horses, and sheep and by revising the entries for meat, fat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep, as follows:

§ 180.205 Paraquat; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Cattle, fat	0.05
Cattle, kidney	.3
Cattle, meat	.05
Cattle, mbyp (except kidney)	.05
* * * * *	
Goats, fat	.05
Goats, kidney	.3
Goats, meat	.05
Goats, mbyp (except kidney)	.05
* * * * *	
Hogs, fat	.05
Hogs, kidney	.3
Hogs, meat	.05
Hogs, mbyp (except kidney)	.05
* * * * *	
Horses, fat	.05
Horses, kidney	.3
Horses, meat	.05
Horses, mbyp (except kidney)	.05
* * * * *	
Peanuts	.05
Peanut, hay	.5
Peanut, hulls	.2
Peanut, vines	.5
* * * * *	
Sheep, fat	.05
Sheep, kidney	.3
Sheep, meat	.05
Sheep, mbyp (except kidney)	.05
* * * * *	

[FR Doc. 88-9403 Filed 4-27-88; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 62

National Flood Insurance Program; Assistance to Private Sector Property Insurers

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This final rule amends the National Flood Insurance Program (NFIP) regulations for the "Write-Your-Own" (WYO) Program under which private sector insurers may issue and service policies of flood insurance backed by the Government. The amendments involve the investing of income and details of cash management; reimbursement of state or municipal tax; damages arising outside the scope of the Arrangement; revision of the commission allowance provisions; responsibility for including mortgagees in claim payments; the right of a WYO Company to reject flood insurance applications which could then be referred to the NFIP Servicing Agent (and the waiting period rule for the effective date of coverage in these cases); and various kinds of audits: audits for cause, triennial financial audits and triennial reviews of claims operations and of underwriting/policy administration operations.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472; telephone number (202) 646-3422.

SUPPLEMENTARY INFORMATION: On January 7, 1988, FEMA published for comment in the Federal Register (Vol. 53, Page 419) a proposed rule to amend the National Flood Insurance Program (NFIP) regulations dealing with the underwriting, claims adjustment, and financial control operational procedures established by the Federal Insurance Administrator (the Administrator) in connection with the "Write-Your-Own" (WYO) Program authorized pursuant to Subpart C, Part 62 of the NFIP 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 Financial Assistance/Subsidy Arrangements (the Arrangement) in their own names. Insurers then are responsible for all aspects of service, including policy issuance to new policyholders and to policyholders insured by them under other lines of property insurance; endorsement and renewal of policies; and the adjustment of claims brought under the policies. The insurers retain a specified amount of the premium for their expenses, including the commissions of agents. Under the Arrangement (Appendix A to Part 62 of the NFIP regulations), the Government provides such additional funds as may be required, over and above the net premium income, for the payment of claims.

Most of the comments received on the proposed rule were from private insurance agencies and/or independent insurance agents who sell flood insurance policies under the WYO Program. Comments were also received from WYO Companies, a WYO vendor, and from Members of Congress forwarding correspondence from—or making inquiries on behalf of—WYO Companies, insurance agencies, and/or independent insurance agents.

The majority of the comments related to the proposal to revise the commission allowance in the Arrangement from 15% to a base of 13% and also, as an incentive to increase the NFIP policy-in-force base, to provide for a commission allowance for each WYO Company in addition to the proposed 13%, based on the amount of increase of its policies in force. The comments opposing the revision in the commission allowance primarily concern the difficulty and expense of marketing flood insurance. Several of the respondents suggested that a reduction in the commission rate will cause agents to lose interest in the WYO Program which will thwart the efforts to increase the policies-in-force base. Still others, in objecting to the proposed reduction, commented that the proposal to reduce the commission allowance for policies issued by the NFIP through its Servicing Agent (52 FR 18929, dated May 20, 1987) has never been implemented and that it is unfair and discriminatory to have one commission allowance percentage for policies issued through the NFIP's Servicing Agent and another, lower percentage for policies issued under the WYO Program. FEMA recognizes that the flood insurance line is a unique form of insurance with procedures and requirements that are not found with other types of insurance. Bearing this in mind and after giving careful consideration to the substantive concerns expressed by the respondents, FEMA has determined that the base commission allowance in the Arrangement should be set at 14% rather than the 13% originally proposed. Further, FEMA is continually working with representatives of the insurance agents and of the WYO Companies to make flood insurance easier and less expensive to sell. For example, FEMA is currently working with both groups to develop several simplified flood insurance products. Also, the final rule will provide that the WYO Companies may withhold 15% during the Arrangement Year, with adjustments up or down being made at year's end (see below for a more detailed discussion). With respect to the commission allowance provisions related to policies issued by the NFIP through its Servicing Agent, FEMA is proceeding to issue a final rule which will also revise the flood insurance commission rate paid to property insurance agents and brokers writing policies of flood insurance through the NFIP Servicing Agent. The direct bill system and the WYO Program system are both designed to encourage new business. Under both systems, if not much new business is produced, the amount of commission will be less than it is currently. Conversely, if a lot of new business is produced, the WYO Companies will get more commission allowance, and the desirable goal of a better spreading of the risk by increasing the policy-in-force base will be achieved. This better spreading of the risk will produce savings to the federal government in another way. How much they pass on to their agents and how they choose to do it are matters to be determined by each WYO Company. If the WYO Companies do pass along the bonus to their agents, the average commission paid under the WYO Program versus the direct business should be comparable. FEMA will be monitoring these two systems over the next couple of years to determine how well they are working and to determine if any changes to the systems are needed in the future.

The additional commission allowance (one-tenth of a percent for each 1% increase in the NFIP policies-in-force for the WYO Company during each Arrangement Year, subject to a cap of 3% for the additional commission allowance), also generated a number of comments. One respondent suggested that clarification is needed as to the first Arrangement Year for which the percentage increase for policy growth would apply while another respondent suggested that clarification is needed as to when the distribution of the additional percentage would be made following the end of the Arrangement Year. One respondent expressed the belief that allowing a WYO Company which had no policies in force on September 30 of the prior Arrangement Year a 15% commission allowance will give new companies entering the Program a competitive advantage because they could offer a higher agent commission than a long-term participant might be able to afford. Concern was expressed by one respondent that calculating the additional commission allowance based upon the rate of policy growth "during each Arrangement Year" is not fair to those WYO Companies which encourage their producers to write three-year policies, noting that such policies are in the best interest of the consumer. Also of concern to two respondents is the belief that the method proposed for calculating the additional commission allowance favors the small companies which have a smaller base of policies-in-force on which to build. One respondent, writing as a WYO vendor, expressed concern that the programming changes, accounting procedures and additional quality controls required to implement and monitor the application of a different expense allowance for each WYO Company that a vendor services will be extensive and commented that such additional labor costs will result in price increases to the WYO Companies it supports. This respondent further expressed concern that notification of the new Arrangement rates for individual WYO Companies would occur at least two months after a new Arrangement Year has begun, necessitating the reprocessing of two to three months' data and adjusting of financial reports and commissions. Another respondent likewise expressed the belief that a change of the magnitude proposed will require reprogramming of the WYO Companies' commission system, thereby placing an unjustified burden on the Companies while still another respondent commented that cost incentives to companies who increase policy counts are difficult to track, add to costs and are easy to manipulate. FEMA has carefully considered the concerns expressed by the respondents but is not persuaded that the proposal to provide an additional commission allowance for policy growth should not be implemented. FEMA agrees that the final rule should be clear as to the first Arrangement Year for which the percentage increase for policy growth will apply and as to when the distribution of the additional percentage will be made. Further, FEMA does not wish to penalize WYO Companies by requiring them to wait until the end of the Arrangement Year before receiving any additional commission allowance. Therefore, the final rule is revised to provide that WYO Companies may withhold 15% of written premium during the Arrangement Year with an adjustment up or down being made at year end. The year's experience for policy growth will begin with the Arrangement Year starting October 1, 1988. Thus, for Fiscal Year 1989 which begins October 1, 1988, WYO Companies will be able to withhold 15% during the Arrangement Year beginning October 1, 1988, with an adjustment up or down being made at year end based on the number of policies in force on September 30, 1989, as compared to the number of policies in force on September 30, 1988. It is contemplated that payment of any additional commission allowance will be made within three months of the end of the Arrangement Year as suggested by one respondent. FEMA continues to believe that it is correct policy to allow the 15% commission allowance for WYO Companies that did not have any policies in force at the end of the prior Arrangement Year. It must be emphasized that a major expectation of the WYO Program is an increase in the policies-in-force base. If those WYO Companies which had policies in force at the end of the prior Arrangement Year do, in fact, increase their policy count, they can retain more of the written premium for the commission allowance than they currently do. Regarding the concern expressed by the respondent for the WYO Company which encourages the writing of three-year policies, FEMA does not agree that calculating the additional commission allowance based on the rate of policy growth for each Arrangement Year will adversely affect those Companies which are writing three-year policies. It is true that a three-year policy will produce a smaller commission than three one-year policies; however, the same can be said for the procedure currently in effect. Moreover, writing three-year policies can be an advantage since it will ensure a stable policy count for two additional years whereas one-year policies can go off the books and cause the Company's policy count to go down. While basing the additional commission allowance on the percentage of growth in the policy count over the prior year's policies-in-force count may favor the smaller companies, it must be recognized that, because of economies of scale, the average expense for large companies is not as great as for small companies. Bearing this in mind, FEMA believes that it is correct policy to retain the bonus system as originally proposed. Regarding the concern expressed by the WYO vendor related to the costs associated with implementing and monitoring the application of a different expense allowance for each WYO Company it supports, nothing in this final rule changes the right of WYO Companies to compensate their agents at whatever rate and on whatever basis they determine to be appropriate. Although FEMA would encourage WYO Companies to have some means of rewarding agents that produce a lot of new business, it is the prerogative of each WYO Company to decide the rate of commission it will pay its agents during the Arrangement Year and whether it will give an end of the year bonus to its agents. If a WYO vendor believes it would be able to process business for its client WYO Companies more efficiently if they all pay the same commission allowance, that is a matter for negotiation between the vendor and its client WYO Companies. The comment regarding the need for reprocessing two or three months' data and adjusting financial reports and commissions seems to be based on the misunderstanding that the policy-in-force growth in one Arrangement Year will determine the commission allowance for the next Arrangement Year. This is not true, as explained above. Regarding the comment that cost incentives to companies who increase policy counts are difficult to track, add to costs and are easy to manipulate, the NFIP will be undertaking to track that information based on data already being submitted by the WYO Companies and no additional tracking will be required of the Companies. FEMA does not agree with the statement that it will be "easy to manipulate" figures; however, if experience shows this to be a problem, corrective action will be taken.

The proposed revision of Articles II.E, IV.A, and VII.A of the Arrangement to eliminate the provision allowing WYO Companies to invest excess funds did not generate any comments and is in the final rule as originally proposed.

The proposed revision of Article III.B of the Arrangement to eliminate the option for a WYO Company to pay 3% of its written premium on the policies covered by the Arrangement for the right to receive a dollar for dollar reimbursement for actual state or municipal taxes paid on the policies covered by the Arrangement also did not generate any comments and likewise is in the final rule as originally proposed.

Regarding the services of rating organizations, two respondents suggested substitute language for Article III.B of the Arrangement to remove any reference to the Administrator. One respondent commented that "the proposed language portends much government control" and "may deter some potential WYO Companies from participation." It is the position of FEMA that the work to be performed by such a national rating organization would be for the benefit of the entire NFIP, which the Administrator has been charged with the responsibility for overseeing. This provision has been revised in the final rule to address the concerns of the respondents while still ensuring the ability of the Administrator to fulfill his oversight responsibilities.

The proposed revision of Article VII.B of the Arrangement to remove cash management details and replace them with a reference to the WYO Accounting Procedures Manual generated no comments and is incorporated into the final rule as originally proposed.

The proposal to revise Article III.D to clarify reimbursement of a WYO Company for awards or judgments for damages arising outside the scope of the claims processing standards and guides of the Arrangement or other provisions of the Arrangement generated comment from one respondent who questioned the necessity of including language dealing with the internal FIA operations in the Arrangement. FEMA agrees that his comments are valid and section (D)(2) is revised in the final rule to remove the language in question.

The proposal to revise Article IX of the Arrangement to clarify the option of WYO Companies not to list the names of mortgagees on policies they issue, especially in the case of condominium coverage, generated comment from one WYO Company which expressed the opinion that "* * * since each Company is accustomed to this situation in the non-flood insurance property claims settlement procedures, this is both unnecessary and contrary to the spirit and intent of the Arrangement." FEMA's intent was merely to make it clear that WYO Companies can follow this procedure. In clarifying this option for WYO Companies, however, FEMA believes it imperative to also clarify the consequences that might result from not listing the names of mortgagees on such policies. Therefore, this provision is incorporated into the final rule as originally proposed.

Regarding the right of a WYO Company under the WYO Program to reject flood insurance applications, one respondent commented that the language contained in the supplemental information to the proposed rule "implies that rejected new and renewal business *must* be referred to the NFIP" when, in fact, an application may be rejected for "(1) failure to submit needed underwriting data, and (2) the WYO Company's failure to renew an agency contract." FEMA did not mean to suggest that the WYO Company had to refer a rejected application to the NFIP Servicing Agent and the language in the final rule is amended to make it clear that this provision applies where WYO Companies choose the option of referring the business to the NFIP Servicing Agent. The proposed rule did not specify the procedure to be taken prior to referral because FEMA believes it is important for WYO Companies to have flexibility to establish procedures for such referrals. In accordance with the provision in § 61.11(f) of the NFIP regulations that allows the effective date for the policy to be calculated from the date of receipt by the agent acting in the capacity of an agent of a WYO Company, this same procedure will be followed in the case of an application referred by a WYO Company to the NFIP Servicing Agent. Thus, as set forth in the proposed rule, the NFIP Servicing Agent will calculate the effective date of the policy based upon the date of receipt by the agent of the premium payment and the properly completed application.

The proposed revisions in Part 2—Statistical Plan Reconciliation Procedures did not generate any comments and are incorporated into the final rule as originally proposed.

The proposal to revise Part 4—Claims Operation Review Procedures to require a review of 5% of the claim files opened during the period covered by the Review generated comment from one respondent who expressed the belief that this proposed change may result in an "incredibly heavy load" for the FIA examiner in the event of considerable losses over a three-year period in a highly exposed state such as Florida, Louisiana or Texas. This respondent suggested instead that reference be made to 5% of the claim files opened, subject to a 50 files per year limit, although no statistical argument was presented in support of this position. FEMA recognizes that the concern about FEMA staff resources is not without merit. Nevertheless, FEMA believes it is imperative to review more files for those WYO Companies that adjust more claims. FEMA currently reviews 50 files when conducting a Claims Operation Review of a WYO Company and believes that at least this number of files should be reviewed regardless of how few claims may be adjusted by the WYO Company. Therefore, the provision in Part 4—Claims Operation Review Procedures requiring review of up to 5% of the claim files opened during the period covered by the Review is incorporated into the final rule, with a provision requiring that not less than 50 files be reviewed.

The proposal to provide in the WYO Financial Control Plan for triennial financial audits of WYO Companies generated comments from five respondents, all of whom expressed concern about the costs that might be involved. One respondent expressed the belief that requiring WYO Companies to select and fund independent Certified Public Accounting firms to conduct the triennial audits with the resultant additional costs will impose further pressure on Program profits and will be disproportionately expensive to the smaller companies. One respondent thought that the requirement for the independent financial audit is being added to enable FEMA to eliminate its triennial audits, thus reducing the manhours to perform FEMA's responsibilities while two other respondents disagreed with the statement in the proposed rule that the costs associated with the financial audits are part "* * * of the normal administrative costs of operating the WYO Program and as such are included in the WYO expense allowance." These respondents suggested respectively that FEMA (1) bear the expense or increase the expense allowance for WYO Companies to cover the additional expenses, (2) delete the requirement for the independent financial audit from the final rule or (3) provide a special expense allocation to WYO Companies to cover the costs of the independent financial audits. FEMA has carefully considered the comments made by these five respondents but does not agree with their position. As explained in the supplemental information to the proposed rule, the triennial financial audits are in addition to the triennial operation reviews for claims and for underwriting/policy administration. The new requirement for the independent financial audit does not mean that FEMA will eliminate any of its current audit or review activity. FEMA continues to view the costs associated with the triennial audits to be part of the normal administrative costs of operating the WYO Program and as such included in the WYO expense allowance. The triennial financial audits are similar to independent financial audits of insurance companies now being conducted for various reasons. These audits, which are often required by State Insurance Commissioners, are conducted at the insurance company's expense and it is FEMA's intention that the financial audits required by this rule be an addendum to these other financial audits, wherever possible, thereby limiting their cost. In addition, WYO Companies utilizing the services of a vendor to handle the business being audited may jointly contract for such audits, thereby limiting costs. Therefore, for the reasons discussed above, the provision covering the triennial audits is incorporated into the final rule as originally proposed. Also, this final rule makes a few changes to the list of reasons justifying an audit for cause and clarifies how the decision to conduct an audit for cause is to be made.

Several comments were received which were editorial in nature, some of which are incorporated into the final rule and some are not.

FEMA has determined, based upon an Environmental Assessment, that this rule will not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. 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, DC 20472.

This rule will not have significant economic impact on a substantial number of small entities and therefore has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this 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 and claims.

Accordingly, 44 CFR Chapter I, Subchapter B, is amended as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 61.11 [Amended]

2. Section 61.11 is amended by adding to the end of the first sentence of paragraph (e) the following: "* * *, except where a WYO Company receives an application and premium payment from one of its agents and elects to refer the business to the NFIP Servicing Agent because the WYO Company does not wish to write the business, in which case any applicable waiting period under this section shall be calculated in accordance with the first sentence of paragraph (f) of this section."

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

3. The authority citation for Part 62 is revised to read as set forth below and the authority citations following all the sections in Part 62 are removed.

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 62.23 [Amended]

4. Section 62.23 is amended as follows:

a. By removing in paragraph (c) the word "will" and adding in its place the words "is authorized to".

b. By removing in paragraph (h)(5) the words "a producer, the producer" and adding in their place the words "an agent or a producer, the agent or producer".

c. By revising paragraph (j)(4) to read as follows:

* * * * *

(j) * * *

(4) Participate in WYO Company/FIA Operation Reviews. The FIA Claims Director or designee and the FIA Underwriting Director or designee will conduct a review of the WYO Company flood insurance activities at least once every three (3) years. A report of the Operation Review will be filed with the Standards Committee.

* * * * *

d. In paragraph (j)(5) by adding after the phrase "WYO Statistical Plan" both times it appears the phrase "and the WYO Accounting Procedures Manual", by removing in the last sentence the word "total" and adding in its place the word "totals", and by adding in the last sentence after the word "Company" and before the word "reports" the word "reconciliation".

e. In paragraph (j) (7) and (8), by removing the word "Cooperation" and adding in its place the word "Cooperate".

Appendix A to Part 62—[Amended]

5. Appendix A of Part 62, *Financial Assistance/Subsidy Arrangement*, is amended as follows:

a. Article II—UNDERTAKINGS OF THE COMPANY is amended by removing in section E all sentences after the first sentence and adding in their place the following sentence: "All funds not required to meet current expenditures shall be remitted to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual."

b. Article III—LOSS COSTS, EXPENSES, EXPENSE REIMBURSEMENT, AND PREMIUM REFUNDS is amended by adding "marketing," in the first sentence of the first paragraph of Section B after the word "Company's" and before the word "operating".

c. Article III—LOSS COSTS, EXPENSES, EXPENSE REIMBURSEMENT, AND PREMIUM REFUNDS is amended by removing the second and third paragraphs of Section

B and adding in their place the following three paragraphs:

The Company shall be entitled to 14.0% of the Company's written premium on the policies covered by this Arrangement as the basic commission allowance to meet commissions and/or salaries of their insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses. Additionally, the Company shall be entitled to 0.1% of the Company's written premium on the policies covered by this Arrangement for each 1% growth in the Company's policies in force on September 30 of this Arrangement Year, reduced by 80% of the number of policies scheduled for transfer to the Company during this Arrangement Year pursuant to the Company's request under the NFIP Rollover Procedures, over the policies in force on September 30 of the prior Arrangement Year; the additional commission allowance calculated under this provision is limited to a maximum of 3%. The Company may withhold 15% of the Company's written premium during this Arrangement Year with an adjustment up or down, depending upon policy growth, being made at the end of this Arrangement Year.

In the case where the Company had no policies in force on September 30 of the prior Arrangement Year, the Company shall be entitled to withhold 15% of the Company's written premium on the policies covered by this Arrangement as the commission allowance, with no adjustment at the end of this Arrangement Year.

Nothing in Article III, Section B, can be used as a means of increasing a Company's commission allowance by transferring business from one company to another company within a company group or by the merger or acquisition of another company. Payments of any additional commission allowance or refund of any excess commission allowance will be in accordance with the WYO Accounting Procedures Manual.

The Company, with the consent of the Administrator as to terms and costs, shall be entitled to utilize the services of a national rating organization, licensed under state law, to assist the FIA in undertaking and carrying out such studies and investigations on a community or individual risk basis, and in determining more equitable and accurate estimates of flood insurance risk premium rates as authorized under the National Flood Insurance Act of 1968, as amended. The Company shall be reimbursed in accordance with the provisions of the WYO Accounting Procedures Manual for the charges or fees for such services.

d. Article III—LOSS COSTS, EXPENSES, EXPENSE REIMBURSEMENT, AND PREMIUM REFUNDS is amended in Section D by adding "1." after "D." and by removing the second paragraph and adding in its place the following:

2. Loss payments will include payments as a result of awards or judgments for damages arising under the scope of this Arrangement, policies of flood insurance issued pursuant to this Arrangement, and the claims processing standards and guides set forth at Article II, Section A, 2.0 of this Arrangement. Prompt notice of any claim for damages as to claims processing or other matters arising outside the scope of this section (D)(2) shall be sent to the Assistant Administrator of the FIA's Office of Insurance Policy Analysis and Technical Services (OIPATS), along with a copy of any material pertinent to the claim for damages arising outside of the scope of the matters set forth in this section (D)(2).

Following receipt of notice of such claim, the General Counsel (OGC), FEMA, shall review the cause and make a recommendation to FIA as to whether the claim is grounded in actions by the Company which are significantly outside the provisions of this section (D)(2). After reviewing the General Counsel's recommendation, the Administrator will make his decision and the Company will be notified, in writing, within thirty (30) days of the General Counsel's recommendation, if the decision is that any award or judgment for damages arising out of such actions will not be recognized under Article III of this Arrangement as a reimbursable loss cost, expense or expense reimbursement. In the event that the Company wishes to petition for reconsideration of the notification that it will not be reimbursed for the award or judgment made under the above circumstances, it may do so by mailing, within thirty days of the notice declining to recognize any such award or judgment as reimbursable under Article III, a written petition to the Chairman of the WYO Standards Committee established under the Financial Control Plan. The WYO Standards Committee will, then, consider the petition at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator, within thirty days of the meeting. The Administrator's final determination will be made, in writing, to the Company within thirty days of the recommendation made by the WYO Standards Committee.

e. In Article IV—UNDERTAKINGS OF THE GOVERNMENT, section A is amended by revising the third sentence to read as follows: "Request for funds shall be made only when net premium income has been depleted."

f. In Article V—COMMENCEMENT AND TERMINATION, paragraph "a" of section C is amended by adding after the word "Program" and before the semi-colon the words ", including certain data, as determined by FIA, in a standard format and medium".

g. In Article VII—CASH MANAGEMENT AND ACCOUNTING, section A is amended by removing the words "and interest income".

h. Article VII—CASH MANAGEMENT AND ACCOUNTING is amended by revising section B to read as follows:

B. The Company shall remit all funds not required to meet current expenditures to the United States Treasury, in accordance with the provisions of the WYO Accounting Procedures Manual.

i. Article IX—ERRORS AND OMISSIONS is amended by adding a second paragraph to read as follows:

* * * * *

However, in the event that the Company has made a claim payment to an insured without including a mortgagee (or trustee) of which the Company had actual notice prior to making payment, and subsequently determines that the mortgagee (or trustee) is also entitled to any part of said claim payment, any additional payment shall not be paid by the Company from any portion of the premium and any funds derived from any Federal Letter of Credit deposited in the bank account described in Article II, section E. In addition, the Company agrees to hold the Federal Government harmless against any claim asserted against the Federal Government by any such mortgagee (or trustee), as described in the preceding sentence, by reason of any claim payment made to any insured under the circumstances described above.

Appendix B of Part 62—[Amended]

6. Appendix B of Part 62, *A Plan to Maintain Financial Control for Business Written Under the Write-Your-Own Program*, is amended as follows:

a. The introductory section at the beginning of Appendix B is amended by removing in numbered paragraph 4 the words "actual files (up to fifty [50])" and adding in their place the words "specific files".

b. The introductory section at the beginning of Appendix B is amended by adding, following numbered paragraph 4, a new numbered paragraph 5 to read as set forth below and by renumbering existing numbered paragraphs 5 through 9 as numbered paragraphs 6 through 10, respectively:

5. Have a triennial audit of the flood insurance financial statements conducted by an independent accounting firm at the Company's expense to ensure that the financial data reported to FIA accurately represents the flood insurance activities of the Company.

c. PART 2—STATISTICAL PLAN RECONCILIATION PROCEDURES is amended as follows:

(1) By revising the second and third sentences of the *Statistical Plan Reconciliation Objectives* section to read as follows: "The reliance on computer processing to perform the review of transaction and financial 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 the NFIP Servicing Facility.

(2) By renumbering paragraphs 2 and 3 of the *Financial Control* section to 3 and 4, respectively, and by adding a new paragraph 2 to read as follows:

* * * * *

2. WYO Companies are required to submit, on a form approved by the Administrator, a tape transmittal document with the submission of the statistical tape containing transaction detail. This will be used to validate record counts and dollar amounts.

* * * * *

(3) In renumbered paragraph 4 of the *Financial Control* section, by adding after the word "maintained" the words "whenever possible".

(4) In paragraph 4 of the *Quality Review of Submitted Data* section, by removing the last two sentences and adding in their place the following: "Critical errors include those made in required data elements. Required data elements:

(1) Identify the policyholder, the policy, the loss, and the property location;

(2) Provide information necessary to rate the policy;

(3) Provide information used in financial control;

(4) Provide information used for actuarial review of NFIP experience.

Non-critical errors are those made in data elements reported by the WYO Companies at their option."

(5) In the second paragraph of the *Timeliness of Reporting* section, by removing the words "receipt date" and adding in their place the words "the first processing cycle subsequent to the receipt".

(6) Numbered paragraph 2 of the *Monthly Reports* section is revised to read as follows:

* * * * *

2. Summary statistics will be generated for each monthly submission of transaction data. These will include:

a. Absolute numbers of transactions read and transactions rejected by transaction type.

b. Dollar amounts associated with transactions read and transactions rejected.

(7) Numbered paragraph 4 of the *Monthly Reports* section is revised to read as follows:

* * * * *

4. Control totals will be generated for tapes submitted to and processed by the NFIP. This front-end balancing procedure will include:

a. Numbers of records submitted according to the NFIP compared with numbers of records submitted according to the WYO Company transmittal document.

b. Dollar amounts submitted according to the NFIP compared with dollar amounts submitted according to the WYO Company transmittal document.

If there is any discrepancy between the NFIP reading of dollar amounts from the tape and the WYO Company tape transmittal document, then the monthly statistical tape submission will be rejected and returned to the Company. The rejected tape must be corrected and resubmitted by the next monthly submission due date.

* * * * *

(8) By revising Exhibit "A" to read as follows:

Exhibit "A".—WYO Statistical Tape Transmittal Document

Date Sent: ______ WYO Prefix Code: ______

WYO Company Name: ______

Address: ______

______

Reel Number (S) of Enclosed Tapes: ______

______

Density ______ LRECL ______

Blocksize ______

File Name (DSN) ______

Contact Person ______

Contact Number ______

IBU Number ______ (WYO Use Only)

BILLING CODE 6718-01-M

MONTHLY RECONCILIATION - NET WRITTEN PREMIUMS

COMPANY NAME ______________ CO. NAIC NUMBER ________

MONTH/YEAR ENDING ______________ DATE SUBMITTED ________

PREPARER'S NAME ______________ TELEPHONE NO. ________

MONTHLY FINANCIAL REPORT

NET WRITTEN PREMIUMS $______________

(INCOME STATEMENT = LINE 100)

UNPROCESSED STATISTICAL:

(+) PRIOR MONTH'S ______________
(-) CURRENT MONTH'S ______________

OTHER-EXPLAIN:

(+) CURRENT MONTH'S ______________
(-) PRIOR MONTH'S ______________

TOTAL: ______________

MONTHLY STATISTICAL TRANSACTION REPORT

TRANS. CODE	RECORD COUNT	PREMIUM AMOUNT
11	______	$ ______
15	______	______
17	______	______
20	______	______
23	______	______
26	______	(-) ______
29	______	(-) ______
14 AND 81	______	(+)
TOTAL:	______	______

(ADD 11 THROUGH 23 LESS 26 AND 29)

COMMENTS:

MONTHLY RECONCILIATION - LOSSES

COMPANY NAME ____________ CO. NAIC NUMBER ________

MONTH/YEAR ____________ DATE SUBMITTED ________

		TRANS. CODE	RECORD COUNT	LOSS/PAID RECOVERIES
100 NET PAID LOSSES $ (INCOME STATEMENT LINE 115)	________			
UNPROCESSED STATISTICAL:		31	______	$______
140 (+)PRIOR MONTH'S	________	34	______	______
		37	______	______
150 (-)CURRENT MONTH	________	40	______	______
160 SALVAGE NOT TO BE REPORTED BY TRANSACTION (EXPLAIN)	________	43	______	______
170 OTHER-EXPLAIN:	________	46 AND 61	______	
		49	______	______
		64	______	______
		84 AND 87	______	
		52 RECOVERY	______	______
		SALVAGE		______
		SUBROGATION		______
		67 RECOVERY	______	______
		SALVAGE		______
		SUBROGATION		______
TOTAL:	________	TOTAL:		______
(SUM OF LINES 100, 140, 160, AND 170 LESS 150)		(ADD 31, 34, 40 THROUGH 64 LESS 52 AND 67)		

COMMENTS:

BILLING CODE 6718-01-C

MONTHLY RECONCILIATION - SPECIAL ALLOCATED LAE

COMPANY NAME ____________________ CO. NAIC NUMBER _____

MONTH/YEAR ENDING ______________ DATE SUBMITTED _______

MONTHLY FINANCIAL REPORT		MONTHLY STATISTICAL TRANSACTION REPORT		
SPECIAL ALLOCATED LOSS ADJUSTMENT EXPENSES	______	Trans. Code	Record Count	Amounts
(OTHER LOSS AND LAE CALC. - LINE 655)		71	______	$______
		74	______	______
Unprocessed Statistical:				
(+) Prior Month	______			
(-) Current Month	______			
Other-Explain:				
(1)	______			
(2)	______			
TOTAL:	______	TOTAL:	______	______

COMMENTS:

d. PART 3—UNDERWRITING/ POLICY ADMINISTRATION OPERATION REVIEW PROCEDURES is amended as follows:

(1) By removing in the second sentence of paragraph number 2 of the *Notice* section the words "Up to 50 policy" and adding in their place the word "Policy".

(2) By adding to the end of paragraph number 2 of the *Notice* section the following: "The number of policy files reviewed shall be determined by the following schedule.

Policies in force	Policy files reviewed
Under 25,000	50
25,000-74,999	75
75,000-99,999	100
100,000 and over	125"

(3) By adding in paragraph 1, *WYO Company Summary Report*, of the *Underwriting/Policy Administration Operation Review Outline* section after the word "underwriter" and before the word "prior" the words ", if requested,".

(4) By removing in paragraph 2, *Administrative Review*, of the *Underwriting/Policy Administration Operation Review Outline* section the words "See Exhibit 'B'." and adding in their place the following: "Exhibit B, the use of which is optional, provides a sample format for this review."

(5) by removing in paragraph 4 *File Review*, the words "would be compiled" and adding in their place the words, ", the use of which is optional, provides a sample format".

(6) By removing in the NOTE appearing just before EXHIBIT "A"—WYO COMPANY *Summary Report* the words "of 20% or higher" and adding in their place the words "equal to or greater than, depending on the nature of the files selected for review, 10% to 20%".

(7) By adding in item number (1) of the NOTE appearing just before EXHIBIT "A"—WYO COMPANY *Summary Report* after "zone)" and before the period the words ", or an endorsement."

(8) By adding after item number (2) at the end of the NOTE appearing just before EXHIBIT "A"—WYO COMPANY *Summary Report* items (3) through (6) to read as follows:

(3) The failure to obtain the information necessary to properly identify and underwrite a risk.

(4) The issuance of a policy with an incorrect policy term.

(5) Any error which impacts the correct return premium on a cancellation or nullification.

(6) The processing of a cancellation or nullification for an invalid reason.

(9) By revising EXHIBIT "C"—SPECIFIC RISK REVIEW CHECKLIST to read as follows:

EXHIBIT "C"—SPECIFIC RISK REVIEW

Date: ______
Occupancy:
( ) Single family
( ) 2-4 family
( ) Other residential
( ) Non residential
Policy No. ______
Amount of insurance:
Building ______
Contents ______
Zone ______
Number of floors: ______
Condominium:
( ) Yes ( ) No
Basement:
( ) Yes ( ) No ______

EXHIBIT "C"—SPECIFIC RISK REVIEW—Continued

Elevated Building:
( ) Yes ( ) No ______
Complete when appropriate:
Elevation difference ______
Base flood elevation ______
Lowest floor elevation ______
Grade elevation ______
Obstruction below elevated building: ______
( ) Yes ( ) No ______

	Yes	No	Comment if checked "No"
Application:			
Properly completed?			
Met eligibility—location requirements?			
Policy:			
Properly issued?			
Required premium received? (If coverage was reduced to the amount that could be purchased with the premium submitted, check yes.).			
Are coverage limits within NFIP statutory allowances?			
Waiting period observed?			
Endorsements, renewals, cancellations:			
Properly issued?			
Required premium received or returned?			
Waiting period observed?			
Additional documentation:			
Is elevation certificate information valid and complete?			
If specifically rated, has company obtained the required information?			
File satisfactory for Service within guidelines?			
Recertification?			

Comments—FIA Examiner

Comments—WYO Company Underwriter

Resolution

e. PART 4—CLAIMS OPERATION REVIEW PROCEDURES is amended as follows:

(1) By removing in the second sentence of numbered paragraph 2 of the *Claims Operation Review Objectives* the words "50 policy files" and adding in their place the words "5%, but not less than 50, of the claim files opened during the period covered by the Review."

(2) By adding in EXHIBIT "B"—ADMINISTRATIVE REVIEW CHECKLIST just before 1. *Investigation and Adjustments* the following:

"Policy #
Insured's name:
State:
Date of loss:
Date paid:
Date reported:
Amt. of loss: $
Bldg. $
Contents $
Adjusting firm:
Examiner's name:
Comments:

(3) By adding at the end of section "f" of EXHIBIT "B"—ADMINISTRATIVE REVIEW CHECKLIST item 9 as follows:

(9) Is the statistical reporting correction file being properly managed? ...... [ ] [ ] [ ].

f. By revising PART 6—FINANCIAL AUDITS AND STATE INSURANCE DEPARTMENT EXAMINATIONS to read as follows:

Part 6—Financial Audits, Audits for Cause, and State Insurance Department Audits

A. Triennial Financial Audits

I. Objectives of WYO Triennial Financial Audit—The triennial financial audit is intended to provide the Federal Emergency Management Agency with independent assessment of the quality of financial controls over activities relating to the Company's participation in the National Flood Insurance Program as well as the integrity of the financial data reported to FEMA. Participating WYO companies are responsible for selecting and funding independent Certified Public Accounting firms to conduct the triennial audits. Such costs are considered part of the normal administrative cost of operating the WYO program and as such are included in the WYO expense allowance.

It is also intended that the triennial audit will reduce if not eliminate the need for FEMA auditors or their designees to conduct on-site visits to WYO companies in their review of financial activity. However, the requirement may still exist for such visits to occur as determined by the auditors. In addition, nothing in this section should be construed as limiting the ability of the General Accounting Office to review the activities of the WYO Program.

The objective of the triennial audit is to ensure that Financial data reported to FEMA for the Arrangement Year (Government Fiscal Year) is fairly and accurately presented in order to determine that:

A. Policy and claim related financial data as reported to the NFIP are proper and adequately supported by underlying documentation.

B. Reported cash amounts are properly reconciled to the bank account balance.

C. Reported accounts receivable, premium suspense and accounts payable balances are properly stated.

D. Cash management is in accordance with the requirements of the WYO Accounting Procedures Manual and consistent with the Company's procedures as updated to FEMA.

II. Internal Controls and Suggested Procedures. A. The nature, timing and extent of audit tests to be applied are to be determined by the independent Certified Public Accounting firm based on its study and evaluation of the WYO Company's accounting procedures and system of internal control. Adequate evaluation requires knowledge and understanding of the WYO accounting and financial reporting procedures prescribed by the Arrangement and a reasonable degree of assurance that they are in use and are operating effectively (e.g., annual WYO Company self-audit).

B. The audit tests described below are suggested tests and are to be modified as considered necessary by the independent Certified Public Accounting firm, based on its study and evaluation of WYO Company's accounting procedures, system of internal control and results of company WYO self-audits. Based on such study and evaluation, the independent Certified Public Accounting firm may consider additional steps to be necessary, may consider certain of the audit tests described below to be unnecessary, or may consider additions to or reductions in the extent of such audit tests to be appropriate. Each elimination and/or reduction shall be described in the independent Certified Public Accounting firm's report. See Part IV below.

III. Audit Tests. A. Tie total written premium from policy master file to the monthly financial reports.

1. Trace reconciling items to the subsequent month's financial report; and

2. Obtain evidence that items included with the second monthly financial report dated on or before the date of the reconciliation were included as reconciling items, if appropriate. Investigate, as required, reconciling items not clearing with the second monthly financial report.

B. Select a representative sample of policies which were in-force during all or part of the Arrangement Year under audit for detail testing.

1. Confirm policy detail with policyholder (e.g., policy number, effective date, policy term, premium, insured property address, deductible amounts).

2. Determine that policy detail from policy file agrees with statistical data from the master file submitted to the NFIP.

3. Select a sample of policy cancellations and endorsements from throughout the fiscal year and determine the propriety of the financial reporting associated with such transactions (e.g., return premium, additional premium and appropriate application of the expense allowance).

C. Tie total paid losses and outstanding loss reserves, allocated and special allocated adjustment expenses, including outstanding reserves, from policy master file to monthly financial reports.

1. Trace reconciling items to the subsequent month's financial reports, and;

2. Obtain evidence that items included with the second statement dated on or before the date of the reconciliation are included as reconciling items, if appropriate. Investigate, as required, reconciling items not clearing with the second monthly financial report.

D. Select a representative sample of claims activity during the Arrangement Year for detail testing.

1. Confirm policy number, claim number, loss payment, loss date, and date-of-loss payment with policyholder.

2. Determine whether special allocated LAE payment, as applicable, has been properly approved prior to incurring any expenses.

3. Determine that claim status in claim file agrees with data submitted to the NFIP, and that the policy was in-force on the date of loss.

4. Verify that unallocated loss adjustment expense was appropriately determined and reported.

5. Review IBNR reserve calculation to determine whether it is consistent with the methodology reported to FEMA.

6. Determine whether adjustments to the outstanding case reserves are proper and made on a timely basis.

7. If salvage or subrogation is significant in relation to the company's claims activity, select a sample of recoveries to determine that they were properly recorded (data from claims file agrees with submission to the NFIP).

E. Determine whether cash receipts are being promptly deposited to the Restricted Account and that excess cash is being swept from the account in accordance with the WYO Accounting Procedures Manual.

F. Determine whether reimbursements from the Restricted Account or drawdowns on the Treasury Letter-of-Credit are made in accordance with the WYO Accounting Procedures Manual.

G. Obtain bank reconciliations for the restricted account and any other flood-related account(s) as of the end of the Arrangement Year. Review bank reconciliations for old and/or unusual reconciling items. Reconcile restricted account activity to premium and claim data reported in monthly financial reports on a sample basis.

H. Reconcile accounts receivable, accounts payable, premium suspense and other miscellaneous trial balances to reported amounts. Test the propriety of the detail on a sample basis.

I. Make inquiries of management and review available reports relating to activity subsequent to year-end for items that should have been included in Arrangement Year results.

B. Audits for Cause

In accordance with the terms of the WYO Arrangement, the Administrator, on his own initiative or upon written recommendation of the WYO Standards Committee or the FEMA Inspector General, may conduct for-cause audits of participating companies. The following criteria, in combination or independently, may constitute the basis for initiation of such an audit:

1. Self-Audit

—Adequate reporting was not received from a company, even after follow-up requests.
—Self-audit report did not meet criteria of the Financial Control Plan.
—Review of the reported self-audit results indicates problem areas which require further explanation or follow-up.
—Reports of self-audit results do not adequately respond to problems or deficiencies raised through other aspects of the Financial Control Plan (i.e., errors/rejects from statistical reporting, financial reporting discrepancies, financial/statistical reconciliation problems, etc.)
—Triennial audit results indicate that the self-audits were not adequately performed and that the reported results cannot be relied upon.

2. Underwriting

—Excessively high frequency of errors in underwriting:

a. Issuing policies for ineligible risks.

b. Issuing policies in ineligible communities.

c. Consistent premium rating errors.

d. Missing or insufficient documentation for submit for rate policies.

e. Other patterns of consistent errors.

—Abnormally high rate of policy cancellations or non-renewals.
—Policies not processed in a timely fashion.
—Duplication of policy coverage noted.
—Problems with Rollover from National Flood Insurance Program (NFIP) to WYO (duplication of coverage, timeliness of changeover).
—Relational type edits indicate an unusually high or low premium amount per policy for the geographical area.
—Self-audit or triennial audit results indicate unusual volume of errors in underwriting.

3. Claims

—Reinspections indicate consistent patterns of:

a. Losses being paid when not covered.

b. Statistical information being reported on original loss adjustment found to be incorrect on reinspection.

c. Salvage/subrogation not being adequately addressed.

d. Consistent overpayments of claims.

—Unusually high count of erroneous assignments and/or claims closed without payment (CWP). (WYO Company is paid a flat fee for CWP cases where little or no work is done—risk is fraudulent CWP cases).
—Unusually low count of CWP. (May indicate inadequate follow-up of claims submitted).
—Average claim payments which significantly exceed the average for the Program as a whole.
—Lack of (adequate) documentation for paid claims.
—Claims not processed in a timely fashion.
—Consistent failure of WYO Company to receive authorization for special allocated loss adjustment expenses prior to incurring them.
—High submission of Special Allocated Loss Adjustment Expenses (SALAE).
—Consistently high policyholder complaint level.
—Low/high count of salvage/ subrogation.
—Triennial audit indicates significant problems.

4. Financial Reporting/Accounting

—Consistently high reconciliation variations and/or errors in statistical information.
—Financial and/or statistical information not received in a timely fashion.
—Letter of Credit violations are found.
—WYO Company is not depositing funds to the Restricted Account in a timely manner, or funds are not being transferred through the automated clearinghouse on a timely basis.
—Premium suspense is consistently significant, older than 60 days, and/or cannot be detailed sufficiently.
—Large/unusual balance in Cash.
—Other (Receivable and/or Payable).
—Large, unexplained differences in cash reconciliation.
—Large/unusual balances or variations between months noted for key reported financial data.
—Financial statement to statistical data reconciliation sheets improperly completed indicating proper review of information is not being performed prior to signing certification statement.
—Repeated failure to respond fully in a timely manner to questions raised by FIA or its servicing agent concerning monthly financial reporting.
—Triennial audit indicates significant problems.

C. State Insurance—Department Examination

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 providing 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 to 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 conclusion.

Dated: April 22, 1988.

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 88-9378 Filed 4-27-88; 8:45 am]

BILLING CODE 6718-01-M

44 CFR Part 62

National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule revises the flood insurance commission allowances paid to property insurance agents and brokers ("producers") for the procurement of new flood insurance policies, and renewals thereof, on behalf of policyholders insured by the National Flood Insurance Program (NFIP) through its Servicing Agent. The commissions are being increased in connection with the procurement of new business, as an incentive to increase the NFIP's policies-in-force base, and are being decreased with respect to the renewals of policies to reflect the reduced level of activity required of producers by reason of the NFIP's fully automated renewal billing system whereby payors of renewal premiums are billed directly by—and make premium payments directly to—the NFIP, with the producer being advised of the renewal activity. This final rule is being implemented as part of FEMA's continuing efforts to reduce expenses for the National Flood Insurance Program. While the changes to the commission rates in this final rule differ somewhat from the rates originally proposed, there will still be a cost savings to the Federal government if the rate of new business activity remains constant. If property insurance agents and brokers do increase their new business activity, which the rule is designed to encourage, there may be little or no savings to the Federal government from this commission change, but this would be balanced by the increase in policy sales, which will result in a greater spread of the insurance risk, a major goal of the Program. This would produce savings to the Federal government in another way.

EFFECTIVE DATE: October 1, 1988.

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

SUPPLEMENTARY INFORMATION: On May 20, 1987, FEMA published for comment in the **Federal Register** (Vol. 52, Page 18929) a proposed rule to revise the flood insurance commission allowances paid to property insurance agents and brokers ("producers") for the procurement of new flood insurance policies, and renewals thereof, on behalf of policyholders insured by the National

Flood Insurance Program (NFIP) through its Servicing Agent.

Of the approximately 100,000 agents listed in the records of the NFIP Servicing Agent, less than one percent (760) sent letters commenting on the proposed rule. The tally of comments included one state agency, a committee of flood insurance consisting of representatives from various agents trade associations, nine agents trade associations, 56 Congressional letters forwarding correspondence from—or making inquiries on behalf of—insurance agencies and/or independent insurance agents. The remainder of the comments were from private insurance companies and/or individual independent insurance agents.

Although many of the comments received were generally supportive of the need to reduce expenses for the National Flood Insurance Program (NFIP), all of the respondents were opposed to the proposed changes in the commission rate. The comments opposing the rule, in summary, contend that the commission rate should not be reduced (some even suggested it should be raised) because the flood insurance program is "too complex * * * has too many forms * * * is difficult to sell * * * requires more work than other lines of insurance * * * involves more office expense * * * requires the expenditure of more of the agent's time for self-education such as program updating, attending agent workshops, etc * * * requires several years of commission payment for renewals—without major changes—to compensate for the 'inadequate' amount of commission on newly written policies."

Several of the respondents contended that the marketing of flood insurance policies would be adversely affected by the proposed revision because all of the issues listed above, in combination with the proposed change, would give agents less of an incentive to continue selling flood insurance. On the contrary, since the issues raised by the respondents relating to program complexity and the degree of effort required in writing and servicing flood insurance are not new but existed at a time when agents' compensation (because of lower premium rates) was actually smaller than today, it is FEMA's belief that agents willing to write flood policies at that time would be even more willing to do so now that the commission rate for new business is being increased. Indeed, because of the recognition (reinforced by the substantive concerns expressed by the respondents) that the flood insurance line is a unique form of insurance with procedures and requirements that are not found with other types of insurance and because of the desire to encourage agents to focus their efforts on new business, it has been decided to increase the new business commission rate higher than originally proposed, and thus this final rule increases the commission rate for new business from the proposed 16 percent to 17 percent for the first $2,000 of premium.

The proposal to reduce to 5 percent the commission rate for new business applications which cannot pass rating edits generated negative comments from a number of respondents. Concern was expressed that properly completed applications could be "kicked out of the system" because of a mistake by the operator when keying-in information, requiring additional efforts by the agent to verify the accuracy of the application as originally submitted in order to obtain the correct commission rate. FEMA believes that the respondents have raised valid concerns and that the proposal should not be implemented at this time. Therefore, the provision for paying a reduced commission rate for new business applications that do not pass rating edits is being deleted in this final rule, and the issue will be further examined for possible publication at a later date after obtaining additional input through subsequent proposed rule.

It is recognized that, whenever any reduction of compensation is proposed under any program (whether government or private), there is going to be resistance because it reduces the income of affected persons. However, as indicated in the supplementary information to the proposed rule, direct bill renewals requiring virtually no effort on the part of the producers currently account for 71 percent of the NFIP's direct business policies. Bearing this in mind, FEMA cannot justify continuing to provide the same commission for renewals that is given for new business. While the automated billing system has, in most cases, greatly diminished the level of effort required of producers as far as policy renewals are concerned, FEMA acknowledges, as pointed out by a large number of the respondents, that producers are often called upon during the policy term to perform servicing functions such as (1) completing and filing change endorsements to add or change the name of a mortgagee if, for example, a policyholder refinances his mortgage; (2) filing a claim for loss if the insured property sustains flood damage; or (3) responding to policyholder inquiries concerning coverage issues. It is the contention of the respondents that the current commission rate for policy renewals has helped to make up for the many servicing functions performed during the policy term that do not result in any additional compensation for the producer. FEMA agrees that this is a valid position and has decided, therefore, not to reduce the commission rate for direct bill renewals as much as originally proposed, and thus this final rule increases the direct bill renewal commission rate from the proposed 12 percent to 14 percent for the first $2,000 of premium. Further, since such a small percentage of policies are renewed by application, it has been decided to eliminate the 15 percent commission rate originally proposed for that category of renewal and in place thereof also establish a 14 percent commission rate. Thus, all policy renewals, whether renewed by application or the direct bill method, will earn 14 percent commission on the first $2,000 of premium.

This final rule also includes a revision of the chart showing the commission rate for mid-term increases in amounts of insurance added by endorsement which, due to an editorial oversight, was not included in the proposed rule. Consistent with the commission rates discussed above, agents will receive (for the first $2,000 of premium) a 17 percent commission for a mid-term endorsement of a first-year policy and a 14 percent commission for a mid-term endorsement of a renewal policy.

Many respondents suggested that FEMA consider taking other actions to save money in lieu of revising the commission rate. Suggestions included simplifying the NFIP, including the rating system; increasing the premiums for flood insurance; increasing coverage limits; instituting stricter underwriting; improving market penetration; developing other policy forms such as a condominium master policy; etc. FEMA agrees that such actions are needed and is continually reviewing and reappraising the NFIP in an effort to streamline the operation and effectiveness of the NFIP and at the same time achieve greater administrative and fiscal effectiveness. Projects currently under development, for example, include a "flat fee" policy, a condominium master policy and a community rating system whereby the flood insurance rates to be applied in calculating the premiums for properties located in a specific community would be based on community-wide actions that reduce future flood damage to buildings and their contents. As FEMA continues it efforts to satisfy the premium requirements for the historical average loss year and to reduce the general taxpayers' burden with a more equitable sharing of the costs of flood losses between the general taxpayers and the insureds, it may be necessary to make upward adjustments in flood insurance premium rates. Indeed, a rule is currently pending (Vol. 53, page 4673 of the **Federal Register** dated February 17, 1988) to increase the chargeable (subsidized) rates, which apply to all structures located in communities participating in the Emergency Program of the NFIP and to certain structures in communities in the Regular Program. As these and any future increases in flood insurance premium rates become effective, the amounts of commission income for the producers of NFIP policies will increase. Such increases will help to offset the reduction in compensation to the producers as a result of this final rule.

As pointed out in the supplementary information to the proposed rule, FEMA planned to address the commission arrangements under the WYO Program in Fiscal Year 1988 in connection with the general revisions to the WYO Arrangement with insurers participating in the Program and, in fact, a revision to the commission arrangements under the WYO Program was included in a proposed rule published in the **Federal Register** on January 7, 1988 (53 FR 419). FEMA is now proceeding to issue a final rule which will revise the allowance for commissions paid to property insurance agents and brokers writing policies of flood insurance under the WYO Program. This final rule also will have an effective date of October 1, 1988. The direct business system and the WYO Program system are both designed to encourage new business. Under both systems, if not such new business is produced, the amount of commission will be less than it is currently. Conversely, if a lot of new business is produced, the amount of commission allowance could be higher than it is currently. In that case, the increase in new business would result in a greater spread of the risk, a very desirable insurance goal and a source of another type of savings. It is anticipated that the two commission systems will produce an average commission that is comparable. FEMA will be monitoring these two systems over the next couple of years to determine how well they are working and to determine if any changes to the systems are needed in the future.

FEMA has determined, based upon an Environmental Assessment, that this rule will not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. 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, DC 20472.

This rule does not have a significant economic impact on a substantial number of small entities and has not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this 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 Part 62

Flood insurance.

Accordingly, 44 CFR Chapter I, Subchapter B, is amended as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

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

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

2. Section 62.6(a) is revised to read as follows:

§ 62.6 Minimum commissions.

(a) The earned commission which shall be paid to any property or casualty insurance agent or broker duly licensed by a state insurance regulatory authority, with respect to each policy or renewal the agent duly procures on behalf of the insured, in connection with policies of flood insurance placed with the NFIP at the offices of its servicing agent, but not with respect to policies of flood insurance issued pursuant to Subpart C of this part, shall not be less than $10 and is computed as follows:

(1) In the case of a new or renewal policy, the following commissions shall apply based on the total premiums paid for the policy term:

Premium amount	Commissions (percent)
First $2,000 of Premium:	
Direct bill renewals	14
Renewal applications	14
New business applications	17
Excess of $2,000:	
All Business	5

(2) In the case of mid-term increases in amounts of insurance added by endorsements, the following commissions shall apply based on the total premiums paid for the increased amounts of insurance:

Premium amounts	Commissions (percent)
First $2,000 of Premium:	
Endorsement of first-year policy	17
Endorsement of renewal policy	14
Excess of $2,000:	
All business	5

* * * * *

Dated: April 22, 1988.

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 88-9379 Filed 4-27-88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-183; RM-5636]

Radio Broadcasting Services; Kotzebue, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 280A to Kotzebue, Alaska, as that community's first local FM service, in response to a petition filed on behalf of Arctic Broadcasting Association. With this action, the proceeding is terminated.

DATES: Effective June 6, 1988. The window period for filing applications on Channel 280A at Kotzebue, Alaska, will open on June 7, 1988, and close on July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530, regarding the allocation. Questions related to the application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-183, adopted March 28, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Alaska, by adding Kotzebue, Channel 280A.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9353 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-477; RM-5540]

Radio Broadcasting Services; Marathon, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 232C2 for Channel 232A at Marathon, Florida, and modifies the license for Station WMUM(FM), to specify the new channel, at the request of the licensee Breeze 94, Inc. With this action, this proceeding is terminated.

DATE: Effective Date: June 3, 1988.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-477, adopted March 30, 1988, and released April 19, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended in the entry for Marathon, Florida, by adding Channel 232C2 and deleting Channel 232A.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9360 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-412; RM-5914]

Radio Broadcasting Services; Litchfield, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 235C2 for Channel 237A at Litchfield, Minnesota, in response to a petition filed by Litchfield Broadcasting Corporation. In addition, we have authorized the modification of the license for Station KLFD-FM to specify operation on Channel 235C2 in lieu of Channel 237A. There is a site restriction 12.8 kilometers northwest of the community. The coordinates for Channel 235C2 are 45-13-37 and 94-36-20. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 6, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-412, adopted March 30, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended by removing Channel 237A and adding Channel 235C2 at Litchfield.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-9352 Filed 4-27-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-380; RM-5732]

Radio Broadcasting Services; Thief River Falls, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 257A to Thief River Falls, Minnesota, as that community's third FM broadcast service, in response to a petition filed by Northern Minnesota Associates. Canadian concurrence has been obtained for the allotment of Channel 257A at Thief River Falls. The coordinates for Channel 257A are 48-07-06 and 96-10-24. With this action, this proceeding is terminated.

DATES: Effective June 6, 1988. The window period for filing applications will open on June 7, 1988, and close on July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-380, adopted March 30, 1988, and released April 20, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended