	____________

COMMENTS:

EXHIBIT "A" (CONT.)

MONTHLY RECONCILIATION - NET PAID LOSSES

COMPANY NAME ____________ COMPANY NUMBER ____________

MONTH/YEAR ENDING ____________ DATE SUBMITTED ____________

		MONTHLY FINANCIAL REPORT	MONTHLY STATISTICAL TRANSACTION REPORT
100	NET PAID LOSSES	____________ (Income Statement-Line 115)	____________ Total of loss paid transactions (31, 34, 40, 43, 49, 64). (Extract from transactions 31 and 34 only claim payments)
110	NET SALVAGE RECOVERY		____________ Transactions 52, 67 (Salvage only)
120	NET SUBROGATION RECOVERY		____________ Transactions 52, 67 (Subrogation only)
130	CLAIM PAYMENT RECOVERY		____________ Transactions 52, 67 (Extract claim payment recoveries only.)
	UNPROCESSED STATISTICAL:		
140	+ PRIOR MONTH	____________	
150	- CURRENT MONTH	____________	
160	SALVAGE NOT TO BE REPORTED BY TRANSACTION (Explain)	____________	
170	OTHER - EXPLAIN		
	(1)	____________	
180	TOTAL ABOVE	____________ (Sum of lines 100, 140, 160, 170 minus line 150)	____________ (Line 100 minus sum of lines 110, 120, 130)

COMMENTS:

EXHIBIT "A"

MONTHLY RECONCILIATION - SPECIAL ALLOCATED LAE

COMPANY NAME ____________ COMPANY NUMBER ____________

MONTH/YEAR ENDING ____________ DATE SUBMITTED ____________

	MONTHLY FINANCIAL REPORT	MONTHLY STATISTICAL TRANSACTION REPORT
SPECIAL ALLOCATED LOSS ADJUSTMENT EXPENSES	____________ (Other Loss & LAE Calculation-Line 655)	____________ Transactions 71, 74
UNPROCESSED STATISTICAL		
+ Prior Month	____________	
- Current Month	____________	
OTHER - EXPLAIN		
(1)	____________	
(2)	____________	
TOTAL ABOVE	____________	____________

COMMENTS:

EXHIBIT "A" (CONT.)

MONTHLY LOSS RESERVE DOCUMENTATION

COMPANY NAME ____________ COMPANY NUMBER ____________

MONTH/YEAR ENDING ____________ DATE SUBMITTED ____________

NUMBER OF OPEN CLAIM CASES WITH RESERVES ____________

TOTAL AMOUNT OF RESERVES ____________

BILLING CODE 6718-01-C

Part 3—Underwriting/Policy Administration Operation Review Procedures

The objectives are to establish procedures by which the FIA underwriter or designee will conduct at least a triennial review of a WYO Company's flood insurance policy administration/underwriting activities.

Notice

The WYO Company's representative would be notified in writing of the FIA underwriter's plan to conduct an Operation Review. This notice would profide the WYO Company at least 30 days to prepare for the Operation Review.

These Operation Reviews should:

1. Evaluate with the WYO Company's representative the underwriting/policy administration processes used to write flood insurance, furnishing financial and statistical data to the NFIP and ensuring accuracy and service in the issuance of policies.

2. Evaluate the timeliness and accuracy of actual transactions submitted in accordance with the Statistical Plan instructions. Up to 50 policy files should be matched with printed transaction data extracted from NFIP statistical records. FIA may select policies which would be beneficial to the WYO Company's understanding of the underwriting and rating procedures.

3. Provide the WYO Company's representative a briefing on the results of the evaluation under (1) and (2) to facilitate improvements in the underwriting/policy administration process.

4. Provide the WYO Company's representative an opportunity to respond to the evaluation and resolve outstanding matters.

5. Establish a schedule under which the FIA and/or the WYO Company's representative should provide additional information on matters still outstanding at the conclusion of the on-site visit.

6. Provide the WYO Company's representative with a copy of the draft report. The WYO Company's underwriter should be provided with a reasonable amount of time to respond in writing. The WYO Company's written response is to be made part of the Operation Review Report.

7. Provide the Standards Committee with a report on the results of the Operation Review.

Note.—The following information is presented solely as a suggested Underwriting/Policy Administration Operation Review outline. The precise review format and the techniques employed to fulfill review objectives for a specific WYO Company would be based on that Company's processing environment and organizational configuration. In addition, the following information could be used as a guideline for a WYO Company's annual self-audit Program.

Underwriting/Policy Administration Operation Review Outline

1. *WYO Company Summary Report.*

An overview would be provided by the WYO Company to the FIA underwriter prior to the on-site review. See Exhibit "A".

2. *Administrative Review.*

The review provides for the identification of and compliance with existent administrative, technical and functional policies or procedures. See Exhibit "B".

3. *Operational Activity (Applications, Policy and Endorsement Issuance, Cancellations).*

The review provides for a three-year analysis of operational activities as follows:

a. Analysis of policies in force, applications entered, declinations and cancellations.

b. Analysis of type of business (Dwelling, General Property business).

c. Renewal processing systems.

d. Endorsement processing.

e. Analysis of observance of effective date rules relative to the above, as detailed in Part 1, under "Underwriting Audit Outline", at "Observance of Waiting Periods."

4. *File Review.*

The review provides for a sampling of policy files. The general details to be covered in the individual files are in the "Specific Risk Review Checklist" (Exhibit "C"). Also, an "Underwriting Review Summary" (Exhibit "D") would be compiled for the Risk Review portion of the report.

5. *Rating.*

A review of rating activity would cover the following areas:

a. Internal review of rating accuracy.

b. Use of specific rates.

c. Correction procedure.

d. Timeliness of service.

e. Training procedures for staff and/or agents.

6. *Rating Data Verification.*

A sampling of risks would be reviewed. A check would be made to determine:

a. Type of occupancy.

b. Type of structure.

c. Number of floors.

d. Basement type.

e. Elevated with enclosures.

f. Contents location.

g. Program.

h. Community.

i. Zone.

j. Elevation from elevation certificate.

k. Floodproofing.

l. Mortgagee.

m. Deductible.

n. Condominium.

Phone calls or on-site physical inspections of selected risks may be undertaken at the discretion of the WYO Company and the FIA Underwriting Division.

7. *Review of Appeals and/or Complaints (Those to the Insurance Department and those filed directly with the WYO Company).*

The review would include the following:

a. Analysis of actions.

b. Analysis of average time frame required to resolve these cases.

8. *Reports.*

The FIA underwriter or designee would file a report of the Operation Review with the WYO Company representative, the Standards Committee and the Administrator. The minimum level of detail in the report would be as follows:

a. *Satisfactory Rating.* The report would contain the time, place, and a list of participants in the review process. It would also contain the number of files examined along with any comments on their accuracy and condition that would be appropriate.

b. *Unsatisfactory Rating.* The report would be written as specifically as possible. Each unsatisfactory condition would be described and documented. Recommendations to the WYO Company's representative on steps to be taken to rectify any delay, error, or omission would be clearly stated with a time frame in which the corrective action would be accomplished. Follow up procedures would be worked out with the WYO Company's representative which would indicate the dates any progress reports would be filed with the Standards Committee and the Administrator.

Note.—A suggested rating criteria would be the use of an overall error percentage. The overall error percentage would be applied to a standard and a rating would be developed. For instance, an overall error percentage of 20% or higher would be a basis for an unsatisfactory rating until a baseline developed from actual experience is determined. The overall percentage would be developed from the results of the file review. The errors on a file would be categorized as either critical or non-critical. One or more critical errors or three or more non-critical errors identified in a file would be considered as only one error when developing the overall error percentage.

The determination of what constitutes a critical or non-critical error would be based on established significant conditions. For example, critical error conditions would be as follows:

(1) Any error which impacted the correct rating of the policy (coverage amount, zone).

(2) The insuring of an ineligible risk.

Exhibit "A"—WYO Company

Summary Report

The WYO Company would prepare a report summarizing the flood insurance operation within the Company including the following items:

1. A general statement describing the nature of the operational setup, whether in-house or through a vendor.

2. If in-house, the number of processing locations, person in charge of operations, staffing arrangement as appropriate, and operating relationships to other insurance activities.

3. If through a vendor, name and address, number of states involved, WYO Company representative responsible for dealing with vendor.

4. Optionally, exhibits and flow charts as appropriate.

Exhibit "B"—Administrative Review Report

A report would be prepared covering the following points, summarizing the activity in each area, giving examples and identifying those areas in need of attention.

1. *Policywriting, Rating and Endorsements:*

a. Prompt within service guidelines?

b. Is policy writing audited?

c. Are policy writing errors held to a minimum?

d. Is satisfactory action normally taken to ensure established eligibility standards are met?

e. Are there adequate procedures for handing specifically rated property?

2. *Bulletins, Guidelines and Manuals:*

a. Does each underwriter, policywriter, rater and coder have proper manuals available for their use?

b. Is there a procedure for maintaining manuals?

3. *Correspondence Files:*

a. In good order?

b. Procedures for destruction?

4. *Cancellation and Declination:*

a. Are procedures understood and requirements knowledgeably attended to?

5. *New Business:*

a. Are applications being properly checked?

6. *Specific Risk Review:*

Review areas that need attention from "Specific Risk Review Checklist" giving examples and recommendations for improvement.

7. *Renewal Procedures:*

a. Are they satisfactory?

b. Are non-renewal procedures satisfactory?

8. *Mortgagee Procedures:*

a. Are they satisfactory?

Exhibit "C".—Specific Risk Review Checklist

Date: ____________

Audit for:

( ) Single Family Dwelling

( ) 2-4 Family Dwelling

( ) Other Residential

( ) Non Residential

File No. ____________

Amount of Ins. ____________

Bldg. ____________

Cts. ____________

Occupancy: ____________

	Yes	No	Comment if checked "No"
Application:			
Properly completed?			
Met eligibility—location requirements?			
Policy:			
Properly issued?			
Required Premium Received?			
Limits of Insurance:			
Are limits within the NFIP statutory allowances?			

Comment on conditions below that are unsatisfactory:	
(a) Obstruction below elevated floor of an elevated building	
(b) Property in violation of building codes	
(c) Other	

	Yes	No	Comment if checked "No"
Timeliness of service satisfactory within established time standards:			
(a) Applicatiun?			
(b) Policy issuance?			
(c) Notice of declination?			
(d) Renewal or cancellation?			
(e) Premium notices?			
(f) Waiting period observed?			
File satisfactory for:			
(a) Documentation?			
(b) Rate verification?			
(c) Other/____			

WYO Company Underwriter Comments

Answered by ____________

Date ____________

Resolution

Exhibit "D".—Underwriting Review Summary

Type of file or item	Total number reviewed	Total number held for manager
1. General property (commercial) files		
2. Single-family and 2-4 family dwelling files		
3. Multi-family dwelling and other general property files		
4. Quote files		
5. Declination files		
Community not eligible		
Incomplete application (unable to rate)		
Risk not eligible		
Premium not submitted		
Premium not sufficient		
6. Other (designate type)		
7		
8		
9		

Part 4—Claims Operation Review Procedures

Claims Operation Review Objectives

The objectives are to establish procedures by which the FIA examiner or designee will conduct at least a triennial review of a WYO Company's flood insurance claims administration activities.

These Claims Operation Reviews should:

1. Evaluate with the WYO Company's claims manager or designee the claims administration processes used to: settle flood insurance claims; provide financial and statistical data to the NFIP; and ensure accuracy and service in the handling of claims.

2. Evaluate the timeliness and accuracy of actual transactions submitted in accordance with the Statistical Plan instructions. Up to 50 policy files should be matched with printed transaction data extracted from NFIP statistical records.

3. Provide the WYO Company's claims manager a briefing on the results of the evaluation under (1) and (2) to facilitate improvements in the claims administration processes.

4. Provide the WYO Company's claims manager an opportunity to respond to the evaluation and resolve outstanding matters.

5. Establish a schedule under which the FIA examiner and/or the WYO Company's claims manager should provide additional information on matters still outstanding at the conclusion of the on-site visit.

6. Provide the WYO Company's claims manager with a copy of the draft report. The WYO Company's claims manager should be provided with a reasonable amount of time to respond in writing. The WYO Company's written response is to be made part of the Operation Review Report.

7. Provide the Standards Committee with a report on the Operation Review.

Notice

The WYO Company's claims manager would be notified in writing of the FIA examiner's plans to conduct and Operation Review. This notice would provide the WYO Company at least 30 days to prepare for the Operation Review.

Note.—The following information is presented solely as a suggested Claims Operation Review Outline. The precise review format and the techniques employed to fulfill review objectives for a specific WYO Company would be based upon the Company's processing environment and organizational configuration. In addition, the following information could be used as a guideline for a WYO Company's annual self-audit Program.

WYO-FIA Claims Operation Review Outline

1. *Claim Department's Responsibilities, Authorities, and Composition.* An overview of the Department's responsibilities, authorities and staffing composition (managerial, technical and clerical) would be provided by the WYO Company to the FIA examiner (Exhibit "A") prior to the on-site review. The overview would contain the following information:

a. Statement of Primary Function(s);

b. Relationship;

(1) WYO Company Management;

(2) Claim Division (FIA);

c. Responsibilities and Authorities; and

d. Staffing Composition.

2. *Administrative Review.* The review provides for the identification of and compliance with existent administrative, technical and functional policies or procedures. It examines relationships with other WYO Company Departments (Executive, Accounting, Underwriting and Data Processing) and inquiries as to the adequacy of controls and security.

a. Administrative Policies and/or Procedures.

b. Technical Procedures.

c. Functional (Clerical) Procedures.

In undertaking this portion of the examination, the "Administrative Review Checklist" (Exhibit "B") would be utilized.

3. *Claim Volumes—Payment (Loss and Expense) Review.* It provides for a three-year analyses of claim frequency and payment (loss and allocated expense) figures. Also, it would inquire into distribution of losses by size of loss and examine unallocated expenses. The analyses would be as follows:

a. Analysis of Claim Volumes and Payments (Exhibit "C").

b. Analysis of Special Allocated Claims Expenses ("Exhibit "C").

c. Analysis of Salvage and Subrogation Recoveries (Exhibit "C").

d. Analysis of Recovery Results (Exhibit "C").

e. Analysis of Losses by Size of Loss (Exhibit "D").

4. *Review of Appeals and/or Complaints (Those to the Insurance Department and those filed directly with the WYO Company).* The review would include the following:

a. Analysis of actions.

b. Analysis of average time frame required to resolve these cases.

5. *File Review.* It provides for a thorough examination of a random sampling of claim files (open and closed) to measure the quality of investigations, adjustments and supervision. Claim Review Summary Worksheets (Exhibit "E") will be completed on each file examined. Specific comments on

the file would be indicated on the worksheet. Further audit letters (Exhibit "F" and "G") would be sent on a representative number of closed cases.

Any circumstances indicating a substantive variance from existing Underwriting Rules would be communicated to the Underwriting Review Team (if present) and to the WYO Company's Underwriting Department.

6. *Worksheet Files.* The FIA claims examiner or designee would maintain separate operation review files for each Company. These files and any draft report written that relies on these files would include the WYO Company's responses. At the WYO Company's request, the FIA claims examiner would provide a copy of these files to the WYO Company's claims manager.

7. *Reports.* The FIA claims examiner or designee would file a report of the Operation Review with the WYO Company (Claims Manager and Internal Audit Manager), the Standards Committee and the Administrator. The minimum level of detail in the report would be as follows:

a. *Satisfactory Rating.* The report would contain the time, place, and a list of participants in the review process. It would contain the number of files examined with any comments on their accuracy and condition that would be appropriate.

b. *Unsatisfactory Rating.* The report would be written as specifically as possible. Each unsatisfactory condition would be described and supported by documentation. Recommendations to the WYO Company's claims manager on steps to be taken to rectify any delay, error, or omission would be clearly stated with a time frame in which the corrective action would be accomplished. Follow up procedures would be worked out with the WYO Company's claims manager which would indicate the dates progress reports would be filed with the Standards Committee and the Administrator.

Note.—A suggested rating criteria would be the use of an overall error percentage. The overall error percentage would be applied to a standard and a rating would be developed. For instance, an overall error percentage of 20% or higher would be a basis for an unsatisfactory rating until a baseline developed from actual experience is determined. The overall percentage would be developed from the results of the file review. The errors on a file would be categorized as either critical or non-critical. One or more critical errors or three or more non-critical errors identified in a file would be considered as only one error when developing the overall error percentage.

The determination of what constitutes a critical or non-critical error would be based on established significant conditions. For example, critical error conditions would be as follows:

(1) An error which resulted in a claim payment where no coverage was present.

(2) An error which resulted in an incorrect payment amount.

(3) Failure to process a claim in accordance with established procedures which caused significant delay in closing.

Exhibit "A"—Claim Department Responsibilities, Authorities, and Composition

The WYO Company would prepare a report summarizing the flood insurance Claim Department's organizational position within the Company and the resources available to perform the claims settlement function.

1. *Attach Organization Chart.*

a. Indicate lines of authority and functional dependencies for only those departments involved in the WYO Company's flood insurance activities.

b. Show the names of key personnel involved in the WYO Company's flood insurance activities.

2. Attach exhibits and the written description of the information required under Item 1. of the WYO-FIA Claims Operations Review Outline.

Exhibit "B".—Administrative Review Checklist

1. *Investigation and Adjustments.*

a. Application of Coverage.

	Yes	No	N/A
(1) Insurable interest?	[ ]	[ ]	[ ]
(2) Is loss from the flood peril?	[ ]	[ ]	[ ]
(3) Did loss occur within policy term?	[ ]	[ ]	[ ]
(4) Does location and description of risk coincide with policy information?	[ ]	[ ]	[ ]
(5) Were proper deductibles applied?	[ ]	[ ]	[ ]
(6) Other insurance considered?	[ ]	[ ]	[ ]
(7) Other losses?	[ ]	[ ]	[ ]

b. Application of Sound Adjusting Practices.

	Yes	No	N/A
(1) Was adjuster's report accurate/complete?	[ ]	[ ]	[ ]
(2) Was an attorney used in the settlement?	[ ]	[ ]	[ ]
(3) Was a technical expert used in the settlement?	[ ]	[ ]	[ ]

c. Documentation.

	Yes	No	N/A
(1) Are damages clearly identified?	[ ]	[ ]	[ ]
(2) Are damages flood related?	[ ]	[ ]	[ ]
(3) Are damages clearly and completely itemized and documented by the adjuster?	[ ]	[ ]	[ ]
(4) Was depreciation considered?	[ ]	[ ]	[ ]

	Yes	No	N/A
(5) Has subrogation been considered?	[ ]	[ ]	[ ]
(6) Has salvage been properly handled?	[ ]	[ ]	[ ]
(7) Was salvage timely?	[ ]	[ ]	[ ]

2. *Supervision.*

a. Assignments.

	Yes	No	N/A
(1) Are assignments made promptly?	[ ]	[ ]	[ ]
(2) Is insured contacted promptly?	[ ]	[ ]	[ ]

b. Reserves.

	Yes	No	N/A
(1) Are initial reserves indicated on the first report?	[ ]	[ ]	[ ]
(2) Are they adequate?	[ ]	[ ]	[ ]
(3) Does final settlement compare favorably with last reserve established?	[ ]	[ ]	[ ]

c. Diary Control.

	Yes	No	N/A
(1) Automatic?	[ ]	[ ]	[ ]
(2) Timely?	[ ]	[ ]	[ ]
(3) Is file reviewed at diary date with examiner's comments?	[ ]	[ ]	[ ]

d. Examiner Evaluation and Settlement Performances.

	Yes	No	N/A
(1) Is examiner directing adjuster when needed?	[ ]	[ ]	[ ]
(2) Are files documented?	[ ]	[ ]	[ ]
(3) Is adequate control maintained over in-house adjuster?	[ ]	[ ]	[ ]
(4) Is adequate control maintained over outside adjuster?	[ ]	[ ]	[ ]

e. Salvage and subrogation.

	Yes	No	N/A
(1) Is salvage evaluated by salvors?	[ ]	[ ]	[ ]

	Yes	No	N/A
(2) Is salvage disposed of promptly?	[ ]	[ ]	[ ]
(3) Are salvage returns adequate?	[ ]	[ ]	[ ]
(4) Is potential subrogation being promptly and properly investigated?	[ ]	[ ]	[ ]
(5) Are proper subrogation forms used?	[ ]	[ ]	[ ]
(6) Are subrogation and salvage files properly opened, diaried, and referred (if appropriate)?	[ ]	[ ]	[ ]
(7) Are recovery funds for subrogation and salvage being properly handled?	[ ]	[ ]	[ ]

f. Suits.

	Yes	No	N/A
(1) Are suits properly identified?	[ ]	[ ]	[ ]
(2) Are suits being properly evaluated	[ ]	[ ]	[ ]
(3) Are suits being referred to attorneys promptly?	[ ]	[ ]	[ ]
(4) Are attorneys being advised as to handling settlement or compromise?	[ ]	[ ]	[ ]
(5) Are suits being properly controlled?	[ ]	[ ]	[ ]
(6) Are suits files properly diaried?	[ ]	[ ]	[ ]

g. Other.

	Yes	No	N/A
(1) Was there other coverage by the WYO Company?	[ ]	[ ]	[ ]
(2) Were damages correctly apportioned?	[ ]	[ ]	[ ]
(3) Was a solo adjuster used?	[ ]	[ ]	[ ]
(4) Were there prior flood claims?	[ ]	[ ]	[ ]
(5) Were prior damages repaired?	[ ]	[ ]	[ ]
(6) Were prior claim files reviewed?	[ ]	[ ]	[ ]
(7) Was a congressional complaint letter in file?	[ ]	[ ]	[ ]
(8) Was it responded to promptly?	[ ]	[ ]	[ ]

EXHIBIT "C"—Analysis of Claim Volumes and Payments

CLAIM VOLUME

Line	Number of claims CAT#	Number of claims CAT#	Number of claims CAT#	Number of claims CAT#	Total Number of claims non-CAT#
Dwelling form					
General prop					
Totals					

LOSS PAYMENTS

Line	Payments	Payments	Payments	Payments	Payments
Dwelling form					
General prop					
Totals					

SPECIAL ALLOCATED EXPENSE PAYMENTS

Line	Payments	Payments	Payments	Payments	Payments
Dwelling form					
General prop					
Totals					

SALVAGE RECOVERY

Line	Number of claims affected	Number of claims affected	Number of claims affected	Number of claims affected	Number of claims affected
Dwelling form					
General prop					
Totals					

SUBROGATION CASES

Line	Number of claims affected	Number of claims affected	Number of claims affected	Number of claims affected	Number of claims affected
Dwelling form					
General prop					
Totals					

RECOVERY RESULTS ANALYSIS

	19—recoveries				Pct to payments			
	Subrogation		Salvage		Subrogation		Salvage	
	Gross	Net	Gross	Net	Gross	Net	Gross	Net
1st Quarter								
2d Quarter								
3d Quarter								
4th Quarter								
Year totals								

Note.—Gross means the total amount recovered. Net means the "gross" less expenses of recovery.

EXHIBIT "D"

ANALYSIS OF LOSSES BY SIZE OF LOSS

Size	Building coverage		Contents coverage	
	WYO Company number of claims	Total NFIP number of claims	WYO Company number of claims	Total NFIP number of losses
$1 to $2,000				
$2,001 to $5,000				
$5,001 to $10,000				
$10,001 to $15,000				
$15,001 to $20,000				
$20,001 to $50,000				
$50,001 and Up				
Total				
Average Claim Cost	$	$	$	$

ANALYSIS OF LOSS RESERVES

Size	Building coverage		Contents coverage	
	WYO Company number of claims	Total NFIP number of claims	WYO Company number of claims	Total NFIP number of losses
$1 to $2,000				
$2,001 to $5,000				
$5,001 to $10,000				
$10,001 to $15,000				
$15,001 to $20,000				
$20,001 to $50,000				
$50,001 and Up				
Total				
Average Claim Cost	$	$	$	$

Note.—These exhibits will be developed by the NFIP for review with the WYO Company's claims manager.

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EXHIBIT "E"

CLAIM REVIEW SUMMARY WORKSHEET

NCPI

Company ________ Examiner ________ Date ________

FILE NUMBER	INSURED	DATE				POLICY FORM	CAUSE OF LOSS	ADJUSTER	CLAIM PAYMENT	TIMELINESS			COVERAGE			INVESTIGATION					VERIFY LOSS		ADJUST CLAIM			MISCELLANEOUS					WAS SUPERVISION ADEQUATE	COMMENTS
		OF LOSS	NOTICE REC.	PAID	CLOSED					CONTACT	CLAIM CONTROL	TIMELY & ADEQ. RESERVES		COVERED HAZARD	COVERED PROPERTY	DESCRIPTION OF LOSS	POLICE/FIRE RPT. SECURED	SALVAGE	SUBROGATION	INSURABILITY QUESTION RESOLV	HOW WAS AMOUNT OF LOSS VERIFIED	IS VERIFICATION ADEQUATE	DEDUCTIBLE APPLIED	CO-INS CONSIDER'D	DEPRECIATION TAKEN	STATEMENT OF LOSS	A/A REPORT	CLAIMANT [illegible]	DRAFT ISSUED CORRECTLY	SETTLEMENT AUTHORITY		

FIA-WYO Program

Part 4 - Second Printing 4-14 June 1, 1984

BILLING CODE 6718-01-C

Exhibit "F".—NCPI

Suggested Letter Where Photocopy of Claim Payment Draft Is Available

Dear ____________
Claim # ____________
Date of Loss: ____________

Our auditors are conducting a routine examination of our operations, one phase of which is a review of claim payments. Will you be good enough to confirm a payment made to you? To provide you with what we believe is sufficient information, a copy of the claim payment draft is enclosed.

Is the information shown on draft # ______ (as enclosed) correct? (Yes or No)

Your Signature ____________

If you find the enclosed information to be accurate, please sign in the space provided above. If the information is incorrect in any way, please indicate the discrepancy on the reverse side of this letter. In either event, we would appreciate your returning this letter in the enclosed business reply envelope.

Thank you for your cooperation.

Very truly yours,

Exhibit "G".—NCPI

Suggested Letter Where Photocopy of Claim Payment Draft Is Not Available

Dear ____________

Our auditors are conducting a routine examination of our operations, one phase of which is a review of claim payments.

If you find the following record to be accurate, please sign in the space provided. If this information is incorrect in any way, please indicate the discrepancy on the reverse side. In either event, we would appreciate your returning this letter to our auditors in the enclosed business reply envelope.

Thank you for your cooperation.

Very truly yours,

Claim No.   Date of Loss   Policy Number

Date Claim Paid   Amount Paid

Name of Insured   Payment Made to

The Information is Correct? (Yes or No)

Your Signature ____________

Part 5—Claims Reinspection Program

WYO—NFIP Claims Reinspection Program

To keep WYO-NFIP Claims Management informed, to assist in the overall claims operation, and to provide necessary assurances and documentation for dealing with GAO, Congressional Oversight Committees, and the public, the FIA and WYO Companies have established a Claims Reinspection Program. The Program is comprised of the following major elements:

1. All files are subject to reinspection.

2. Files for reinspection may be randomly selected by flood event, or size of loss, class of business, as determined by WYO-NFIP Claims Management.

3. Ten percent of open files will be reinspected prior to payment unless WYO-NFIP Claims Management determines that a larger or smaller sample is in order (e.g., due to the size of the catastrophe).

4. An agreed upon sample of closed files, by event, will be subjected to reinspection as well.

5. A WYO representative will conduct the reinspection, accompanied by an NFIP General Adjuster.

6. A joint, single report will be issued by the WYO Company representative and the NFIP General Adjuster.

7. Copies of reinspection reports will be forwarded to the Claims Management of both the WYO Company and the NFIP.

8. The reinspection report, adapted for flood insurance business, may be in the format of the "Property Reinspection Report" developed by the Functional Audit Task Force of the National Committee on Property Insurance (EXHIBIT "A").

EXHIBIT "A"

NCPI

PROPERTY REINSPECTION REPORT

INSURED'S NAME ____ FILE # ____ TELEPHONE # ____
INSURED'S ADDRESS ____
ADJUSTER'S NAME ____ OFFICE OR ADDRESS ____
TYPE OF LOSS ____ DATE OF LOSS ____
AMOUNT PAID ____ DATE PAID ____
DATE ASSIGNED ____ DATE INSURED CONTACTED ____ DATE OF INSPECTION ____

REFERENCE IN SCOPE OF DAMAGE ____ YES NO
IF YES - EXPLAIN ____

ADJUSTER USED CORRECT AMOUNTS FOR LABOR/MATERIALS? YES NO COMBINED WIND AND FLOOD LOSS? Yes No
IF NO - EXPLAIN ____

ADJUSTER APPLIED POLICY PROVISIONS? YES NO
IF NO - EXPLAIN ____

INSURED'S COMMENTS ON HANDLING
DID ADJUSTER VISIT INSURED/LOSS PERSONALLY? YES NO
DID ADJUSTER SUGGEST ANY REPAIRERS, ETC.? YES NO

INSURED'S COMMENTS ____

GENERAL COMMENTS ____

DATE OF REINSPECTION ____ REINSPECTOR SIGNATURE ____

Part 6—Financial Audits and State Insurance Department Examinations

It is expected that audits of WYO Companies by independent accountants and/or state insurance departments, aside from those conducted by the FIA or its designee, will include flood insurance activity. When such audits occur, a financial officer for the WYO Company will notify the FIA, identifying the auditing entity and a brief statement of the overall conclusions that relate to flood insurance and the insurer's financial condition when available. In the case of an audit in progress, a brief statement on the scope of the audit should be provided the FIA. A checklist will be utilized for this reporting and will be provided to WYO Companies by the FIA.

The WYO Companies will maintain on file the reports resulting from audits, subject to on-site inspection by the FIA or its designee. At the FIA's request, the WYO Company will submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusions.

Part 7–Reports Certifications

A. Certification Statement for Monthly Financial and Statistical Reconciliation Reports

I have reviewed the accompaning financial and statistical reconciliation reports of XYZ Company as of ______. All information included in these statements is the representation of the XYZ Company.

Based on my review (with the exception of the matter(s) described in the following paragraphs, if applicable), I certify that I am not aware of any material modifications that should be made to the accompanying reports.

Signed ______

(Responsible Financial Officer)

Date ______

B. Certification Statement for Monthly Statistical Transaction Report

I have reviewed the accompanying statistical transaction report control totals in conjunction with appropriate statistical reconciliation reports. All information included in these reports is the representation of the XYZ Company.

Signed ______

(Responsible Reporting Officer)

Date ______

(National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 4193), E. O. 12127, dated March 31, 1979 (44 FR 19367), E. O. 11988, dated May 24, 1977 and 44 CFR Part 8, Delegation of Authority to Federal Insurance Administrator)

Issued at: Washington, D.C.

Jeffrey S. Bragg,

Federal Insurance Administration.

[FR Doc. 85–9747 Filed 4–24–85; 8:45 am]

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COMMISSION ON CIVIL RIGHTS

45 CFR Part 701

Statement of Organization and Functions of the Commission

AGENCY: United States Commission on Civil Rights.

ACTION: Final rule.

SUMMARY: This rule summarizes the statutory functions of the Commission and describes the organization of the Commission. Publication of this rule is appropriate in view of the enactment of a new statute and reorganization of the Commission staff.

EFFECTIVE DATE: April 25, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Glick, Solicitor, U.S. Commission on Civil Rights, Washington, D.C. 20425, (202) 376–8339

SUPPLEMENTARY INFORMATION: Pursuant to 42 U.S.C. 1975a(1), the United States Commission on Civil Rights is required to separately state and currently publish in the Federal Register: (1) Descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and methods by which its functions are channeled and determined, and (3) rules adopted as authorized by law.

In view of the re-establishment of the Commission by Pub. L. 98–183 of November 30, 1983, and recent staff reorganization, it is appropriate to amend and republish the Commission's statement of organization and functions.

Since these amendments to the Commission's regulations constitute only an informational statement of Commission jurisdiction and its staff structure and does not directly affect the public, it is deemed unnecessary to provide an opportunity for public participation in the rulemaking process.

List of Subjects in 45 CFR Part 701

Organization and functions (government agencies).

45 CFR Chapter VII is amended as set forth below:

Part 701 is revised to read as follows:

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Authority: Secs. 2–8, 97 Stat. 1301–1307 (42 U.S.C. 1975–1975f).

Subpart A—Organizations and Functions

§ 701.1 Establishment.

The United States Commission on Civil Rights (hereinafter referred to as the "Commission") is a bipartisan agency of the executive branch of the Government. The predecessor agency to the present Commission was established by the Civil Rights Act of 1957, 71 Stat. 634. This Act was amended by the Civil Rights Act of 1960, 74 Stat. 86; the Civil Rights Act of 1964, 78 Stat. 241; by 81 Stat. 582 (1967); by 84 Stat. 1356 (1970); by 86 Stat. 813 (1972); and by the Civil Rights Act of 1978, 92 Stat. 1067. The present Commission was established by the United States Commission on Civil Rights Act of 1983, 97 Stat. 1301. The statutes are codified in 42 U.S.C. 1975–1975f. (Hereinafter, the 1983 Act will be referred to as "the Act.")

§ 701.2 Responsibilities.

(a) The Commission's authority under section 5 of the Act may be summarized as follows:

(1) To investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of color, race, religion, sex, age, handicap, or national origin;

(2) To study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap or national origin or in the administration of justice;

(3) To appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(4) To serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;

(5) To investigate sworn allegations that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination;

(6) To appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are of eastern and southern European ethnic groups and report its findings to the Congress.

(b) Under section 5(c) of the Act, the Commission is required to submit reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable.

(c) In fulfilling these responsibilities the Commission is authorized by the Act to hold hearings and to issue subpenas for the production of documents and the attendance of witnesses; to consult with governors, attorneys general, other representatives of State and local governments, and private organizations; and is required to establish an advisory committee in each State. The Act also provides that all Federal agencies shall cooperate fully with the Commission so that it may effectively carry out its functions and duties.

Subpart B—Organization Statement

§ 701.10 Membership of the Commission.

(a) The Commission is composed of eight members, not more than four of whom may be of the same political party. Four members are appointed by the President: Two members are appointed by the President pro tempore of the Senate and two members are