

# Sunshine Act Meetings

Federal Register

Vol. 58, No. 226

Friday, November 26, 1993

This section of the **FEDERAL REGISTER** contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## UNITED STATES COMMISSION ON CIVIL RIGHTS

**DATE AND TIME:** Friday, December 3, 1993, 9 a.m.

**PLACE:** U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

**STATUS:** Open to the Public.

December 3, 1993

### Agenda

- I. Approval of Agenda
- II. Approval of Minutes of the November 19, 1993 Meeting
- III. Announcements
- IV. Followup to Previous Meeting
- V. Appointments to the Connecticut, Idaho, Missouri, New Hampshire (interim), and Texas Advisory Committees
- VI. White Supremacist Activity in Montana
- VII. Hate Crime in Indiana: A Monitoring of the Level, Victims, Locations, and Motivations
- VIII. New York Hearing Update
- IX. Future Agenda Items
- X. Commissioner Briefing on Economic Opportunity

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376-8105 (TDD 202-376-8116) at least five (5) working days before the scheduled date of the hearing.

### CONTACT PERSON FOR FURTHER

**INFORMATION:** Barbara Brooks, Press and Communications (202) 376-8312.

Emma Monroig,

Solicitor.

[FR Doc. 93-29106 Filed 11-23-93; 10:46 am]

BILLING CODE 6335-01-M

## FEDERAL ELECTION COMMISSION

**"FEDERAL REGISTER" NUMBER:** 93-28026.

**PREVIOUSLY ANNOUNCED DATE AND TIME:**

Thursday, November 18, 1993 at 10:00 a.m. Meeting Open to the Public

The following item was withdrawn from the Agenda:

Implementing Directives for the Interim Ex Parte Communications Regulations.

**DATE AND TIME:** Tuesday, November 30, 1993 at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C.

**STATUS:** This meeting will be closed to the Public.

### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.  
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.  
Matters concerning participation in civil actions or proceedings or arbitration.  
Internal personnel rules and procedures or matters affecting a particular employee.  
Briefing on Allocation Regulations.

**DATE AND TIME:** Thursday, December 2, 1993 at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C. (Ninth Floor).

**STATUS:** This meeting will be open to the Public.

### ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.  
Advisory Opinion 1993-18: Alan E. Siegel on behalf of Southwestern Bell Corporation.  
Report of the National Performance Review on Reinventing Government—Creating a Government That works Better and Costs Less.

MURs in the Record.  
Status of Regulations Projects.  
Administrative Matters.

### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,  
Telephone: (202) 219-4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93-29188 Filed 11-23-93; 3:38 pm]

BILLING CODE 6715-01-M

## FEDERAL ENERGY REGULATORY COMMISSION

### "FEDERAL REGISTER" CITATION OF

**PREVIOUS ANNOUNCEMENT:** November 19, 1993, 58 FR 61140.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** November 23, 1993, 10:00 a.m.

**CHANGE IN THE MEETING:** The following Docket Numbers have been added to Item CAG-3 on the Agenda scheduled for November 23, 1993:

Item No., Docket No., and Company

CAG-3—RP85-177-102 and RP85-177-107,  
Texas Eastern Transmission Corporation

Lois D. Cashell,

Secretary.

[FR Doc. 93-29194 Filed 11-23-93; 3:48 pm]

BILLING CODE 6712-02-M

## FEDERAL HOUSING FINANCE BOARD

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 58 FR 59516, November 9, 1993.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 9:00 a.m., Wednesday, November 17, 1993.

**CHANGE IN THE MEETING:** The following topic was deleted from the open portion of the meeting:

- System 2000 Implementation: Goal #5 Update

The Board determined that this change was made on less than seven days notice to the public and that no earlier notice of this change in the subject matter of the meeting was practicable.

**CONTACT PERSON FOR MORE INFORMATION:** Elaine L. Baker, Secretary to the Board, (202) 408-2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93-29137 Filed 11-23-93; 12:43 pm]

BILLING CODE 6725-01-P

## BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 10:00 a.m., Wednesday, December 1, 1993.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-29186 Filed 11-23-93; 3:10 pm]

BILLING CODE 6210-01-P



UNITED STATES INTERNATIONAL TRADE  
COMMISSION

(USITC SE-93-35)

TIME AND DATE: December 1, 1993 at 2:30  
p.m.PLACE: Room 101, 500 E Street S.W.,  
Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Invs. Nos. 303-TA-24, 701-TA-356-358  
and 731-TA-664-668 (Preliminary)  
(Phthalic Anhydride from Venezuela,  
Brazil, Israel, Mexico and Hungary).
5. Outstanding action jackets
  1. GC-93-127, Federal Register notice of  
proposed section 337 rulemaking.

In accordance with Commission  
policy, subject matter listed above, not  
disposed of at the scheduled meeting,  
may be carried over to the agenda of the  
following meeting.

CONTACT PERSON FOR MORE INFORMATION:  
Donna R. Koehnke, Secretary, (202)  
205-2000.

Issued: November 19, 1993.

Donna R. Koehnke,  
Secretary.[FR Doc. 93-29153 Filed 11-23-93; 2:47 pm]  
BILLING CODE 7020-02-P

## NUCLEAR REGULATORY COMMISSION

DATE: Monday, November 29, 1993.

PLACE: Commissioners' Conference  
Room, 11555 Rockville Pike, Rockville,  
Maryland.

STATUS: Closed.

## MATTERS TO BE CONSIDERED:

Monday, November 29

2:00 p.m.

Briefing by the Executive Branch (Closed—  
Ex. 1)

Dated: November 22, 1993.

Note: The schedule for commission  
meetings is subject to change on short notice.  
To verify the status of meetings call  
(recording)—(301) 504-1292. Contact Person  
for More Information: William Hill (301)  
504-1661.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the  
Secretary.

[FR Doc. 93-29150 Filed 11-23-93; 8:45 am]

BILLING CODE 7590-01-M

UNITED STATES POSTAL SERVICE BOARD OF  
GOVERNORS

The Board of Governors of the United  
States Postal Service, pursuant to its  
Bylaws (39 C.F.R. Section 7.5) and the  
Government in the Sunshine Act (5  
U.S.C. Section 552b), hereby gives  
notice that it intends to hold a meeting  
at 8:30 a.m. on Tuesday, December 7,  
1993, in Washington, D.C. The meeting  
is open to the public and will be held  
at U.S. Postal Service Headquarters, 475  
L'Enfant Plaza, S.W., in the Benjamin  
Franklin Room. The Board expects to  
discuss the matters stated in the agenda  
which is set forth below. Requests for  
information about the meeting should  
be addressed to the Secretary of the

Board, David F. Harris, at (202) 268-  
4800.

There will also be a session of the  
Board on Monday, December 6, 1993,  
but it will consist entirely of briefings  
and is not open to the public.

## AGENDA

## Tuesday Session

December 7, 8:30 a.m. (Open)

1. Minutes of the Previous Meeting,  
November 1-2, 1993.
2. Remarks of the Postmaster General and  
CEO. (Marvin Runyon)
3. Consideration of the FY 1993 Financial  
Statements. (Governor Sam Winters and  
M. Richard Porras, Vice President,  
Controller)
4. Final FY 1995 Budget Request to Congress.  
(Michael J. Riley, Chief Financial Officer  
and Senior Vice President, Finance)
5. Chief Inspector's Semiannual Report.  
(Kenneth J. Hunter, Chief Postal  
Inspector)
6. Capital Investments. (Peter A. Jacobson,  
Senior Vice President, Processing and  
Distribution)
  - a. Westchester, New York, Processing &  
Distribution Center.
  - b. New Haven, Connecticut, Processing &  
Distribution Center.
7. Tentative Agenda for the January 3-4,  
1994, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 93-29115 Filed 11-23-93; 11:39  
am]

BILLING CODE 7710-12-M



# Corrections

Federal Register

Vol. 58, No. 226

Friday, November 26, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 94-C0003]

Berman Mattress Co., Inc., a Domestic Corporation, and Sheldon Haber, Individually and as an Officer of the Corporation; Provisional Acceptance of a Settlement Agreement and Order

### Correction

In notice document 93-27367 beginning on page 59242 in the issue of Monday, November 8, 1993, make the following correction:

On page 59242, in the second column, in **DATES**, in the fifth and sixth lines, "November 13, 1993." should read "November 23, 1993."

BILLING CODE 1505-01-D

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

### 24 CFR Part 208

[Docket No. R-93-1691; FR-3521-I-01]  
RIN 2502-AG16

Electronic Transmission of Required Data for Certification and Recertification and Subsidy Billing Procedures for Multifamily Subsidized Projects

### Correction

In rule document 93-28388 beginning on page 61017 in the issue of Friday, November 19, 1993, make the following corrections:

On page 61018, in the first column, in the **DATES**, in the second line, "May 20, 1994" should read "March 21, 1994", and in the fourth line, "March 21, 1994" should read "May 20, 1994".

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

### 23 CFR Part 1212

[NHTSA Docket No. 91-17; Notice 2]  
RIN 2127-AE10

Drug Offender's Driver's License Suspension

### Correction

In rule document 92-19102 beginning on page 35989 in the issue of

Wednesday, August 12, 1992, make the following correction:

### §1212.3 [Corrected]

On page 35999, in the second column, in § 1212.3(d), in the last line, "§§ 1038.11-15." should read "§§ 1308.11-15."

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

### 49 CFR Part 583

[Docket No. 92-64; Notice 3]

RIN 2127-AE63

Motor Vehicle Content Labeling

### Correction

In proposed rule document 93-28392 beginning on page 61042 in the issue of Friday, November 19, 1993, make the following corrections:

1. On page 61043, in the first column, in the **DATES** section the *Proposed effective date* should read as follows:

*Proposed effective date:* The proposed new part would be added to the Code of Federal Regulations on [insert date 30 days after publication of the final rule in the Federal Register].

### §583.1 [Corrected]

2. On page 61060, in the first column, in § 583.1(d)(1), in the 7th line insert "15" after "by".

3. On page 61063, the "Appendix to Preamble: Sample Labels" is corrected to read as follows:

**Note:** This appendix will not appear in the Code of Federal Regulations.



## Appendix to Preamble: Sample Labels

Sample Figure 1: Section 583.5(b), the Standard Label

**For vehicles in this carline:****U.S./Canadian Parts Content: 50%****Major Source of Foreign Parts Content:****Japan: 20%****Mexico: 15%****For this vehicle:****Final Assembly Point: Flint, Michigan, USA****Country of Origin:****Engine: U.S.****Transmission: Canada**

**Note:** The PARTS CONTENT of a typical vehicle makes up about (a range would be specified in a final rule) percent of the vehicle's total wholesale cost to the dealer.

Sample Figure 2: Section 583.5(e), Low U.S./Canadian Content Label

**For vehicles in this carline:****U.S./Canadian Parts Content: Minimal****Major Source of Foreign Parts Content:****Italy: 90%****For this vehicle:****Final Assembly Point: Turin, Italy****Country of Origin:****Engine: Italy****Transmission: Italy**

**Note:** The PARTS CONTENT of a typical vehicle makes up about (a range would be specified in a final rule) percent of the vehicle's total wholesale cost to the dealer.



Sample Figure 3: Section 583.5(f)-(g), Label for Multistage Manufacturers of Carlines With Fewer Than 1000 Vehicles Produces Annually; and Manufacturers That Produced a Total of Fewer Than 1000 Vehicles Annually

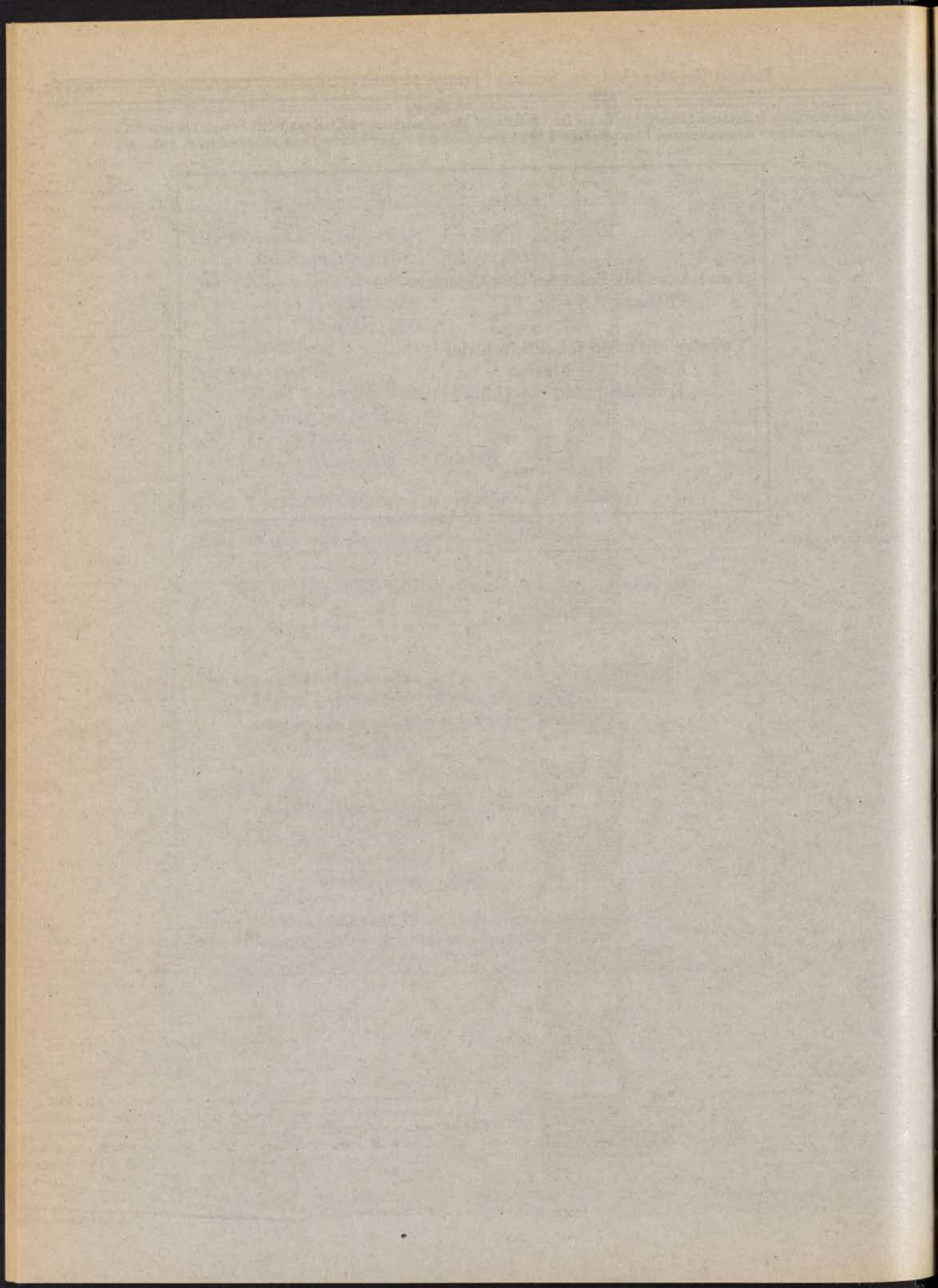
**Final Assembly Point for this Vehicle:**  
**Phoenix, AZ**

**Country of Origin for this Vehicle:**

**Engine: Mexico**

**Transmission: U.S.**







# Federal Register

---

Friday  
November 26, 1993

---

## Part II

### Federal Emergency Management Agency

---

44 CFR Part 59, et al.  
National Flood Insurance Program;  
General Provisions and Insurance  
Coverage; Final Rule



# FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Parts 59, 61, and 62

RIN 3067-AB71

### National Flood Insurance Program; General Provisions and Insurance Coverage

AGENCY: Federal Insurance  
Administration, FEMA.

ACTION: Final rule.

**SUMMARY:** This final rule amends the General Provisions and Standard Flood Insurance Policy (SFIP) of the National Flood Insurance Program (NFIP) by clarifying certain insurance coverage provisions, amending the NFIP definitions of terms, and by establishing a new SFIP for the insuring of residential condominium building associations and the individual unit owners residing in such buildings, while making appropriate amendments to the existing SFIP forms, the Dwelling Form and the General Property Form.

**EFFECTIVE DATE:** October 1, 1994.

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

**SUPPLEMENTARY INFORMATION:** On July 30, 1992, the Federal Emergency Management Agency (FEMA) published in the *Federal Register* (Vol. 57, Page 33669) a proposed rule containing amendments to the General Provisions and Standard Flood Insurance Policy (SFIP) of the National Flood Insurance Program (NFIP) to clarify certain insurance coverage provisions, and to amend the NFIP definitions of terms. The rule also proposed to establish a new SFIP for the insuring of residential condominium building associations and the individual unit owners residing in such buildings, and to amend the existing SFIP forms (the Dwelling Form and the General Property Form) to conform to the new Residential Condominium Building Association Policy Form.

A 60-day period was provided for review and comment on the proposed changes. FEMA also requested comments on the estimates for the recordkeeping and reporting burden in connection with the collection of information titled "Claims for National Flood Insurance Program" and invited the public to submit comments to FEMA and/or the Office of Management and Budget (OMB) on the paperwork issues including the burden estimates and any aspects of the information collection

requirements. While neither FEMA nor OMB received comments in connection with the collection of information during the comment period, FEMA did receive comments on the proposed changes to the NFIP from five respondents. The tally of comments included representatives from two private insurance companies participating in the NFIP Write Your Own Program, one flood insurance committee consisting of representatives from various producer trade associations, one state association of insurance agents, and one association concerned with flood plain management issues.

Most of the comments received were related to the SFIP Forms and, while generally supportive, did express concern for one or more of the proposed provisions. Other comments were editorial or technical in nature, some of which were incorporated into this final rule and some of which were not.

In the development of the new Residential Condominium Building Association Policy Form and the revised Dwelling Policy and General Property Policy Forms, a review of the forms was requested and received from six editors of the National Underwriter Company's publication "Fire, Casualty, and Surety (FC&S) Bulletins," as well as from Write Your Own company members of the Condominium Master Policy (CMP) Task Force to ensure that the policies conform to the greatest extent possible to the simplified language, procedures, and practices of the private sector personal lines insurance industry.

Before the Standard Flood Insurance Policies were included in the regulations as Appendices A(1) and A(2), key insurance terms and key provisions of the flood insurance policy were included respectively in part 59—Definitions and in the text of part 61—Insurance Coverage and Rates. When Appendices A(1) and A(2) were added in October 1979, these key insurance terms and provisions were retained and, over the years, as revisions were made to the policies in the Appendices, the definitions in part 59 and the text in part 61 were revised as well to conform with the Appendices. This has proved to be a cumbersome process and a needless duplication that, as the regulations have increased in volume over the years, is both time-consuming and costly. FEMA is, therefore, removing these key insurance terms and provisions from the text of parts 59 and 61.

Federal procurement procedures are followed in the selection of an NFIP servicing agent to assist in issuing flood insurance policies under the Program.

Under these procedures, National Con-Serv, Inc. (NCSI), whose offices are located in Rockville, Maryland, became the new NFIP servicing agent effective October 1, 1993. An editorial change is being made in part 62 to reflect this change in the servicing agent. Since NCSI has several different addresses for receipt of correspondence depending on the various transactions being submitted and since those addresses are contained in the NFIP Agents Manual revisions, which are disseminated to insurance agents and other parties having an interest in writing flood insurance, a further editorial change is being made at part 62 to remove any reference to the servicing agent's mailing address.

Regarding the proposed coverage clarifications, in the Definitions section of the General Provisions, at § 59.1, and variously, in the SFIP, at § 61.13, one private insurance company questioned whether the new definition of "association" is accurate in regard to "managing the condominium building," and whether the definition of "elevated building" is complete enough. FEMA believes that these definitions are accurate and complete although it might be helpful to clarify at § 59.1 that "elevated building" is an insurance concept. Further, the six editors of the National Underwriter and the CMP Task Force members had no problems with these definitions. In keeping with the decision to remove key insurance terms from the Definitions section of the regulatory text, the definition for "association" is being removed at § 59.1 of this final rule but is contained in Article 2—Definitions of all three policies as originally proposed. The definition for "elevated building" is included in Article 2—Definitions of all three policies as originally proposed. The definition for "elevated building" is also being retained in § 59.1 of this final rule and, for clarification, is being revised to add the phrase ", for insurance purposes," following the phrase "Elevated building means". No comments were received concerning the proposed new definitions of "coinsurance," "improvement," "unit" (in conjunction with the SFIP condominium forms of coverage), and "special hazard area," as well as the amended definition of "direct physical loss by or from flood;" and these definitions are also contained in the final rule as originally proposed, except that, with respect to the definition of "special hazard area," zone "AR" has been added alphabetically to the listing. No comments were received concerning the proposed new definition of "valued policy." In keeping with the decision to



remove key insurance terms from the Definitions section of the regulatory text, this definition is being removed at § 59.1 of this final rule but is contained in Article 2—Definitions of all three policies as originally proposed. One respondent commented that the definition of "residential condominium building" in the Dwelling Form differed from the definition in the General Property Form and the Residential Condominium Building Association Policy Form. This is a valid point and, in the final rule, the definition in the Dwelling Form has been amended to conform to the definition in the other two policy forms. However, as this is an insurance term, the definition of "residential condominium building" is being removed at § 59.1 of this final rule.

One respondent commented on the proposal at § 61.3 (and the conforming language in the SFIP Dwelling Form's "Property Covered" article), to amend the grant of coverage for additions and extensions to include coverage only for a building which is attached to the insured structure by means of a common wall and suggested that a "common roof" should be addressed as well in order to further clarify the single building issue. Another respondent questioned how the language affects coverage for decks, carports, etc. The Dwelling Policy, as proposed, provides at Article 4, Coverage A, paragraph A.3., for a 10 percent extension of coverage for detached garages and carports and this 10 percent extension is not affected by the proposed language, one purpose of which is to eliminate coverage for decks. FEMA believes that the language as proposed provides sufficient clarification on the single building issue. In keeping with the decision to remove key provisions of the flood insurance policy from the text of the regulations, the proposed change at § 61.3 is not included in this final rule and the current last sentence is being removed from § 61.3 in this final rule. However, for clarification, the language as originally proposed in the Dwelling Form at Article 4—Property Covered, Coverage A—Building Property, paragraph A.1. is being revised in this final rule to reference Article 6—Property Not Covered, paragraph D.2. Due to a technical oversight, the proposed language was not included in the General Property Form and the Residential Condominium Building Association Policy Form in the proposed rule but, in this final rule, the revised language is included in these policy forms as well. Further, to make it clear that there is no coverage for

decks, whether covered or not, a change is being made to the "Property Not Covered" article at Paragraph D.2. of all three policies to specifically list decks.

In the proposed rule at § 61.4, and in the conforming language at Article 3 of all three policies, new language was proposed to clarify when sewer backup or seepage of water is a covered peril. The current Dwelling Form has a more restrictive condition for coverage to attach than does the current General Property Form. In keeping with the decision to remove key provisions of the flood insurance policy from the text of the regulations, the designation (a) is being removed from the paragraph beginning with the words "All flood insurance" and paragraphs (b) through (e) of § 61.4 are being removed in this final rule. However, this final rule addresses changes to Article 3 of all three policies. Since the language in the proposed rule would have required "actual physical contact between surface flood water and the insured building" for coverage to attach, it was also proposed to offer optional coverage under the Dwelling Form whereby, subject to conditions, policyholders could purchase coverage for certain losses due to water seepage and sewer backup without the requirement that there be actual physical contact between the surface flood water and the insured building and for land subsidence as well.

Given the fact that the General Property Form provides coverage when the seepage or backup of water is related to a condition of "flood," as defined" and because, historically, the instances of land subsidence, water seepage and sewer backup have not occurred frequently, rather than offering an optional endorsement which would provide coverage for land subsidence, water seepage and sewer backup, it has been decided to include, at Article 3—Losses Not Covered of all three policies, a new paragraph B.3 providing coverage for land subsidence, water seepage, and sewer backup where certain conditions as specifically enumerated are present. In commenting on the optional endorsement, a private insurance company suggested changing the wording related to the time limit for the damage to occur from "72 hours from the onset of the flooding" to read "72 hours after the flood has receded." FEMA believes that this suggestion is worthwhile and it has been incorporated into paragraph B.3.

There will not be an additional premium charge for the coverage for land subsidence, water seepage and sewer backup but there will be a deductible of \$250 to be applied for

each building and contents loss, separately, in addition to the deductible amount for building and contents coverage, as appropriate, otherwise applicable to the policy.

Although an additional premium charge will not apply, additional premium dollars will be generated since one of the requirements for the coverage to attach is that the insured building must be insured, at the time of loss, for at least 80 percent of its replacement cost or the maximum amount of insurance available under the National Flood Insurance Program. Further, FEMA intends to monitor the claims experience for the next few years to determine whether an additional premium charge may at some future time be appropriate.

Therefore, Optional Endorsement #3 is removed from this final rule and, instead, Article 3—Losses Not Covered, paragraph B.3., of all three policies is revised in this final rule to provide that the policy does cover loss caused by land subsidence, sewer backup or seepage of water where the enumerated conditions are present. Further, at Article 7—Deductibles of all three policies, a new paragraph E. has been added to provide for a deductible amount to be applied for each building and contents loss, separately, for land subsidence, water seepage, and sewer backup coverage.

One respondent, in commenting on paragraph B.3. of Article 3, expressed uncertainty as to the meaning of the last part of the paragraph and whether freezing, thawing, or the pressure or weight of ice or water are independent events not requiring physical contact between surface flood water and the insured property. Therefore, for clarification, a new paragraph B.4., is added to separately list freezing, thawing, or the pressure or weight of ice or water.

In furtherance of loss prevention, as an insurance concept, and hazard mitigation, in October 1984, the SFIP policy forms were revised to provide for reimbursement up to the then minimum deductible of \$500.00 for certain loss mitigation measures, such as the purchase of sandbags, including the sand to fill them, and plastic sheeting and lumber used in connection with them. In January 1986, although maintaining the \$500.00 limitation, the SFIP policy forms were further revised to include reimbursement for fill for temporary levees, pumps, and wood. In October 1992, FEMA established new deductibles of \$750.00 (building and contents separately) for those flood insurance policies which are rated using the subsidized rates (i.e., chargeable



rates) established pursuant to sections 1308 (a)(1) and (a)(2) and 1336(b)(1) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4015 and 42 U.S.C. 4056). Loss prevention and hazard mitigation are major goals of FEMA and it seems only equitable to extend the reimbursement for the loss mitigation measures specifically listed in the policy to the higher standard deductible for policies rated using the chargeable rates. Therefore, in this final rule, Article 5, paragraph D., of all three policies is revised to provide for coverage for certain loss mitigation measures in an aggregate amount not to exceed \$750.00.

Regarding the proposal to establish new deductibles for the insuring of residential condominium buildings, one respondent expressed concern about the large mandatory deductibles and pointed out that, based upon past experience, many mortgage companies, especially unit owner mortgagees, will not accept policies with deductibles over \$1,000. Another respondent suggested that, since the deductibles are keyed to condominiums of five units or more, it would be better to change the wording to require a deductible of "\$750.00 or \$500.00 times the number of units, subject to a maximum deductible of \$7,500 or \$5,000." After carefully considering the issues raised and giving consideration to the importance of maintaining consistency in the Program, FEMA has determined that, in lieu of establishing separate deductibles, it would be better to retain the current standard deductibles of \$750.00 (for buildings where Pre-FIRM rates are used to calculate the premium) or \$500.00 (for all other buildings), as appropriate, for residential condominium buildings of five units or more and charge premium rates commensurate with the risk. This determination is made in recognition of the range of optional deductibles that will be available which condominium associations can avail themselves of with some corresponding reduction in the premium rates. Therefore, paragraphs (d)(1) and (d)(2) are being removed from § 61.5 in this final rule and paragraph (d)(3) is being redesignated as paragraph (d). Further, in keeping with the decision to remove key provisions of the flood insurance policy from the text of the regulations, the last sentence of paragraph (a)(1) and paragraphs (e) through (h) are being removed, paragraph (i) is being redesignated as paragraph (e), and paragraph (j) is being removed from § 61.5 in this final rule.

As stated in the proposed rule, new minimum deductibles became effective

on and after October 1, 1992, for buildings (and the contents in them) that were built before the effective date of the Flood Insurance Rate Map for the community or December 31, 1974, whichever is later, and that are located in Zones A, AO, AH, A1-30, AE, VO, V1-30, VE or V. In establishing the effective date for determining when the new minimum deductibles were to be applied, the intent was to be consistent with the grandfather clause contained in section 1308(c) of the National Flood Insurance Act of 1968, as amended, related to the availability of chargeable premium rates; and with language in the new definition of "Post-FIRM Building" being added to all three policies. Due to a technical oversight, the word "initial" was not included before the phrase "Flood Insurance Rate Map" in the proposed language at Article 7—Deductibles, paragraph C., of all three policies. This oversight has been corrected and, in this final rule, the phrase "initial Flood Insurance Rate Map" is included in Article 7, paragraph C. of all three policy forms.

No comments were received concerning the proposal to add a new paragraph (c) to § 61.6 providing that, consistent with the existing procedures related to the Condominium Master Policy, in the case of a residential condominium building in a regular program community, the allowable limits of building coverage are stated in terms of the number of units times the allowable limits of coverage for single family homeowners; nor were any comments received concerning the proposed amendment to the "Liberalization" clause to clarify that it only applies to losses occurring on or after the effective date of any policy changes. Therefore, these provisions are included in the final rule as originally proposed.

Regarding the proposal to specifically list in the SFIP, in all its forms, the kinds of property which can only be covered under the policy's building coverage and the kinds of property which can only be covered under the personal property coverage, the only comments received were editorial or technical in nature, some of which have been incorporated into this final rule and some of which have not.

Regarding the proposal to establish a new, distinct SFIP for the insuring of residential condominium buildings which will contain a coinsurance clause requiring the insured condominium association to share in the flood loss if it has not insured the building to 80 percent of its replacement cost value, one private insurance company expressed concern about the effect the

coinsurance requirement would have on marketing for risks located in lower hazard areas. This respondent also suggested eliminating the examples from the SFIP and commented that providing examples is not normally done in insurance policies. Another private insurance company questioned the necessity of imposing the 80 percent coinsurance requirement on all buildings insured under the residential condominium building association policy form. The comment was made that the odds of a total flood loss are very small except for "V" zones and some coastal "A" zones, the contention being that the risk from flooding in "B," "C," and "X" zones does not justify requiring limits of 80 percent to value and that the rates for those zones are adequate to provide sufficient premium dollars for the exposure. It was suggested instead that the 80 percent insurance to value building coverage requirement be limited only to condominium buildings in special hazard areas. FEMA has carefully considered the positive and negative aspects of imposing the coinsurance requirement across the board or only in special hazard areas. However, for all of the reasons discussed in the supplementary information for the proposed rule, it is believed that the fair and equitable policy is to apply the insurance to value concept to all residential condominium buildings regardless of the flood zone in which the building may be located. In recognition of the very small odds of a total loss occurring in "B," "C," and "X" zones, appropriately low rates will be established for these zones. Further, since the penalty at the time of a loss for not insuring to value could, in some instances, be substantial, it is believed that the examples are necessary to ensure a clear understanding of the consequences of not insuring to value. Therefore, the coinsurance provision is included in the final rule as originally proposed.

The rule also proposed to add in Article 5 of all three policies a paragraph to make explicit that the SFIP is not a "valued policy" and that in processing a flood claim, loss will be paid in an amount equal to the lesser of the value of the damaged property under the terms and conditions of the policy (and regardless of whether the amount of insurance purchased is greater than such value) or the limit of coverage permitted under the Act. One respondent suggested that this language be eliminated from the policy. However, for the reason outlined in the proposed rule, FEMA believes it important to



retain this language and it is included in the policies as originally proposed.

In addition to the optional endorsement included in the proposed rule for coverage for land subsidence, water seepage and sewer backup where certain enumerated conditions are present as already discussed, the rule also proposed that optional endorsements be offered under the Dwelling Form whereby policyholders could purchase coverage for certain losses due to increased cost of construction arising out of compliance with local floodplain management ordinances; and the standard policy's limitations of coverage in basements. Three respondents commented on the proposed endorsements. The comments were generally supportive with regard to the endorsement related to land subsidence, water seepage and sewer backups, as well as the endorsement related to the standard policy's limitations of coverage in basements. However, one private insurance company questioned why the three endorsements were being limited to the Dwelling Form and then only to single-family detached buildings which, at the time of a loss, are insured for at least 80 percent of their replacement cost or the maximum amount of insurance available under the NFIP.

From a review of the legislation related to the flood insurance program, it appears that, from the beginning of the NFIP, the major thrust of the program was toward the residential property owner. Specifically, in setting forth the scope of the program at section 1305(a) of the National Flood Insurance Act of 1968, as amended, Congress provided that priority should be given to " \* \* \* residential properties which are designed for the occupancy of from one to four families \* \* \*". Further, at section 1362(c) wherein Congress provided authorization for low interest loans for elevation of structures under certain circumstances, such authorization was limited to a " \* \* \* single-family dwelling structure \* \* \*".

In proposing the optional endorsements, FEMA chose to follow the lead of Congress and limit their availability to single family detached dwellings. However, as previously discussed, revisions are being made in this final rule to all three policies to provide for land subsidence, water seepage and sewer backup coverage where certain enumerated conditions

are present. Therefore, the Optional Endorsement Related to Land Subsidence, Seepage of Water and Sewer Backup Exclusions is removed from this final rule and changes are being made in this final rule related to the other optional endorsements as discussed below.

#### **Optional Endorsement Related to Coverage for Increased Costs of Repair or Reconstruction Due to a Community Flood Plain Management Ordinance**

Regarding the endorsement related to the increased cost of construction arising out of compliance with local flood plain management ordinances, a private insurance company suggested that, in the second paragraph, condition 2., the phrase "market value" be changed to "replacement cost;" that the endorsement be clarified to show that the intent is to provide coverage for work which is done on the undamaged portion of the dwelling as well as the damaged portion; and that the endorsement be amended to provide demolition coverage. An association concerned with flood plain management commented that it understood that it was the Federal Insurance Administration's (FIA's) intent to study the increased cost of construction concept in a team-work approach over the coming year and it expressed interest in working with FIA on this issue. FIA is appreciative of the association's offer and stands ready to work with the association as well as all other interested parties on this important issue. Further, the suggestions made by the private insurance company are worthwhile and will be given careful consideration before implementing any procedures for providing increased cost of construction coverage. However, as legislative initiatives are currently under development which will, among other things, address the issue related to increased cost of construction, FEMA is postponing at this time any action related to coverage for increased cost of construction. Optional Endorsement #1 is, therefore, removed from this final rule.

#### **Optional Endorsement Related to Coverage in Basements**

A private insurance company questioned why the proposed endorsement is being offered to Pre-FIRM risks in certain zones and why the

endorsement is being limited to buildings that were originally constructed with a finished floor, subgrade on all sides and containing, as originally constructed, a living room, dining room, and kitchen. The respondent commented that these conditions for eligibility will mean that the coverage would be available to only a limited number of structures countrywide.

This respondent's observation is correct. Upon further consideration in FEMA, it was decided that, due to such limited availability as outlined in the proposed rule, FEMA should defer at this time any action related to basement coverage and instead study the issue further with the option of developing a more broad granting of basement coverage by endorsement for an additional premium at actuarial rates at some future time. Optional Endorsement #2 is, therefore removed from this final rule.

#### **National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

#### **Regulatory Flexibility Act**

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

#### **Paperwork Reduction Act**

The information collection requirements in this final rule were approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*), and assigned OMB control number 3067-0021.

Public reporting and recordkeeping burden for this collection of information is estimated to average 3.8 hours per claim. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information requirements. The following forms are approved for NFIP use to obtain data required by this rule. The burden estimate for each form is provided:

| FEMA form No. | Title                                | Burden estimate |
|---------------|--------------------------------------|-----------------|
| 81-40         | Worksheet-Contents-Personal Property | 2.5 hours.      |
| 81-40         | Worksheet-Building                   | 2.5 hours.      |
| 81-41A        | Worksheet-Building (Cont'd)          | 1.0 hour.       |



| FEMA form No. | Title                                                                                                                 | Burden estimate       |
|---------------|-----------------------------------------------------------------------------------------------------------------------|-----------------------|
| 81-42         | Proof of Loss                                                                                                         | 5-6 minutes.          |
| 81-43         | Notice of Loss                                                                                                        | 4 minutes.            |
| 81-44         | Statement as to Full Cost of Repair or Replacement Cost Coverage, Subject to the Terms and Conditions of this Policy. | 6-7 minutes.          |
| 81-57         | National Flood Insurance Program, Preliminary Report                                                                  | 4 minutes.            |
| 81-58         | National Flood Insurance Program, Final Report                                                                        | 4 minutes.            |
| 81-59         | National Flood Insurance Program, Narrative Report                                                                    | 5-6 minutes.          |
| 81-63         | Cause of Loss and Subrogation Report                                                                                  | 45 minutes to 1 hour. |

Send comments regarding the accuracy of the burden estimates and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472; and to the Office of Management and Budget, Paperwork Reduction Project (3067-0021), Washington, DC 20503.

#### Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

#### Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

#### List of Subjects in 44 CFR Parts 59, 61 and 62

Flood insurance.

Accordingly, 44 CFR parts 59, 61 and 62 are amended as follows:

#### PART 59—GENERAL PROVISIONS

1. The authority citation for part 59 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 59.1 is amended by removing the current definition of "Elevated building" and adding, in place thereof a new definition to read as follows:

##### § 59.1 Definitions.

\* \* \* \* \*

*Elevated building* means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

\* \* \* \* \*

#### PART 61—INSURANCE COVERAGE AND RATES

3. The authority citation for part 61 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

##### § 61.3 [Amended]

4. Section 61.3 is amended by removing the last sentence.

##### § 61.4 [Amended]

5. Section 61.4 is amended by removing the designation "(a)" from the paragraph beginning with the words "All flood insurance", by removing paragraphs (b) through (e) and by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (a), (b), (c), and (d).

##### § 61.5 [Amended]

6. Section 61.5 is amended as follows:

a. By removing the last sentence in paragraph (a).

b. By removing paragraphs (d)(1) and (d)(2).

c. By redesignating paragraph (d)(3) as paragraph (d).

d. In newly redesignated paragraph (d) add, above the "Note," the following new "Category Four" of "Optional Deductibles" to read as follows:

\* \* \* \* \*

(d) \* \* \*

#### CATEGORY FOUR.—RESIDENTIAL CONDOMINIUM BUILDING POLICIES

| Options | Policy combining building and contents | Single coverage only policy (either building or contents) |
|---------|----------------------------------------|-----------------------------------------------------------|
|         | \$10,000/\$10,000<br>25,000/10,000     | \$10,000<br>25,000                                        |

e. By removing paragraphs (e) through (h).

f. By redesignating paragraph (i) as paragraph (e).

g. By removing paragraph (j).

7. Section 61.6 is amended by adding a new paragraph (c), to read as follows:

§ 61.6 Maximum amounts of coverage available.

\* \* \* \* \*

(c) In the insuring of a residential condominium building in a Regular Program community, the maximum limits of building coverage permitted under the Act is the lesser of \$185,000.00 times the number of units in the building or the building's replacement cost. The maximum limit of contents coverage permitted under the Act in a Regular Program community is the lesser of \$80,000.00 or the actual cash value of the contents.

##### § 61.13 [Amended]

8. Section 61.13 is amended as follows:

a. By removing the parenthetical phrase in paragraph (a) and adding in its place the following parenthetical phrase:

\* \* \* (General Property, Dwelling, and Residential Condominium Building Association) \* \* \*

b. By adding, in paragraph (d) after the word "than" and before the word "through", the phrase "by the express written consent of the Administrator".

9. Appendix A(1) of part 61 is revised to read as follows:

#### Appendix A (1)

Federal Emergency Management Agency,  
Federal Insurance Administration

Standard Flood Insurance Policy  
[Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amending Thereof (Hereinafter Called the Act), and Applicable Federal Regulations in Title 44 of the Code of Federal Regulations, Subchapter B]

##### Dwelling Form

Read the policy carefully. The coverage provided is subject to limitations, restrictions and exclusions. This policy covers only:

1. A non-condominium residential building, designed for principal use as a dwelling place of one to four families, or
2. A single family dwelling unit in a condominium building.

##### Insuring Agreement

Agreement of insurance between the Federal Emergency Management Agency (FEMA), as Insurer, (hereinafter known as "we," "our," and "us,"), and the Insured, (hereinafter known as "you" and "your").

We insure you against all direct physical loss by or from flood to the insured property, based upon:



1. Your having paid the correct amount of premium; and

2. Our reliance on the accuracy of the information and statements you have furnished; and

3. All the terms of this policy, the National Flood Insurance Act of 1968, as amended, and Title 44 of the Code of Federal Regulations.

On this basis, you are insured up to the lesser of:

1. The actual cash value, except as provided in Article 8, not including any antique value, of the property at the time of loss; or

2. The amount it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss.

#### Article 1—Persons Insured

We insure only:

A. The named Insured and legal representatives;

B. Any mortgagee and loss payee named in the application and declarations page, as well as any other mortgagee or loss payee determined to exist at the time of a loss (See Article 9, paragraph P.), in the order of precedence and to the extent of their interest but for no more, in the aggregate, than the interest of the named Insured.

#### Article 2—Definitions

As used in this policy—

Act means the National Flood Insurance Act of 1968, and any acts amendatory thereof.

Actual Cash Value means the replacement cost of an insured item of property at the time of loss, less the value of physical depreciation as to the item damaged.

Application means the statement made and signed by you or your agent, and giving information on the basis of which we determine the acceptability of the risk, the policy to be issued and the correct premium payment. The correct premium payment must accompany the application for the policy to be issued. The application is a part of this flood insurance policy.

Association means the group of unit owners which manages the condominium building in which you, as the insured unit owner, maintain your residence.

Base flood means the flood having a one percent chance of being equalled or exceeded in any given year.

Basement means any area of the building, including any sunken room or sunken portion of a room, having its floor subgrade (below ground level) on all sides.

Building means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, including a manufactured (i.e., mobile) home on a permanent foundation, subject to Article 6, paragraph H. and a walled and roofed building in the course of construction, alteration or repair.

Cancellation means that ending of the insurance coverage provided by this policy prior to the expiration date.

Coastal High Hazard Area means an area subject to high velocity waters, including hurricane wave wash and tsunamis.

Condominium means a system of individual ownership of units in a multi-unit building or buildings or in single-unit buildings as to which each unit owner in the condominium has an undivided interest in the common areas of the building(s) and facilities that serve the building(s).

Condominium Association Policy means a policy of flood insurance coverage issued to an association pursuant to the Act.

Declarations Page is a computer generated summary of information furnished by you in the application for insurance. The declarations page also describes the term of the policy, limits of coverage, and displays the premium and our name. The declarations page is a part of this flood insurance policy.

Direct Physical Loss By or From Flood means any loss in the nature of actual loss of or physical damage, evidenced by physical changes, to the insured property (building or personal property) which is directly and proximately caused by a flood (as defined in this policy).

Dwelling means a building designed for use as a residence for no more than four families and a single family dwelling unit in a condominium building.

Elevated Building means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Emergency Program Community means a community wherein a Flood Hazard Boundary Map (FHBM) is in effect and only limited amounts of insurance are available under the Act.

Expense Constant means a flat charge per policy term, paid by the Insured to defray the Federal Government's policywriting and other expenses.

Expiration Date means the ending of the insurance coverage provided by this policy on the expiration date shown on the declarations page.

Federal policy fee means a flat charge per policy term, paid by the Insured to defray certain administrative expenses incurred in carrying out the National Flood Insurance Program not covered by the expense constant. This fee was established by section 1307(a)(1)(B)(iii) of the National Flood Insurance Act of 1968, as amended, and is not subject to producers' commissions, expense allowances, or state or local premium taxes.

Flood means:

A. A general and temporary condition of partial or complete inundation of normally dry land area from:

1. The overflow of inland or tidal waters.  
2. The unusual and rapid accumulation or runoff of surface waters from any source.  
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subparagraph A-2 above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, including your premises, as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the

cyclical levels which result in flooding as defined in subparagraph A-1 above.

Improvements means fixtures, alterations, installations, or additions comprising a part of the insured building or condominium dwelling unit.

Manufactured home means a building transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include park trailers, and other similar vehicles. To be eligible for coverage under this policy, a manufactured home must be on a permanent foundation and, if located in a FEMA designated Special Hazard Area, must meet the requirements of paragraph H. of Article 6.

Mobile home means a manufactured home. National Flood Insurance Program means the program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations in Title 44 of the Code of Federal Regulations, Subchapter B.

Policy means the entire written contract between you and us; it includes this printed form, the application, and declarations page, any endorsements which may be issued and any renewal certificates indicating that coverage has been instituted for a new policy and policy term. Only one dwelling building or unit, specifically described by you in the application, may be insured under this policy, unless application to cover more than one dwelling building or unit is made on a form or in a format approved for that purpose by the Federal Insurance Administrator.

Post-FIRM building means a building for which the start of construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of the initial Flood Insurance Rate Map (FIRM) for the community in which the building is located, whichever is later.

Pre-FIRM rated building means a building for which the start of construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of the initial FIRM for the community in which the building is located, whichever is later.

Probation Additional Premium means a flat charge per policy term paid by the Insured on all new and renewal policies issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24.

Regular Program Community means a community wherein a FIRM is in effect and full limits of coverage are available under the Act.

Residential condominium building means a building owned by the members of a Condominium Association containing one or more residential units and in which at least 75 percent of the floor area within the building is residential.

Special hazard area means an area having special flood, mudslide, (i.e., mudflow) and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, AR, VO, V1-30, VE, V, M or E.



**Unit** means a single family dwelling unit, owned by the named insured, in a condominium building.

**Valued policy** means a policy contract in which the insurer and the insured agree on the value of the property insured, that value being payable in event of total loss.

**Walled and Roofed** means the building has in place two or more exterior, rigid walls and the roof is fully secured so that the building will resist flotation, collapse and lateral movement.

#### Article 3—Losses Not Covered

We only provide coverage for direct physical loss by or from flood which means we do not cover:

A. Compensation, reimbursement or allowance for:

1. Loss of use of the insured property or premises.
2. Loss of access to the insured property or premises.
3. Loss of profits.
4. Loss resulting from interruption of business, profession, or manufacture.
5. Your additional living expenses incurred while the insured building is being repaired or is uninhabitable for any reason.
6. Any increased cost of repair or reconstruction as a result of any ordinance regulating reconstruction or repair.
7. Any other economic loss.

B. Losses from other casualties, including loss caused by:

1. Theft, fire, windstorm, wind, explosion, earthquake, land sinkage, landslide, destabilization or movement of land resulting from the accumulation of water in subsurface land areas, gradual erosion, or any other earth movement except such mudslides (i.e., mudflows) or erosion as is covered under the peril of flood.

2. Rain, snow, sleet, hail or water spray.
3. Land subsidence, sewer backup, or seepage of water unless, subject to additional deductibles as provided for at Article 7, (a) there is a general and temporary condition of flooding in the area, (b) the flooding is the proximate cause of the land subsidence, sewer backup, or seepage of water, (c) the land subsidence, sewer backup, or seepage of water damage occurs no later than 72 hours after the flood has receded, and (d) the insured building must be insured, at the time of the loss, for at least 80 percent of its replacement cost or the maximum amount of insurance available under the National Flood Insurance Program.

4. Freezing, thawing, or the pressure or weight of ice or water.
5. Water, moisture, mildew, mold or mudslide (i.e., mudflow) damage resulting primarily from any condition substantially confined to the described dwelling or from any condition which is within your control (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment).

C. Losses of the following nature:

1. A loss which is already in progress as of 12:01 a.m. of the first day of the policy term, or, as to any increase in the limits of coverage which is requested by you, a loss which is already in progress as of 12:01 a.m.

on the date when the additional coverage becomes effective.

2. A loss from a flood which is confined to the premises on which your insured property is located unless the flood is displaced over two acres of the premises.

3. A loss caused by your modification to the insured property which materially increases the risk of flooding.

4. A loss caused intentionally by you or any member of your household.

5. A loss caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on the premises where the described building or unit is located, caused by a flood.

6. Loss to any building or contents located on property leased from the Federal Government, arising from or incident to the flooding of the property by the Federal Government, where the lease expressly holds the Federal Government harmless, under flood insurance issued under any Federal Government program, from loss arising from or incident to the flooding of the property by the Federal Government.

**Article 4—Property Covered (Subject to Articles 3, 5, and 6 Provisions, Which Also Apply to the Other Articles, Terms and Conditions of This Policy, Including the Insuring Agreement)**

#### Coverage A—Building Property

Subject to paragraph C. below, we cover your dwelling which includes:

A. A residential building, not a condominium, designed for principal use as a dwelling place for no more than four families, including:

1. Additions and extensions attached to and in contact with the dwelling by means of a common wall (but see Article 6, paragraph D.2.).

2. Materials and supplies to be used in constructing, altering or repairing the dwelling or an appurtenant structure while stored inside a fully enclosed building:

- a. At the property address; or
- b. On an adjacent property at the time of loss; or
- c. In case of another building at the property address which does not have walls on all sides, while stored and secured to prevent flotation out of the building during flooding (the flotation out of the building shall be deemed by you and us to establish the conclusive presumption that the materials and supplies were not reasonably secured to prevent flotation, in which case no coverage is provided for such materials and supplies under this policy).

3. As appurtenant structures, detached garages and carports located at the described premises, at your option at the time of loss, in an amount up to 10 percent of the amount of insurance you have purchased to cover the dwelling, including additions to the dwelling. By exercising this option, you reduce the amount of insurance available to cover other loss relating to Coverage A.

This option may not be used to extend coverage to buildings:

- a. Occupied, rented or leased in whole or in part for dwelling purposes (or held for such use); or

b. Used in whole or in part for business or farming purposes (or held for such uses); or

c. Which are boathouses.

4. A building in the course of construction before it is walled and roofed subject to the following conditions:

a. The amount of the deductible for each loss occurrence before the building is walled and roofed is two times the deductible which is selected to apply after the building is walled and roofed;

b. Coverage is provided before the building is walled and roofed only while construction is in progress, or if construction is halted, only for a period of up to 90 continuous days thereafter, until construction is resumed; and

c. There is no coverage before the building is walled and roofed where the lowest floor, including basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is below the base flood elevation in Zones AH, AE or A1-30 or is below the base flood elevation adjusted to include the effect of wave action in Zones VE or V1-30. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1-30 and the top of the floor in Zones AH, AE or A1-30.

B. Or, we cover your single-family dwelling unit, including improvements therein owned solely by you, in a condominium building. We also cover your share of assessments made against you as a tenant in common in that building's common elements and the common elements of any other building of your Condominium Association covered by insurance that is:

1. In the name of your Condominium Association;
2. Provided under the Act; and
3. In an amount at least equal to the actual cash value of the building's common elements at the beginning of the current policy term or the maximum building coverage limit available under the Act, whichever is less.

Provided, with respect to coverage for single-family dwelling unit assessments:

1. Coverage is available only when each of the unit owners comprising the membership of the Association are also assessed by reason of the same cause and provided the assessment arises out of a direct physical loss by or from flood to the condominium building in which your unit is located or to another condominium building of the Association, as to which the condominium documents (Articles of Association, Declarations, and your Deed) impose upon you the responsibility for such an assessment). The deductibles provisions of Article 7 of this policy do not apply to assessments.

2. Assessments made by the Association to recoup the amount of a loss deductible incurred by the Association in connection with any condominium building or contents policy of insurance are not covered.

3. Assessments made by the Association in connection with loss of or damage to personal property, including any contents of any condominium building of the Association, are not covered.

4. Assessments made by the Association of a condominium building are not covered if



the assessments are made to recoup loss not reimbursed to the Association, under a policy of insurance issued pursuant to the *National Flood Insurance Program*, by reason of the fact that the condominium building insured under such policy was not, at the time of the loss, insured in an amount equal to the lesser of 80 percent or more of the full replacement cost of the building or the maximum amount of insurance available under the *National Flood Insurance Program*.

C. And we cover fixtures including the following items of property, if owned solely by you, for which coverage is not provided under "Coverage B - Personal Property":

- Furnaces
- Wall mirrors permanently installed
- Permanently Installed Corner Cupboards, Bookcases, Paneling, and Wallpaper
- Venetian Blinds
- Central Air Conditioners
- Awnings and Canopies
- Elevator Equipment
- Fire Sprinkler Systems
- Built-in Dishwashers
- Garbage Disposal Units
- Outdoor Antennas and Aerials
- Pumps and Machinery for operating them
- Carpet Permanently Installed Over Unfinished Flooring
- Built-in Microwave Ovens
- Hot Water Heaters, Including Solar Water Heaters
- Ranges and Stoves
- Radiators
- Kitchen Cabinets
- Light Fixtures
- Plumbing Fixtures
- Refrigerators

#### Coverage B—Personal Property

A. Subject to paragraphs B. and C. below, we cover personal property:

1. Owned by you as contents incidental to the occupancy of the building.
2. Owned by members of your family in your household.
3. At your option and within the limits of personal property coverage you have purchased, owned by your guests and servants.

Such personal property is covered while stored:

- a. Within your dwelling;
- b. Within a fully enclosed building at the property address;
- c. Within a building having in place two or more rigid walls and a fully secured roof if the contents are secured to prevent flotation out of the building during flooding. The flotation out of the building during flooding of any such contents shall be deemed to establish the conclusive presumption that the contents were not reasonably secured to prevent flotation; or
- d. At a temporary location, as expressly authorized under this policy (see Article 5, paragraph C.2.).

B. Coverage, under this "Coverage B—Personal Property," includes the following property if owned solely by you, for which coverage is not provided under "Coverage A—Building Property":

- Clothes Washers

- Clothes Dryers
  - Food Freezers
  - Air Conditioning Units
  - Portable Dishwashers
  - Carpet, including wall-to-wall carpet, over finished flooring and whether or not it is permanently installed
  - Carpet not permanently installed over unfinished flooring
  - Outdoor equipment and furniture stored inside the dwelling or another fully enclosed building at the property address
  - Portable microwave ovens and "cook-out" grills, ovens and the like
- C. Limitations. Under this "Coverage B—Personal Property" we shall not reimburse you for loss as to:

1. Personal property owned by you in common with any unit owners comprising the membership of a *Condominium Association*.

2. The following personal property to the extent the loss to any one or more of such property exceeds, individually or in total, \$250.00:

- Artwork, including but not limited to, paintings, etchings, pictures, tapestries, art glass windows including their frames, statuary, marbles, and bronzes;
- Rare books;
- Necklaces, bracelets, gems, precious or semi-precious stones, watches, articles of gold, silver, or platinum; or
- Furs or any article containing fur which represents its principal value.

#### Coverage C—Debris Removal

Within the limits of your coverage, we cover any expense you incur, including the value of your own labor and the labor of members of your household at prevailing Federal minimum wage rates, as a result of removing debris of, on or from the insured property so long as the debris problem was directly caused by a flood. Under these provisions coverage extends to:

A. Non-owned debris from beyond the boundaries of the described premises which is physically on the insured property.

B. Parts of the insured property which is anywhere:

1. On the described premises; and
2. On property beyond the boundaries of the described premises.

#### Article 5—Special Provisions Applicable to Coverages A, B, and C

A. Condominium unit owner coverage is excess over Association coverage. The insurance under this policy shall be excess over any insurance in the name of your *Condominium Association* covering the same property covered by this policy. Loss shall not be paid under "Coverage A—Building Property", paragraph B., and under "Coverage B—Personal Property" until we have verified the extent to which loss to improvements and personal property within your unit, and to the common elements of your building or any other building of your *Condominium Association*, is covered by any insurance in the name of your *Condominium Association*.

Should the amount of insurance collectible under this policy for a loss, when combined with any recovery available to you as a tenant

in common under any *Condominium Association flood insurance policy* provided under the Act for the same loss, exceed the statutorily permissible limits of building coverage available for the insuring of single-family dwellings under the Act, then the limits of building coverage under this policy shall be reduced in regard to that loss by the amount of such excess.

B. This policy is not a valued policy. Loss will be paid, provided you have purchased a sufficient amount of coverage, i.e., in an amount equal to the lesser of the value of the damaged property under the terms and conditions of this policy (and regardless of whether the amount of insurance purchased is greater than such value) or the limit of coverage permitted under the Act.

C. Insured Property, Covered Locations. Your dwelling and personal property are covered while the property is located:

1. At the property address shown on the application or endorsement, if corrected by endorsement; and

2. For 45 days, at another place above ground level or outside of the special hazard area, to which any of the insured property shall necessarily be removed by you in order to protect and preserve it from flood, due to the imminent danger of flood (provided, personal property so removed must be placed in a fully enclosed building or otherwise reasonably protected from the elements to be insured against loss), in which case the reasonable expenses incurred by you, including the value of your own labor and the labor of members of your household at prevailing Federal minimum wage rates, in moving any of your insured property temporarily away from the peril of flood shall be reimbursed to you in an amount not to exceed \$500. This policy's deductible amounts, as provided for at Article 7, shall not be applied to this reimbursement.

D. Coverage For Certain Loss Mitigation Measures. When the insurance under this policy covers a building, reasonable expenses incurred by you for the purchase of the following items are also covered, in an aggregate amount not to exceed \$750.00:

1. Sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them;
2. Fill for temporary levees;
3. Pumps; and
4. Wood;

all for the purpose of saving the building due to the imminent danger of a flood loss, including the value of your own labor and the labor of members of your household at prevailing Federal minimum wage rates.

The policy's building deductible amount, as provided for at Article 7, shall not be applied to this reimbursement.

For reimbursement under this paragraph D. to apply, the following conditions must be met:

a. The insured property must be in imminent danger of sustaining flood damage; and

b. The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

c. A general and temporary condition of flooding in the area must occur, even if the



flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

#### Article 6—Property Not Covered

We do not cover any of the following:

##### A. Valuable and commercial property, meaning:

1. Accounts, bills, currency, deeds, evidences of debt, money, coins, medals, postage stamps, securities, bullion, manuscripts, other valuable papers or records, and personal property used in a business.

2. Personal property used in connection with any incidental commercial occupancy or use of the building.

##### B. Property over water or in the open, meaning:

1. A building and personal property in the building located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

2. Personal property in the open.

##### C. Structures other than buildings, including:

1. Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks.

2. Indoor and outdoor swimming pools.

3. Open structures and personal property located in, on, or over water, including boat houses or any structure or building into which boats are floated.

4. Underground structures and equipment, including wells, septic tanks and septic systems.

##### D. Other real property, including:

1. Land, land values, lawns, trees, shrubs, plants, and growing crops.

2. Those portions of walks, walkways, decks, driveways, patios, and other surfaces, all whether covered or not and all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building or unit.

##### E. Other personal property, meaning:

1. Animals, livestock, birds, and fish.

2. Aircraft.

3. Any self-propelled vehicle or machine and motor vehicle (other than motorized equipment pertaining to the service of the described unit or building, operated principally on your premises, and not licensed for highway use) including their parts and equipment.

4. Trailers on wheels and other recreational vehicles whether affixed to a permanent foundation or on wheels.

5. Watercraft including their furnishings and equipment.

##### F. Basements, building enclosures lower than the elevated floors of elevated buildings, and personal property, as follows:

1. In a special hazard area, at an elevation lower than the lowest elevated floor of an elevated Post-FIRM building, including a manufactured (i.e., mobile) home:

a. Personal property.

b. Building enclosures, equipment, machinery, fixtures and components, except for the required utility connections and the

footings, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the building.

2. In a basement as defined in Article 2:

a. Personal property.

b. Building equipment, machinery, fixtures and components, including finished walls, floors, ceilings and other improvements, except for the required utility connections, fiberglass insulation, drywalls and sheetrock walls, and ceilings but only to the extent of replacing drywalls and sheetrock walls in an unfinished manner (i.e., nailed to framing but not taped, painted, or covered).

3. Provided, with regard to both 1. and 2., except for the case of a dwelling unit in a condominium building as to which the Association's coverage is sufficient to cover such property, the following building and personal property items connected to a power source and installed in their functioning location are covered so long as you have purchased building and personal property coverage, as appropriate:

- Sump pumps
- Well water tanks and pumps
- Oil tanks and the oil in them
- Cisterns and the water in them
- Natural gas tanks and the gas in them
- Pumps and or tanks used in conjunction with solar energy
- Furnaces
- Hot water heaters
- Clothes washers and dryers
- Food freezers and the food in them
- Air conditioners
- Heat pumps
- Electrical junction and circuit breaker boxes

• Clean-up

• Stairways and staircases attached to the building which are not separated from the building by elevated walkways.

• Elevators, dumbwaiters, and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987.

G. Property below ground, meaning a building or unit and its contents, including personal property and machinery and equipment, which are part of the building or unit, where more than 49 percent of the actual cash value of such building or unit is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques.

H. Certain manufactured homes, meaning a manufactured (i.e., mobile) home located or placed within a FEMA designated Special Hazard Area that is not anchored to a permanent foundation to resist flotation, collapse, or lateral movement:

1. By over-the-top or frame ties to ground anchors; or
2. In accordance with manufacturer's specifications; or
3. In compliance with the community's floodplain management requirements;

unless it is a manufactured (i.e., mobile) home on a permanent foundation continuously insured by the National Flood

Insurance Program at the same site at least since September 30, 1982.

I. Containers such as but not limited to gas tanks or liquid tanks.

J. Buildings and their contents made ineligible for flood insurance pursuant to the provisions of the Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq., and the Coastal Barrier Improvement Act of 1990, Pub. L. 101-591, 16 U.S.C. 3501 et seq.

#### Article 7—Deductibles

A. Each loss to your insured property is subject to a deductible provision under which you bear a portion of the loss before payment is made under the policy.

B. The loss deductible shall apply separately to each building and personal property loss including, as to each, any appurtenant structure loss and debris removal expense.

C. For any flood insurance policy issued or renewed for a property located in an Emergency Program community or for any property located in a Regular Program community in Zones A, AO, AH, A1-30, AE, VO, V1-30, VE, or V where the rates available for buildings built before the effective date of the initial Flood Insurance Rate Map or December 31, 1974, whichever is later, are used to compute the premium, the amount of the deductible for each loss occurrence is determined as follows: We shall be liable only when such loss exceeds \$750.00, or the amount of any higher deductible which you selected when you applied for this policy or subsequently by endorsement.

D. For policies other than those described in paragraph C. above, the amount of the deductible for each loss occurrence is determined as follows: We shall be liable only when such loss exceeds \$500.00, or the amount of any higher deductible which you selected when you applied for this policy or subsequently by endorsement.

E. Notwithstanding the applicable deductible in paragraphs C. or D. above, an additional deductible in the sum of \$250.00 shall apply separately to each building and contents loss before payment is made under the policy for land subsidence, sewer backup, or seepage of water as provided for in Article 3, paragraph B.3.

#### Article 8—Replacement Cost Provisions

Subject to Article 7 and the limits of building coverage you have purchased, these provisions shall apply only to a single family dwelling which is your principal residence and which is covered under this policy.

For purposes of this Article 8, a single family dwelling qualifies as your principal residence provided that, at the time of the loss, you or your spouse have lived in your building for either:

1. 80 percent of the calendar year immediately preceding the loss; or
2. 80 percent of the period of your ownership of the insured building, if less than one calendar year immediately preceded the loss.

The following are excluded from replacement cost coverage:

1. A unit, in a condominium building, not used exclusively for single family dwelling purposes.



2. Outdoor antennas and aerials, awnings, and other outdoor equipment, all whether attached to the building or not.

3. Carpeting.

4. Appliances.

*Under this Article:*

A. If at the time of loss the total amount of insurance applicable to the dwelling is 80 percent or more of the full replacement cost of such dwelling, or is the maximum amount of insurance available under the *National Flood Insurance Program*, the coverage of this policy applicable to the dwelling is extended to include the full cost of repair or replacement (without deduction for depreciation).

B. If at the time of loss the total amount of insurance applicable to the dwelling is less than 80 percent of the full replacement cost of such dwelling and less than the maximum amount of insurance available under the *National Flood Insurance Program*, our liability for loss shall not exceed the larger of the following amounts:

1. The actual cash value (meaning replacement cost less depreciation) of that part of the dwelling damaged or destroyed; or

2. That portion of the full cost of repair or replacement without deduction for depreciation of that part of the dwelling damaged or destroyed, which the total amount of insurance applicable to the dwelling bears to 80 percent of the full replacement cost of such dwelling.

If 80 percent of the full replacement cost of such dwelling is greater than the maximum amount of insurance available under the *National Flood Insurance Program*, use the maximum amount in lieu of the 80 percent figure in the application of this limit.

C. Our liability for loss under this policy shall not exceed the smallest of the following amounts:

1. The limit of liability of this policy applicable to the damaged or destroyed building; or

2. The replacement cost of the dwelling or any part thereof identical with such dwelling on the same premises and intended for the same occupancy and use; or

3. The amount actually and necessarily expended in repairing or replacing said dwelling or any part thereof intended for the same occupancy and use.

D. When the full cost of repair or replacement is more than \$1,000 or more than 5 percent of the whole amount of insurance applicable to said dwelling, we shall not be liable for any loss under paragraph A. or subparagraph B.2. of these provisions unless and until actual repair or replacement is completed.

E. In determining if the whole amount of insurance applicable to said dwelling is 80 percent or more of the full replacement cost of such dwelling, the cost of excavations, underground flues and pipes, underground wiring and drains, and brick, stone and concrete foundations, piers and other supports which are below the under surface of the lowest basement floor, or where there is no basement, which are below the surface of the ground inside the foundation walls, shall be disregarded.

F. You may elect to disregard this condition in making claim hereunder, but

such election shall not prejudice your right to make further claim within 180 days after loss for any additional liability brought about by these provisions.

G. These Replacement Cost Provisions do not apply to any manufactured (i.e., mobile) home which when assembled is not at least 16 feet wide or does not have an area within its perimeter walls of at least 600 square feet or personal property (contents) covered under this policy, nor do they apply to any loss where insured property is abandoned and remains as debris at the property address following a loss.

H. If your dwelling sustains a total loss or if we should pay you the entire building loss proceeds under these Replacement Cost Provisions, there is no requirement that you rebuild the building at the insured property address.

I. If the community in which your property is located has been converted from the Emergency Program to the Regular Program during the current policy term, then these Replacement Cost Provisions shall be applied based on the maximum amount of insurance available under the *National Flood Insurance Program* at the beginning of the current policy term instead of at the time of loss.

#### Article 9—General Conditions and Provisions

A. *Pair and Set Clause:* If you lose an article which is part of a pair or set, we will have the option of paying you an amount equal to the cost of replacing the lost article, less depreciation, or an amount which represents the fair proportion of the total value of the pair or set that the lost article bears to the pair or set.

B. *Concealment, Fraud:* We will not cover you under this policy, which shall be void, nor can this policy be renewed or any new flood insurance coverage be issued to you if:

1. You have sworn falsely, or willfully concealed or misrepresented any material fact; or

2. You have done any fraudulent act concerning this insurance (see paragraph F.1.d. below); or

3. You have willfully concealed or misrepresented any fact on a "Recertification Questionnaire," which causes us to issue a policy to you based on a premium amount which is less than the premium amount which would have been payable by you were it not for the misstatement of fact (see paragraph G. below).

C. *Other Insurance.* If a loss covered by this policy is also covered by other insurance whether collectible or not, except insurance in the name of the *Condominium Association* issued pursuant to the Act, we will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.

If there is other insurance in the name of the *Condominium Association* covering the same property covered by this policy, this insurance shall be excess over the other insurance.

D. *Amendments, Waivers, Assignment:* This policy cannot be amended nor can any of its provisions be waived without the express written consent of the Federal Insurance Administrator. No action we take

under the terms of this policy can constitute a waiver of any of our rights. Except in the case of 1. a contents only policy, and 2. a policy issued to cover a building in the course of construction, assignment of this policy, in writing, is allowed upon transfer of title.

#### E. Cancellation of Policy By You:

You may cancel this policy at any time but a refund of premium money will only be made to you when:

1. You cancel because you have transferred ownership of the described building or unit to someone else. In this case, we will refund to you, once we receive your written request for cancellation (signed by you), the excess of premiums paid by you which apply to the unused portion of the policy's term, pro rata but with retention of the expense constant and the Federal policy fee.

2. You cancel a policy having a term of 3 years, on an anniversary date, and the reason for the cancellation is:

a. A policy of flood insurance has been obtained or is being obtained in substitution for this policy and we have received a written concurrence in the cancellation from any mortgagee of which we have actual notice; or

b. You have extinguished the insured mortgage debt and are no longer required by the mortgagee to maintain the coverage.

Refund of any premium, under this subparagraph 2., shall be pro rata but with retention of the expense constant and the Federal policy fee.

3. You cancel because we have determined that your property is not, in fact, in a special hazard area; and you were required to purchase flood insurance coverage by a private lender or Federal agency pursuant to the Act; and the lender or Federal agency no longer requires the retention by you of the coverage. In this event, if no claims have been paid or are pending, your premium payments will be refunded to you in full, according to our applicable regulations.

#### F. Voidance, Reduction or Reformation of the Coverage By Us:

1. *Voidance:* This policy shall be void and of no legal force and effect in the event that any one of the following conditions occurs:

a. The property listed on the application is not eligible for coverage, in which case the policy is void from its inception;

b. The community in which the property is located was not participating in the *National Flood Insurance Program* on the policy's inception date and did not qualify as a participating community during the policy's term and before the occurrence of any loss for which you may receive compensation under the policy;

c. If, during the term of the policy, the participation in the *National Flood Insurance Program* of the community in which your property is located ceases, in which case the policy shall be deemed void effective at the end of the last day of the policy year in which such cessation occurred and shall not be renewed.

In the event the voided policy included 3 policy years in a contract term of 3 years, you shall be entitled to a pro rata refund of any premium applicable to the remainder of the policy's term;

d. In the event you or your agent have:



(1) Sworn falsely, or

(2) Fraudulently or willfully concealed or misrepresented any material fact including facts relevant to the rating of this *policy* in the *application* for coverage, or upon any renewal of coverage, or in connection with the submission of any claim brought under the *policy*, in which case this entire *policy* shall be void as of the date the wrongful act was committed or from its inception if this *policy* is a renewal *policy* and the wrongful act occurred in connection with an *application* for or renewal or endorsement of a *policy* issued to you in a prior year and affects the rating of or premium amount received for this *policy*. Refunds of premiums, if any, shall be subject to offsets for our administrative expenses (including the payment of agent's commissions for any voided *policy* year) in connection with the issuance of the *policy*;

e. The premium you submit is less than the minimum set forth in 44 CFR 61.10 in connection with any *application* for a new *policy* or *policy* renewal, in which case the *policy* is void from its inception date.

2. *Reduction of Coverage Limits or Reformation*: In the event that the premium payment received by us is not sufficient (whether evident or not) to purchase the amount of coverage requested by an *application*, renewal, endorsement, or other form and paragraph F.1.d. does not apply, then the *policy* shall be deemed to provide only such coverage as can be purchased for the entire term of the *policy*, for the amount of premium received, subject to increasing the amount of coverage pursuant to 44 CFR 61.11; provided, however:

a. If the insufficient premium is discovered by us prior to a loss and we can determine the amount of insufficient premium from information in our possession at the time of our discovery of the insufficient premium, we shall give a notice of additional premium due, and if you *remit* and we *receive* the additional premium required to purchase the limits of coverage for each kind of coverage as was initially requested by you within 30 days from the date we give you written notice of additional premium due, the *policy* shall be reformed, from its inception date, or, in the case of an endorsement, from the effective date of the endorsement, to provide flood insurance coverage in the amount of coverage initially requested.

b. If the insufficient premium is discovered by us at the time of a loss under the *policy*, we shall give a notice of premium due, and if you *remit* and we *receive* the additional premium required to purchase (for the current *policy* term and the previous *policy* term, if then insured) the limits of coverage for each kind of coverage as was initially requested by you within 30 days from the date we give you written notice of additional premium due, the *policy* shall be reformed, from its inception date, or, in the case of an endorsement, from the effective date of the endorsement, to provide flood insurance coverage in the amount of coverage initially requested.

c. Under subparagraphs a. and b. as to any mortgagee or trustee named in the *policy*, we shall give a notice of additional premium due and the right of reformation shall continue in

force for the benefit only of the mortgagee or trustee, up to the amount of your indebtedness, for 30 days after written notice to the mortgagee or trustee.

G. *Policy Renewal*: The term of this *policy* commences on its inception date and ends on its *expiration date*, as shown on the *declarations page* which is attached to the *policy*. We are under no obligation to:

1. Send you any renewal notice or other notice that your *policy* term is coming to an end and the receipt of any such notice by you shall not be deemed to be a waiver of this provision on our part.

2. Assure that *policy* changes reflected in endorsements submitted by you during the *policy* term and accepted by us are included in any renewal notice or new *policy* which we send to you. *Policy* changes includes the addition of any increases in the amounts of coverage.

This *policy* shall not be renewed and the coverage provided by it shall not continue into any successive *policy* term unless the renewal premium payment is received by us at the office of the National Flood Insurance Program within 30 days of the *expiration date* of this *policy*, subject to Article 9, paragraph F. above. If the renewal premium payment is mailed by certified mail to the National Flood Insurance Program prior to the *expiration date*, it shall be deemed to have been received within the required 30 days. The coverage provided by the renewal *policy* is in effect for any loss occurring during this 30-day period even if the loss occurs before the renewal premium payment is received, so long as the renewal premium payment is received within the required 30 days. In all other cases, this *policy* shall terminate as of the *expiration date* of the last *policy* term for which the premium payment was timely received at the office of the National Flood Insurance Program and, in that event, we shall not be obligated to provide you with any *cancellation*, *termination*, *policy lapse*, or *policy renewal* notice.

In connection with the renewal of this *policy*, you may be requested during the *policy* term to recertify, on a Recertification Questionnaire we will provide you, the rating information used to rate your most recent *application* for or renewal of insurance.

Notwithstanding your responsibility to submit the appropriate renewal premium in sufficient time to permit its receipt by us prior to the expiration of the *policy* being renewed, we have established a business procedure for mailing renewal notices to assist insureds in meeting their responsibility. Regarding our business procedure, evidence of the placing of any such notices into the U.S. Postal Service, addressed to you at the address appearing on your most recent *application* or other appropriate form (received by the National Flood Insurance Program prior to the mailing of the renewal notice by us), does, in all respects for purposes of the National Flood Insurance Program, presumptively establish delivery to you for all purposes irrespective of whether you actually received the notice.

However, in the event we determine that, through any circumstances, any renewal notice was not placed into the U.S. Postal

Service, or, if placed, was prepared or addressed in a manner which we determine could preclude the likelihood of its being actually and timely received by you prior to the due date for the renewal premium, the following procedures shall be followed:

In the event that you or your agent notified us, not later than 1 year after the date on which the payment of the renewal was due, of a nonreceipt of a renewal notice prior to the due date for the renewal premium, which we determine was attributable to the above circumstance, we shall mail a second bill providing a revised due date, which shall be 30 days after the date on which the bill is mailed.

If the renewal payment requested by reason of the second bill is not received by the revised due date, no renewal shall occur and the *policy* shall remain as an expired *policy* as of the *expiration date* prescribed on the *policy*.

H. *Conditions Suspending or Restricting Insurance*: Unless otherwise provided in writing added hereto, we shall not be liable for loss occurring while the hazard is increased by any means within your control or knowledge.

I. *Alterations and Repairs*: You may, at any time and at your own expense, make alterations, additions and repairs to the insured property, and complete structures in the course of construction.

J. *Requirements in Case of Loss*: Should a flood loss occur to your insured property, you must:

1. Notify us in writing as soon as practicable;
2. As soon as reasonably possible, separate the damaged and undamaged property, putting it in the best possible order so that we may examine it; and
3. Within 60 days after the loss, send us a proof of loss, which is your statement as to the amount you are claiming under the *policy* signed and sworn to by you and furnishing us with the following information:
  - a. The date and time of the loss;
  - b. A brief explanation of how the loss happened;
  - c. Your interest in the property damaged (for example, "owner") and the interest, if any, of others in the damaged property;
  - d. The actual cash value or replacement cost, whichever is appropriate, of each damaged item of insured property and the amount of damages sustained;
  - e. Names of mortgagees or anyone else having a lien, charge or claim against the insured property;
  - f. Details as to any other contracts of insurance covering the property, whether valid or not;
  - g. Details of any changes in ownership, use, occupancy, location or possession of the insured property since the *policy* was issued;
  - h. Details as to who occupied any insured building at the time of loss and for what purpose; and
  - i. The amount you claim is due under this *policy* to cover the loss, including statements concerning:
    - (1) The limits of coverage stated in the *policy*; and
    - (2) The cost to repair or replace the damaged property (whichever costs less).



4. Cooperate with our adjuster or representative in the investigation of the claim;

5. Document the loss with all bills, receipts, and related documents for the amount being claimed;

6. The insurance adjuster whom we hire to investigate your claim may furnish you with a proof of loss form, and she or he may help you to complete it. However, this is a matter of courtesy only, and you must still send us a proof of loss within 60 days after the loss even if the adjuster does not furnish the form or help you complete it.

In completing the proof of loss, you must use your own judgment concerning the amount of loss and the justification for that amount.

The adjuster is not authorized to approve or disapprove claims or tell you whether your claim will be approved by us.

7. We may, at our option, waive the requirement for the completion and filing of a proof of loss in certain cases, in which event you will be required to sign and, at our option, swear to an adjuster's report of the loss which includes information about your loss and the damages sustained, which is needed by us in order to adjust your claim.

8. Any false statements made in the course of presenting a claim under this *policy* may be punishable by fine or imprisonment under the applicable Federal Laws.

**K. Our Options After a Loss:** Options we may, in our sole discretion, exercise after loss include the following:

1. **Evidence of Loss:** If we specifically request it, in writing, you may be required to furnish us with a complete inventory of the destroyed, damaged and undamaged property, including details as to quantities, costs, *actual cash values* or replacement cost (whichever is appropriate), amounts of loss claimed, and any written plans and specifications for repair of the damaged property which you can make reasonably available to us.

2. **Examination Under Oath and Access to Insured Property Ownership Records and Condominium Documents:** We may require you to:

a. Show us, or our designee, the damaged property, to be examined under oath by our designee and to sign any transcripts of such examinations; and

b. At such reasonable times and places as we may designate, permit us to examine and make extracts and copies of any *policies* of property insurance insuring you against loss; and the deed establishing your ownership of the insured real property; and the condominium documents including the Declarations of the condominium, its Articles of Association or Incorporation, Bylaws, rules and regulations, and other condominium documents if you are a unit owner in a condominium building; and all books of accounts, bills, invoices and other vouchers, or certified copies thereof if the originals are lost, pertaining to the damaged property.

3. **Options to Replace:** We may take all or any part of the damaged property at the agreed or appraised value and, also, repair, rebuild or replace the property destroyed or damaged with other of like kind and quality

within a reasonable time, on giving you notice of our intention to do so within 30 days after the receipt of the proof of loss herein required under paragraph J.3. above.

4. **Adjustment Options:** We may adjust loss to any insured property of others with the owners of such property or with you for their account. Any such insurance under this *policy* shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

L. **When Loss Payable:** Loss is payable within 60 days after you file your proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by you in lieu of a proof of loss) and ascertainment of the loss is made either by agreement between us and you expressed in writing or by the filing with us of an award as provided in paragraph N. below.

If we reject your proof of loss in whole or in part, you may accept such denial of your claim, or exercise your rights under this *policy*, or file an amended proof of loss as long as it is filed within 60 days of the date of the loss or any extension of time allowed by the Administrator.

M. **Abandonment:** You may not abandon damaged or undamaged insured property to us.

However, we may permit you to keep damaged, insured property ("salvage") after a loss and we will reduce the amount of the loss proceeds payable to you under the *policy* by the value of the salvage.

N. **Appraisal:** If at any time after a loss, we are unable to agree with you as to the *actual cash value* or, if applicable, replacement cost of the damaged property so as to determine the amount of loss to be paid to you, then, on the written demand of either one of us, each of us shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing, after 15 days, to agree upon such umpire, then, on your request or our request, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately replacement cost, *actual cash value* and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two (appraisers or appraiser and umpire) when filed with us shall determine the amount of *actual cash value* and loss or, should this *policy's* replacement cost provisions apply, the amount of replacement cost and loss. Each appraiser shall be paid by the party selecting him or her and the expenses of appraisal and umpire shall be paid by both of us equally.

O. **Loss Clause:** If we pay you for damage to property sustained in a flood loss, you are still eligible, during the term of the *policy*, to collect for a subsequent loss due to another flood. Of course, all loss arising out of a single, continuous flood of long duration shall be adjusted as one flood loss.

P. **Mortgage Clause:** (Applicable to building coverage only and effective only when the *policy* is made payable to a mortgagee or trustee named in the application and

declarations page attached to this *policy* or of whom we have actual notice prior to the payment of loss proceeds under this *policy*).

Loss, if any, under this *policy*, shall be payable to the aforesaid as mortgagee or trustee as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee or trustee, in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee or trustee only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this *policy*; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this *policy*, the mortgagee or trustee shall, on demand, pay the same.

Provided, also, that the mortgagee or trustee shall notify us of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee or trustee and, unless permitted by this *policy*, it shall be noted thereon and the mortgagee or trustee shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise, this *policy* shall be null and void.

If this *policy* is cancelled by us, it shall continue in force for the benefit only of the mortgagee or trustee for 30 days after written notice to the mortgagee or trustee of such cancellation and shall then cease, and we shall have the right, on like notice, to cancel this agreement.

Whenever we shall pay the mortgagee or trustee any sum for loss under this *policy* and shall claim that, as to the mortgagor or owner, no liability therefor existed, we shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at our option, pay to the mortgagee or trustee the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee or trustee to recover the full amount of said mortgagee's or trustee's claim.

Q. **Mortgage Obligations:** If you fail to render proof of loss, the named mortgagee or trustee, upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this *policy* relating to appraisal and time of payment and of bringing suit.

R. **Conditions for Filing a Lawsuit:** You may not sue us to recover money under this *policy* unless you have complied with all the requirements of the *policy*. If you do sue, you must start the suit within 12 months from the date we mailed you notice that we have denied your claim, or part of your claim, and you must file the suit in the United States District Court of the district in which the insured property was located at the time of loss.



**S. Subrogation:** Whenever we make a payment for a loss under this policy, we are subrogated to your right to recover for that loss from any other person. That means that your right to recover for a loss that was partly or totally caused by someone else is automatically transferred to us, to the extent that we have paid you for the loss. We may require you to acknowledge this transfer in writing. After the loss, you may not give up our right to recover this money or do anything which would prevent us from recovering it. If you make any claim against any person who caused your loss and recover any money, you must pay us back first before you may keep any of that money.

**T. Continuous Lake Flooding:** Where the insured building has been inundated by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in damage, reimbursable under this policy, to the insured building equal to or greater than the building policy limits plus the deductible(s) or the maximum payable under the policy for any one building loss, we will pay you the lesser of these two amounts without waiting for the further damage to occur if you sign a release agreeing:

1. To make no further claim under this policy;
2. Not to seek renewal of this policy; and
3. Not to apply for any flood insurance under the Act for property at the property location of the insured building.

If the policy term ends before the insured building has been flooded continuously for 90 days, the provisions of this paragraph T. still apply so long as the first building damage reimbursable under this policy from the continuous flooding occurred before the end of the policy term.

**U. Duplicate Policies Not Allowed:** Property may not be insured under more than one policy issued under the Act. When we find that duplicate policies are in effect, we shall by written notice give you the option of choosing which policy is to remain in effect under the following procedures:

1. If you choose to keep in effect the policy with the earlier effective date, we shall by the same written notice give you an opportunity to add the coverage limits of the later policy to those of the earlier policy, as of the effective date of the later policy.
2. If you choose to keep in effect the policy with the later effective date, we shall by the same written notice give you the opportunity to add the coverage limits of the earlier policy to those of the later policy, as of the effective date of the later policy.

In either case, you must pay the pro rata premium for the increased coverage limits within 30 days of the written notice. In no event shall the resulting coverage limits exceed the statutorily permissible limits of coverage under the Act or your insurable interests, whichever is less.

We shall make a refund to you, according to applicable National Flood Insurance Program rules, of the premium for the policy not being kept in effect. For purposes of this paragraph U., the term "effective date" means the date coverage that has been in effect without any lapse was first placed in effect.

In addition to the provisions of this paragraph U. for increasing policy limits, the usual procedures for increasing policy limits, by mid-term endorsement or at renewal time, with the appropriate waiting period, are applicable to the policy you choose to keep in effect.

#### Article 10—Liberalization Clause

If during the period that insurance is in force under this policy or within 45 days prior to the inception date thereof, should we have adopted under the Act, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then, such extended or broadened insurance shall inure to your benefit as though such endorsement or substitution of form had been made. Any broadening or extension of this policy to your benefit shall only apply to losses occurring on or after the effective date of the adoption of any forms, endorsements, rules or regulations affecting this policy.

#### Article 11—What Law Governs

This policy is governed by the flood insurance regulations issued by FEMA, the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, *et seq.*) and Federal common law.

In witness whereof, we have signed this policy below and hereby enter into this Insurance Agreement.

James L. Witt,

Director, Federal Emergency Management Agency.

(The information required under the terms of this policy has been approved by the Office of Management and Budget under OMB control number 3067-0021.)

10. Appendix A (2) of part 61 is revised to read as follows:

#### Appendix A(2)

Federal Emergency Management Agency,  
Federal Insurance Administration.

**Standard Flood Insurance Policy**  
(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amending Thereof (Hereinafter Called the Act), and Applicable Federal Regulations in Title 44 of the Code of Federal Regulations, Subchapter B)

#### General Property Form

Read the policy carefully. The coverage provided is subject to limitations, restrictions and exclusions.

This policy provides no coverage:

1. In a regular program community, for a residential condominium building, as defined in this policy; and
2. Except for personal property coverage, for a unit in a condominium building.

#### Insuring Agreement

Agreement of Insurance between the Federal Emergency Management Agency (FEMA), as Insurer, and the Insured.

The Insurer insures the Insured against all direct physical loss by or from flood to the insured property, based upon:

1. The Insured having paid the correct amount of premium; and
2. The Insurer's reliance on the accuracy of the information and statements the Insured has furnished; and
3. All the terms of this policy, the National Flood Insurance Act of 1968, as amended, and Title 44 of the Code of Federal Regulations.

On this basis, the Insured is insured up to the lesser of:

1. The actual cash value, not including any antique value, of the property at the time of loss; or
2. The amount it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss.

#### Article 1—Persons Insured

The following are insured under this policy:

- A. The named Insured and legal representatives;
- B. Any mortgagee and trustee named in the application and declarations page, as well as any other mortgagee or loss payee determined to exist at the time of a loss (See Article 8, paragraph L.), in the order of precedence and to the extent of their interest but for no more, in the aggregate, than the interest of the named Insured.

#### Article 2—Definitions

As used in this policy:

**Act** means the National Flood Insurance Act of 1968 and any acts amendatory thereof.

**Actual Cash Value** means the replacement cost of an insured item of property at the time of loss, less the value of physical depreciation as to the item damaged.

**Application** means the statement made and signed by the Insured, or the Insured's agent, and giving information on the basis of which the Insurer determines the acceptability of the risk, the policy to be issued and the correct premium payment, which must accompany the application in order for the policy to be issued. The application is a part of this flood insurance policy.

**Association** means the group of unit owners which manages the described Condominium Building.

**Base flood** means the flood having a one percent chance of being equalled or exceeded in any given year.

**Basement** means any area of the building, including any sunken room or sunken portion of a room, having its floor subgrade (below ground level) on all sides.

**Building** means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, including a walled and roofed building in the course of construction, alteration or repair and a manufactured (i.e., mobile) home on a permanent foundation, subject to Article 6, paragraph H.

**Cancellation** means that ending of the insurance coverage provided by this policy prior to the expiration date.

**Coastal High Hazard Area** means an area subject to high velocity waters, including hurricane wave wash and tsunamis.

**Condominium** means a system of individual ownership of units in a multi-unit



building or buildings or in single-unit buildings as to which each unit owner in the condominium has an undivided interest in the common areas of the building(s) and facilities that serve the building(s).

**Declarations Page** is a computer generated summary of information furnished by the Insured in the application for insurance. The declarations page also describes the term of the policy, limits of coverage, and displays the premium and the name of the Insurer. The declarations page is a part of this flood insurance policy.

**Direct Physical Loss By or From Flood** means any loss in the nature of actual loss of or physical damage, evidenced by physical changes, to the insured property (building or personal property) which is directly and proximately caused by a "flood" (as defined in this policy).

**Elevated Building** means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Emergency Program Community** means a community wherein a Flood Hazard Boundary Map (FHBM) is in effect and only limited amounts of insurance are available under the Act.

**Expense Constant** means a flat charge per policy term, paid by the Insured to defray the Federal Government's policywriting and other expenses.

**Expiration Date** means the ending of the insurance coverage provided by this policy on the expiration date shown on the declarations page.

**Federal policy fee** means a flat charge per policy term, paid by the Insured to defray certain administrative expenses incurred in carrying out the National Flood Insurance Program not covered by the expense constant. This fee was established by section 1307(a)(1)(B)(iii) of the National Flood Insurance Act of 1968, as amended, and is not subject to producers' commissions, expense allowances, or state or local premium taxes.

**Flood means:**

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subparagraph A-2 above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in subparagraph A-1 above.

**Improvements** means fixtures, alterations, or additions comprising a part of the insured building.

**Manufactured home** means a building transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent

foundation when connected to the required utilities. The term *manufactured home* does not include park trailers, and other similar vehicles. To be eligible for coverage under this policy, a *manufactured home* must be on a permanent foundation and, if located in a FEMA designated *Special Hazard Area*, must meet the requirements of paragraph H. of Article 6.

**Mobile home** means a *manufactured home*. **National Flood Insurance Program** means the program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations in Title 44 of the Code of Federal Regulations, Subchapter B.

**Policy** means the entire written contract between the Insured and the Insurer, including this printed form, the application, and declarations page, any endorsements which may be issued and any renewal certificates indicating that coverage has been instituted for a new policy and policy term. Only one building, specifically described by the Insured in the application, may be insured under this policy, unless application to cover more than one building is made on a form or in a format approved for that purpose by the Federal Insurance Administrator.

**Post-FIRM building** means a building for which the start of construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of the initial Flood Insurance Rate Map (FIRM) for the community in which the building is located, whichever is later.

**Pre-FIRM rated building** means a building for which the start of construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of the initial FIRM for the community in which the building is located, whichever is later.

**Probation Additional Premium** means a flat charge per policy term paid by the Insured on all new and renewal policies issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24.

**Regular Program Community** means a community wherein a FIRM is in effect and full limits of coverage are available under the Act.

**Residential Condominium Building** means a building owned by the members of a condominium association containing one or more residential units and in which at least 75% of the floor area within the building is residential.

**Special hazard area** means an area having special flood, mudslide (i.e., mudflow), and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, AR, VO, V1-30, VE, V, M or E.

**Unit** means a unit in the insured Condominium Building.

**Valued policy** means a policy contract in which the Insurer and the Insured agree on the value of the property insured, that value being payable in event of total loss.

**Walled and Roofed** means the building has in place two or more exterior, rigid walls and the roof is fully secured so that the building will resist flotation, collapse and lateral movement.

#### Article 3—Losses Not Covered

The Insurer only provides coverage for direct physical loss by or from flood which means the following are not covered:

A. Compensation, reimbursement or allowance for:

1. Loss of use of the insured property or premises.
2. Loss of access to the insured property or premises.
3. Loss of profits.
4. Loss resulting from interruption of business, profession, or manufacture.
5. Any additional expenses incurred while the insured building is being repaired or is uninhabitable for any reason.
6. Any increased cost of repair or reconstruction as a result of any ordinance regulating reconstruction or repair.
7. Any other economic loss.

B. Losses from other casualties, including loss caused by:

1. Theft, fire, windstorm, wind, explosion, earthquake, land sinkage, landslide, destabilization or movement of land resulting from the accumulation of water in subsurface land areas, gradual erosion, or any other earth movement except such mudslides (i.e., mudflows) or erosion as is covered under the peril of flood.
2. Rain, snow, sleet, hail or water spray.
3. Land subsidence, sewer backup, or seepage of water unless, subject to additional deductibles as provided for at Article 7, (a) there is a general and temporary condition of flooding in the area, (b) the flooding is the proximate cause of the land subsidence, sewer backup, or seepage of water, (c) the land subsidence, sewer backup, or seepage of water damage occurs no later than 72 hours after the flood has receded, and (d) the insured building must be insured, at the time of the loss, for at least 80 percent of its replacement cost or the maximum amount of insurance available under the National Flood Insurance Program.

4. Freezing, thawing, or the pressure or weight of ice or water.
5. Water, moisture, mildew, mold or mudslide (i.e., mudflow) damage resulting primarily from any condition substantially confined to the insured building or from any condition which is within the Insured's control (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment).

C. Losses of the following nature:

1. A loss which is already in progress as of 12:01 a.m. of the first day of the policy term, or, as to any increase in the limits of coverage which is requested by the Insured, a loss which is already in progress as of 12:01 a.m. on the date when the additional coverage becomes effective.
2. A loss from a flood which is confined to the premises on which the insured property is located unless the flood is displaced over two acres of the premises.
3. A loss caused by the Insured's modification to the insured property which materially increases the risk of flooding.
4. A loss caused intentionally by the Insured.
5. A loss caused by or resulting from power, heating or cooling failure, unless such



failure results from physical damage to power, heating or cooling equipment situated on the premises where the described building or unit is located, caused by a flood.

6. A loss to any building or contents located on property leased from the Federal Government, arising from or incident to the flooding of the property by the Federal Government where the lease expressly holds the Federal Government harmless, under flood insurance issued under any Federal Government program, from loss arising from or incident to the flooding of the property by the Federal Government.

**Article 4—Property Covered (Subject to Articles 3, 5 and 6 Provisions, Which Also Apply to the Other Articles, Terms, and Conditions of This Policy, Including the Insuring Agreement)**

#### Coverage A—Building Property

This policy covers a building (the "building") at the premises which is described in the application, and includes:

1. The entire building, for its real property elements, including, if owned in common by a Condominium Association, as named Insured, all units within the building and the improvements within the units.

2. Additions and extensions attached to and in contact with the building by means of a common wall (but see Article 6, paragraph D.2.).

3. Fixtures, machinery and equipment, including the following property, all while within the building and owned by the named Insured, as to which coverage is not provided under "Coverage B—Personal Property":

- Furnaces
- Wall Mirrors Permanently Installed
- Permanently Installed Corner Cupboards, Bookcases, Paneling, and Wallpaper
- Ventilating Equipment
- Fire Extinguishing Apparatus
- Venetian Blinds
- Central Air Conditioners
- Awnings and Canopies
- Elevator Equipment
- Fire Sprinkler Systems
- Outdoor Antennas and Aerials
- Pumps and Machinery for Operating Them

• Carpet Permanently Installed Over Unfinished Flooring

• In the Units Within the Building, Installed:

- Built-in Dishwashers
- Garbage Disposal Units
- Hot Water Heaters
- Kitchen Cabinets
- Built-in Microwave Ovens
- Plumbing Fixtures
- Radiators
- Ranges
- Refrigerators
- Stoves

4. Materials and supplies to be used in constructing, altering or repairing the building while stored inside a fully enclosed building:

- a. At the property address; or
- b. On an adjacent property at the time of loss; or
- c. In case of another building at the property address which does not have walls

on all sides, while stored and secured to prevent flotation out of the building during flooding (the flotation out of the building shall be deemed to establish the conclusive presumption that the materials and supplies were not reasonably secured to prevent flotation, in which case no coverage is provided for such materials and supplies under this policy).

5. A building in the course of construction before it is walled and roofed subject to the following conditions:

a. The amount of the deductible for each loss occurrence before the building is walled and roofed is two times the deductible which is selected to apply after the building is walled and roofed;

b. Coverage is provided before the building is walled and roofed only while construction is in progress, or if construction is halted, only for a period of up to 90 continuous days thereafter, until construction is resumed; and

c. There is no coverage before the building is walled and roofed where the lowest floor, including basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is below the base flood elevation in Zones AH, AE or A1-30 or is below the base flood elevation adjusted to include the effect of wave action in Zones VE or V1-30. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1-30 and the top of the floor in Zones AH, AE or A1-30.

#### Coverage B—Personal Property

A. Subject to paragraphs B, C, and D, below, this policy covers personal property which is in or on the insured, fully enclosed building and is:

1. Owned solely by the Insured, or in common by the unit owners of a condominium, i.e., as to which each unit owner has an undivided ownership interest; or

2. In the case of a condominium, owned solely by a condominium association and used exclusively in the conduct of the business affairs of the condominium.

3. Such personal property is also covered while stored at a temporary location, as expressly authorized under this policy (see Article 5, paragraph B.2.).

B. When the insurance under this policy covers personal property (contents), coverage shall be for either household contents or other than household contents, but not for both.

1. When the insurance under this policy covers other than household contents, such insurance shall cover, subject to "Coverage A—Building Property", paragraph 3.: Merchandise and stock, materials and stock supplies of every description, furniture, fixtures, machinery and equipment of every description all owned by the Insured and all while within the described enclosed building. Bailees' goods are specifically excluded from coverage under this policy.

2. When the insurance under this policy covers household contents, such insurance shall cover, subject to "Coverage A—Building Property", paragraph 3.: All household and personal property usual or incidental to the occupancy of the premises as a residence,

except any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy, belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable, or, at the option of the Insured, belonging to a servant or guest of the Insured—all while within the described enclosed building.

C. Coverage for personal property includes the following property, subject to paragraph A. 1. and 2., above, for which coverage is not provided (irrespective of the manner in which the property is installed in or adapted to the building) under "Coverage A—Building Property":

- Clothes Washers
- Clothes Dryers
- Food Freezers
- Air Conditioning Units Installed in the Building

• Portable Dishwashers

• Carpet, including wall-to-wall carpet, over finished flooring and whether or not it is permanently installed

• Carpet not permanently installed over unfinished flooring

• Outdoor equipment and furniture stored inside the dwelling or another fully enclosed building at the property address

• Portable microwave ovens and "cook-out" grills, ovens and the like.

D. Limitations. Under this "Coverage B—Personal Property", the Insured shall not be reimbursed for loss as to the following personal property to the extent the loss to any one or more of such property exceeds, individually or in total, \$250.00:

• Artwork, including but not limited to, paintings, etchings, pictures, tapestries, art glass windows including their frames, statuary, marbles, and bronzes;

• Rare books;

• Necklaces, bracelets, gems, precious or semi-precious stones, watches, articles of gold, silver, or platinum; or

• Furs or any article containing fur which represents its principal value.

E. The Insured, if not an owner of the described building, may apply up to 10 percent of the amount of insurance applicable to the personal property covered under this item, not as an additional amount of insurance, to cover loss to improvements to the described building which have been made, or acquired, at the expense of the Insured exclusive of rent paid by the Insured, even though the improvements are not legally subject to removal by the Insured.

F. The Insured, if a condominium unit owner in the described building, may apply up to 10 percent of the amount of insurance on personal property covered under this policy, not as an additional amount of insurance, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy insuring the described non-residential condominium building.

G. In the case of personal property owned by the Insured in a condominium building, as a condominium unit owner, as well as in common with other condominium unit owners, should the amount of insurance collectible under this policy for a loss, when



combined with any recovery available to the Insured as a tenant in common under any condominium association flood insurance coverage provided under the Act for the same loss, exceed the statutorily permissible limits of personal property coverage available under the Act for the insuring of the personal property, then the limits of personal property coverage under this policy shall be reduced in regard to that loss by the amount of such excess.

The insurance under this policy shall be excess over any insurance in the name of the Condominium Association covering the same property. Loss shall not be paid under this policy until the Insurer has verified the extent to which such loss is covered by any insurance in the name of a condominium association.

#### Coverage C—Debris Removal

This insurance covers expense incurred in the removal of debris of, or on, or from the building or personal property covered hereunder, which may be occasioned by loss caused by a flood. Under these provisions coverage extends to:

1. Non-owned debris from beyond the boundaries of the described premises which is physically on the insured property (i.e., on the building or the personal property).
2. Parts of the insured property anywhere:
  - a. On the described premises; and
  - b. On property beyond the boundaries of the described premises.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

#### Article 5—Special Provisions Applicable to Coverages A, B, and C

A. This policy is not a valued policy. Loss will be paid, provided the Insured has purchased a sufficient amount of coverage, i.e., in an amount equal to the lesser of the value of the damaged property under the terms and conditions of this policy (and regardless of whether the amount of insurance purchased is greater than such value) or the limit of coverage permitted under the Act.

B. Insured Property, Covered Locations. The building and personal property are covered while the property is located:

1. At the property address shown on the application; and
2. For 45 days at another place above ground level or outside of the special hazard area, to which any of the insured property shall necessarily be removed in order to protect and preserve it from flood, due to the imminent danger of flood (provided, personal property so removed must be placed in a fully enclosed building or otherwise reasonably protected from the elements to be insured against loss), in which case the reasonable expenses incurred by the Insured, including the value of its own labor at prevailing Federal minimum wage rates, in moving any of the insured property temporarily away from the peril of flood shall be reimbursed in an amount not to exceed \$500.00. This policy's deductible amounts, as provided for at Article 7, shall not be applied

to this reimbursement, but shall be applied to any other benefits under this policy's coverage.

C. Coverage For Certain Loss Mitigation Measures. When the insurance under this policy covers a building, reasonable expenses incurred by the Insured for the purchase of the following items are also covered, in an aggregate amount not to exceed \$750.00:

1. Sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them;
2. Fill for temporary levees;
3. Pumps; and
4. Wood;

all for the purpose of saving the building due to the imminent danger of a flood loss, including the value of the Insured's own labor at prevailing Federal minimum wage rates.

For reimbursement under this paragraph C. to apply, the following conditions must be met:

- a. The insured property must be in imminent danger of sustaining flood damage; and
- b. The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and
- c. A general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

The policy's building deductible amount, as provided for at Article 7, shall not be applied to this reimbursement, but shall be applied to any other benefits under the policy's building coverage.

#### Article 6—Property Not Covered

This policy shall not cover any of the following:

A. Valuables and commercial property, meaning:

1. Accounts, bills, currency, deeds, evidences of debt, money, coins, medals, postage stamps, securities, bullion, manuscripts, other valuable papers or records, and personal property used in a business.
2. Personal property used in connection with any incidental commercial occupancy or use of the building.

B. Property over water or in the open, meaning:

1. A building and personal property in the building located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.
2. Personal property in the open.

C. Structures other than buildings, including:

1. Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks.
2. Indoor and outdoor swimming pools.
3. Open structures and personal property located in, on, or over water, including boat houses or any structure or building into which boats are floated.

4. Underground structures and equipment, including wells, septic tanks and septic systems.

D. Other real property, including:

1. Land, land values, lawns, trees, shrubs, plants, and growing crops.
2. Those portions of walks, walkways, decks, driveways, patios, and other surfaces, all whether covered or not and all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building.

E. Other personal property, meaning:

1. Animals, livestock, birds, and fish.
2. Aircraft.
3. Any self-propelled vehicle or machine and motor vehicle (other than motorized equipment pertaining to the service of the described unit or building, operated principally on the premises of the Insured, and not licensed for highway use) including their parts and equipment.
4. Trailers on wheels and other recreational vehicles whether affixed to a permanent foundation or on wheels.
5. Watercraft including their furnishings and equipment.
6. Personal property owned by or in the care, custody or control of a unit owner, except for the property described in Article 4 under "Coverage B—Personal Property", paragraph B. of this policy.

F. Basements, building enclosures lower than the elevated floors of elevated buildings, and personal property, as follows:

1. In a special hazard area, at an elevation lower than the lowest elevated floor of an elevated Post-FIRM building, including a manufactured (i.e., mobile) home:

- a. Personal property.
- b. Building enclosures, equipment, machinery, fixtures and components, except for the required utility connections and the footings, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the building.
2. In a basement as defined in Article 2:
  - a. Personal property.
  - b. Building equipment, machinery, fixtures and components, including finished walls, floors, ceilings and other improvements, except for the required utility connections, fiberglass insulation, drywalls and sheetrock walls, and ceilings but only to the extent of replacing drywalls and sheetrock walls in an unfinished manner (i.e., nailed to framing but not taped, painted, or covered).

3. Provided, with regard to both 1. and 2., above, the following building and personal property items connected to a power source and installed in their functioning location are covered so long as the Insured has purchased building and personal property coverage, as appropriate:

- Sump pumps
- Well water tanks and pumps
- Oil tanks and the oil in them
- Cisterns and the water in them
- Natural gas tanks and the gas in them
- Pumps and/or tanks used in conjunction with solar energy
- Furnaces
- Hot water heaters
- Clothes washers and dryers
- Food freezers and the food in them
- Air conditioners



- Heat pumps
- Electrical junction and circuit breaker boxes
- Stairways and staircases attached to the building which are not separated from the building by elevated walkways
- Clean-up
- Elevators, dumbwaiters, and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987.

G. *Property below ground, meaning a building or unit and its contents, including personal property and machinery and equipment, which are part of the building or unit, where more than 49 percent of the actual cash value of such building or unit is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques.*

H. *Certain manufactured homes, meaning a manufactured (i.e., mobile) home located or placed within a FEMA designated Special Hazard Area that is not anchored to a permanent foundation to resist flotation, collapse, or lateral movement:*

1. By over-the-top or frame ties to ground anchors; or
2. In accordance with manufacturer's specifications; or
3. In compliance with the community's floodplain management requirements; unless it is a *manufactured (i.e., mobile) home* on a permanent foundation continuously insured by the *National Flood Insurance Program* at the same site at least since September 30, 1982.

I. *Containers such as but not limited to gas tanks or liquid tanks.*

J. *Buildings and their contents made ineligible for flood insurance pursuant to the provisions of the Coastal Barrier Resources Act, 16 U.S.C. 3501 et seq., and the Coastal Barrier Improvement Act of 1990, Public Law 101-591, 16 U.S.C. 3501 et seq.*

K. *Residential condominium buildings and their contents owned by the Insured as a tenant in common with others under a condominium form of ownership and any building components and contents owned solely by the Insured in connection with a residential condominium building in a Regular Program community.*

#### Article 7—Deductibles

A. Each loss to the insured property is subject to a deductible provision under which the Insured bears a portion of the loss before payment is made under the policy.

B. The loss deductible shall apply separately to each building and personal property coverage loss including, as to each, any appurtenant structure loss and debris removal expense.

C. For any flood insurance policy issued or renewed for a property located in an Emergency Program community or for any property located in a Regular Program community in Zones A, AO, AH, A1-30, AE, VO, V1-30, VE, or V where the rates available for buildings built before the

effective date of the initial Flood Insurance Rate Map or December 31, 1974, whichever is later, are used to compute the premium, the amount of the deductible for each loss occurrence is determined as follows: The Insurer shall be liable only when such loss exceeds \$750.00, or the amount of any higher deductible which the Insured selected when it applied for this policy or subsequently by endorsement.

D. For policies other than those described in paragraph C. above, the amount of the deductible for each loss occurrence is determined as follows: The Insurer shall be liable only when such loss exceeds \$500.00, or the amount of any higher deductible which the Insured selected when it applied for this policy or subsequently by endorsement.

E. Notwithstanding the applicable deductible in paragraphs C. or D. above, an additional deductible in the sum of \$250.00 shall apply separately to each building and contents loss before payment is made under the policy for land subsidence, sewer backup, or seepage of water as provided for in Article 3, paragraph B.3.

#### Article 8—General Conditions and Provisions

A. *Pair and Set Clause:* If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. *Concealment, Fraud:* This policy shall be void, nor can this policy be renewed or any new flood insurance coverage be issued to the Insured if any person insured under Article 1, paragraph A., whether before or after a loss, has:

1. Sworn falsely, or willfully concealed or misrepresented any material fact; or
2. Done any fraudulent act concerning this insurance (See paragraph E.1.d. below); or
3. Willfully concealed or misrepresented any fact on a "Recertification Questionnaire," which causes the Insurer to issue a policy based on a premium amount which is less than the premium amount which would have been payable were it not for the misstatement of fact (see paragraph F. below).

C. *Other Insurance:* If a loss covered by this policy is also covered by other insurance, whether collectible or not, the Insurer will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss, provided, if at the time of loss, there is other insurance made available under the Act, in the name of a unit owner which provides coverage for the same loss covered by this policy, this policy's coverage shall be primary and not contributing with such other insurance.

D. *Amendments and Waivers, Assignment:* This Standard Flood Insurance Policy cannot be amended nor can any of its provisions be waived without the express written consent of the Federal Insurance Administrator. No action the Insurer takes under the terms of this policy can constitute a waiver of any of its rights. Except in the case of 1. a contents only policy and 2. a policy issued to cover a building in the course of construction,

assignment of this policy, in writing, is allowed upon transfer of title.

E. *Voidance, Reduction or Reformation of the Coverage:*

1. *Voidance:* This policy shall be void and of no legal force and effect in the event that any one of the following conditions occurs:

a. The property listed on the application is not eligible for coverage, in which case the policy is void from its inception;

b. The community in which the property is located was not participating in the *National Flood Insurance Program* on the policy's inception date and did not qualify as a participating community during the policy's term and before the occurrence of any loss;

c. If, during the term of the policy, the participation in the *National Flood Insurance Program* of the community in which the property is located ceases, in which case the policy shall be deemed void effective at the end of the last day of the policy year in which such cessation occurred and shall not be renewed.

In the event the voided policy included 3 policy years in a contract term of 3 years, the Insured shall be entitled to a pro-rata refund of any premium applicable to the remainder of the policy's term;

d. In the event any Insured or its agent has:

- (1) Sworn falsely; or
- (2) Fraudulently or willfully concealed or misrepresented any material fact including facts relevant to the rating of this policy in the application for coverage, or upon any renewal of coverage, or in connection with the submission of any claim brought under the policy, in which case this entire policy shall be void as of the date the wrongful act was committed or from its inception if this policy is a renewal policy and the wrongful act occurred in connection with an application for or renewal or endorsement of a policy issued to the Insured in a prior year and affects the rating of or premium amount received for this policy. Refunds of premiums, if any, shall be subject to offsets for the Insurer's administrative expenses (including the payment of agent's commissions for any voided policy year) in connection with the issuance of the policy;

e. The premium submitted is less than the minimum set forth in 44 CFR 61.10 in connection with any application for a new policy or policy renewal, in which case the policy is void from its inception date.

2. *Reduction of Coverage Limits or Reformation:* In the event that the premium payment is not sufficient (whether evident or not) to purchase the amount of coverage requested by an application, renewal, endorsement, or other form and paragraph E.1.d. does not apply, then the policy shall be deemed to provide only such coverage as can be purchased for the entire term of the policy, for the amount of premium received, subject to increasing the amount of coverage pursuant to 44 CFR 61.11; provided, however:

a. If the insufficient premium is discovered by the Insurer prior to a loss and the Insurer can determine the amount of insufficient premium from information in its possession at the time of its discovery of the insufficient premium, the Insurer shall give a notice of



additional premium due, and if the Insured remits and the Insurer receives the additional premium required to purchase the limits of coverage for each kind of coverage as was initially requested by the Insured within 30 days from the date the Insurer gives the Insured written notice of additional premium due, the policy shall be reformed, from its inception date, or, in the case of an endorsement, to provide flood insurance coverage in the amount of coverage initially requested.

b. If the insufficient premium is discovered by the Insurer at the time of a loss under the policy, the Insurer shall give a notice of premium due, and if the Insured remits and the Insurer receives the additional premium required to purchase (for the current policy term and the previous policy term, if then insured) the limits of coverage for each kind of coverage as was initially requested by the Insured within 30 days from the date the Insurer gives the Insured written notice of additional premium due, the policy shall be reformed, from its inception date, or, in the case of an endorsement, from the effective date of the endorsement, to provide flood insurance coverage in the amount of coverage initially requested.

c. Under subparagraphs a. and b. as to any mortgagee or trustee named in the policy, the Insurer shall give a notice of additional premium due and the right of reformation shall continue in force for the benefit only of the mortgagee or trustee, up to the amount of the Insured's indebtedness, for 30 days after written notice to the mortgagee or trustee.

F. **Policy Renewal:** The term of this policy commences on its inception date and ends on its expiration date, as shown on the declarations page which is attached to the policy. The Insurer is under no obligation to:

1. Send the Insured any renewal notice or other notice that the policy term is coming to an end and the receipt of any such notice by the Insured shall not be deemed to be a waiver of this provision on the Insurer's part.

2. Assure that policy changes reflected in endorsements submitted during the policy term are included in any renewal notice or new policy sent to the Insured. Policy changes includes the addition of any increases in the amounts of coverage.

This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the renewal premium payment is received by the Insurer at the office of the National Flood Insurance Program within 30 days of the expiration date of this policy, subject to paragraph E. above. If the renewal premium payment is mailed by certified mail to the Insurer prior to the expiration date, it shall be deemed to have been received within the required 30 days. The coverage provided by the renewal policy is in effect for any loss occurring during this 30-day period even if the loss occurs before the renewal premium payment is received, so long as the renewal premium payment is received within the required 30 days. In all other cases, this policy shall terminate as of the expiration date of the last policy term for which the premium payment was timely received and in that event, the Insurer shall not be

obligated to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice.

In connection with the renewal of this policy, the Insured may be requested during the policy term to recertify, on a Recertification Questionnaire the Insurer will provide, the rating information used to rate the most recent application for or renewal of insurance.

Notwithstanding the Insured's responsibility to submit the appropriate renewal premium in sufficient time to permit its receipt by the Insurer prior to the expiration of the policy being renewed, the Insurer has established a business procedure for mailing renewal notices to assist Insureds in meeting their responsibility. Regarding the business procedure, evidence of the placing of any such notices into the U.S. Postal Service, addressed to the Insured at the address appearing on its most recent application or other appropriate form (received by the Insurer prior to the mailing of the renewal notice), does, in all respects, for purposes of the National Flood Insurance Program, presumptively establish delivery to the Insured for all purposes irrespective of whether the Insured actually received the notice.

However, in the event the Insurer determines that, through any circumstances, any renewal notice was not placed into the U.S. Postal Service, or, if placed, was prepared or addressed in a manner which the Insurer determines could preclude the likelihood of its being actually and timely received by the Insured prior to the due date for the renewal premium, the following procedures shall be followed:

In the event that the Insured or its agent notified the Insurer, not later than 1 year after the date on which the payment of the renewal premium was due, of a nonreceipt of a renewal notice prior to the due date for the renewal premium, which the Insurer determines was attributable to the above circumstance, the Insurer shall mail a second bill providing a revised due date, which shall be 30 days after the date on which the bill is mailed.

If the renewal payment requested by reason of the second bill is not received by the revised due date, no renewal shall occur and the policy shall remain as an expired policy as of the expiration date prescribed on the policy.

G. **Conditions Suspending or Restricting Insurance:** Unless otherwise provided in writing added hereto, the Insurer shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured.

H. **Liberalization clause:** If during the period that insurance is in force under this policy or within 45 days prior to the inception date thereof, should the Insurer have adopted under the Act, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then, such extended or broadened insurance shall inure to the benefit of the Insured as though such endorsement or substitution of form had been made. Any broadening or extension of

this policy to the Insured's benefit shall only apply to losses occurring on or after the effective date of the adoption of any forms, endorsements, rules or regulations affecting this policy.

I. **Alterations and Repairs:** The Insured may, at the Insured's own expense, make alterations, additions and repairs, and complete structures in the course of construction.

J. **Cancellation of Policy by Insured:** The Insured may cancel this policy at any time but a refund of premium money will only be made when:

1. Except with respect to a condominium building or a building which has a condominium form of ownership, the Insured cancels because the Insured has transferred ownership of the insured property to someone else. In this case, the Insurer will refund to the Insured, once the Insurer receives the Insured's written request for cancellation (signed by the Insured) the excess of premiums paid by the Insured which apply to the unused portion of the policy's term, pro rata but with retention of the expense constant and the Federal policy fee.

2. The Insured cancels a policy having a term of 3 years, on an anniversary date, and the reason for the cancellation is that:

a. A policy of flood insurance has been obtained or is being obtained in substitution for this policy and the Insurer has received a written concurrence in the cancellation from any mortgagee of which the Insurer has actual notice, or

b. The Insured has extinguished the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage. Refund of any premium, under this subparagraph 2., shall be pro rata but with retention of the expense constant and the Federal policy fee.

3. The Insured cancels because the Insurer has determined that the property is not, in fact, in a special hazard area; and the Insured was required to purchase flood insurance coverage by a private lender or Federal agency pursuant to Public Law 93-234, section 102 and the lender or agency no longer requires the retention of the coverage. In this event, if no claims have been paid or are pending, the premium payments will be refunded in full, according to applicable National Flood Insurance Program regulations.

K. **Loss Clause:** Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

L. **Mortgage Clause:** (Applicable to building coverage only and effective only when the policy is made payable to a mortgagee or trustee named in the application and declarations page attached to this policy or of whom the Insurer has actual notice prior to the payment of loss proceeds under this policy.)

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee or



trustee as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee or trustee, in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee or trustee only therein, shall not be invalidated:

1. By any act or neglect of the mortgagor or owner of the described property; nor
2. By any foreclosure or other proceedings or notice of sale relating to the property; nor
3. By any change in the title or ownership of the property; nor
4. By the occupation of the premises for purposes more hazardous than are permitted by this *policy*, provided, That in case the mortgagor or owner shall neglect to pay any premium due under this *policy*, the mortgagee or trustee shall, on demand, pay the same.

Provided, also, that the mortgagee or trustee shall notify the Insurer of any change of ownership or occupancy of the building or increase of hazard which shall come to the knowledge of said mortgagee or trustee and, unless permitted by this *policy*, it shall be noted thereon and the mortgagee or trustee shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise, this *policy* shall be null and void.

If this *policy* is cancelled by the Insurer, it shall continue in force for the benefit of the mortgagee or trustee for 30 days after written notice to the mortgagee or trustee of such cancellation and shall then cease.

Whenever the Insurer shall pay the mortgagee or trustee any sum for loss under this *policy* and shall claim that, as to the mortgagor or owner, no liability therefor existed, the Insurer shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee or trustee the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities, but no subrogation shall impair the right of the mortgagee or trustee to recover the full amount of said mortgagee's or trustee's claim.

**M. Mortgage Obligations:** If the Insured fails to render proof of loss, the named mortgagee or trustee, upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this *policy* relating to appraisal and time of payment and of bringing suit.

**N. Loss Payable Clause (Applicable to contents items only):** Loss, if any, shall be adjusted with the Insured and shall be payable to the Insured and loss payee as their interests may appear.

**O. Requirements in Case of Loss:** Should a flood loss occur to the insured property, the Insured must:

1. Notify the Insurer in writing as soon as practicable;
2. As soon as reasonably possible, separate the damaged and undamaged property, putting it in the best possible order so that the Insurer may examine it; and

3. Within 60 days after the loss, send the Insurer a proof of loss, which is the Insured's statement as to the amount it is claiming under the *policy* signed and sworn to by the Insured and furnishing the following information:

- a. The date and time of the loss;
- b. A brief explanation of how the loss happened;
- c. The Insured's interest in the property damaged (for example, "owner") and the interests, if any, of others in the damaged property;
- d. The actual cash value of each damaged item of insured property and the amount of damages sustained;
- e. The names of mortgagees or anyone else having a lien, charge or claim against the insured property;
- f. Details as to any other contracts of insurance covering the property, whether valid or not;
- g. Details of any changes in ownership, use, occupancy, location or possession of the insured property since the *policy* was issued;
- h. Details as to who occupied any insured building at the time of loss and for what purpose; and
- i. The amount the Insured claims is due under this *policy* to cover the loss, including statements concerning:

- (1) The limits of coverage stated in the *policy*; and
- (2) The cost to repair or replace the damaged property (whichever costs less).

4. Cooperate with the Insurer's adjuster or representative in the investigation of the claim;

5. Document the loss with all bills, receipts, and related documents for the amount being claimed;

6. The insurance adjuster whom the Insurer hires to investigate the claim may furnish the Insured with a proof of loss form, and she or he may help the Insured to complete it. However, this is a matter of courtesy only, and the Insured must still send the Insurer a proof of loss within 60 days after the loss even if the adjuster does not furnish the form or help the Insured complete it. In completing the proof of loss, the Insured must use its own judgment concerning the amount of loss and the justification for the amount.

The adjuster is not authorized to approve or disapprove claims or to tell the Insured whether the claim will be approved by the Insurer.

7. The Insurer may, at its option, waive the requirement for the completion and filing of a proof of loss in certain cases, in which event the Insured will be required to sign and, at the Insurer's option, swear to an adjuster's report of the loss which includes information about the loss and the damages needed by the Insurer in order to adjust the claim.

8. Any false statements made in the course of presenting a claim under this *policy* may be punishable by fine or imprisonment under the applicable Federal laws.

**P. Options After a Loss:** Options the Insurer may, in its sole discretion, exercise after loss include the following:

1. **Evidence of Loss:** If the Insurer specifically requests it, in writing, the

Insured may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, including details as to quantities, costs, actual cash values, amount of loss claims, and any written plans and specifications for repair of the damaged property which can reasonably be made available to the Insurer.

2. **Examination Under Oath and Access to the Condominium Association's Articles of Association or Incorporation, Property Insurance Policies, and Other Condominium Documents:** The Insurer may require the Insured to:

- a. Show the Insurer, or its designee, the damaged property;
- b. Be examined under oath by the Insurer or its designee;
- c. Sign any transcripts of such examinations; and
- d. At such reasonable times and places as the Insurer may designate, permit the Insurer to examine and make extracts and copies of any condominium documents, including the Articles of Association or Incorporation, Bylaws, rules and regulations, Declarations of the condominium, property insurance policies, and other condominium documents; and all books of accounts, bills, invoices and vouchers, or certified copies thereof if the originals are lost, pertaining to the damaged property.

3. **Options to Repair or Replace:** The Insurer may take all or any part of the damaged property at the agreed or appraised value and, also, repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving the Insured notice of the Insurer's intention to do so within 30 days after the receipt of the proof of loss herein required under paragraph O. above.

4. **Adjustment Options:** The Insurer may adjust loss to any insured property of others with the owners of such property or with the Insured for their account. Any such insurance under this *policy* shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

**Q. When Loss Payable:** Loss is payable within 60 days after the Insured files its proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by the Insured in lieu of a proof of loss) and ascertainment of the loss is made either by agreement between the Insured and the Insurer in writing or by the filing with the Insurer of an award as provided in paragraph S. below.

If the Insurer rejects the Insured's proof of loss in whole or in part, the Insured may accept such denial of its claim, or exercise its rights under this *policy*, or file an amended proof of loss as long as it is filed within 60 days of the date of the loss or any extension of time allowed by the Administrator.

**R. Abandonment:** The Insured may not abandon damaged or undamaged insured property to the Insurer.

However, the Insurer may permit the Insured to keep damaged, insured property ("salvage") after a loss and reduce the amount of the loss proceeds payable to the Insured under the *policy* by the value of the salvage.



**S. Appraisal:** In case the Insured and the Insurer shall fail to agree as to the *actual cash value* of the amount of loss, then:

1. On the written demand of either the Insurer or the Insured, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand.

2. The appraisers shall first select a competent and disinterested umpire and failing, after 15 days, to agree upon such umpire, then on the Insurer's request or the Insured's request, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located.

3. The appraisers shall then appraise the loss, stating separately *actual cash value* and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire.

4. An award in writing, so itemized, of any two (appraisers or appraiser and umpire) when filed with the Insurer shall determine the amount of *actual cash value* and loss.

5. Each appraiser shall be paid by the party selecting him or her and the expenses of appraisal and umpire shall be paid by both parties equally.

**T. Action Against the Insurer:** No suit or action on this *policy* for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this *policy* shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Insurer must be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

**U. Subrogation:** In the event of any payment under this *policy*, the Insurer shall be subrogated to all the Insured's rights of recovery therefor against any party, and the Insurer may require from the Insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the Insurer. The Insured shall do nothing after loss to prejudice such rights; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all rights of recovery against any party for loss occurring to the described property.

**V. Continuous Lake Flooding:** Where the insured building has been inundated by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in damage, reimbursable under this *policy*, to the insured building equal to or greater than the building *policy* limits plus the deductible(s) or the maximum payable under the *policy* for any one building loss, the Insurer will pay the Insured the lesser of these two amounts without waiting for the further damage to occur if the Insured signs a release agreeing to:

1. Make no further claim under this *policy*; and
2. Not seek renewal of this *policy*; and
3. Not apply for any flood insurance under the Act for property at the property location of the insured building.

If the *policy* term ends before the insured building has been flooded continuously for

90 days, the provisions of this paragraph V. still apply so long as the first building damage reimbursable under this *policy* from the continuous flooding occurred before the end of the *policy* term.

**W. Duplicate Policies Not Allowed:** Property may not be insured under more than one *policy* issued under the Act. When the Insurer finds that duplicate *policies* are in effect, the Insurer shall by written notice give the Insured the option of choosing which *policy* is to remain in effect, under the following procedures:

1. If the Insured chooses to keep in effect the *policy* with the earlier effective date, the Insurer shall by the same written notice give the Insured an opportunity to add the coverage limits of the later *policy* to those of the earlier *policy*, as of the effective date of the later *policy*.

2. If the Insured chooses to keep in effect the *policy* with the later effective date, the Insurer shall by the same written notice give the Insured the opportunity to add the coverage limits of the earlier *policy* to those of the later *policy*, as of the effective date of the later *policy*.

In either case, the Insured must pay the pro rata premium for the increased coverage limits within 30 days of the written notice. In no event shall the resulting coverage limits exceed the statutorily permissible limits of coverage under the Act or the Insured's insurable interest, whichever is less.

The Insurer shall make a refund to the Insured, according to applicable *National Flood Insurance Program* rules, of the premium for the *policy* not being kept in effect.

For purposes of this paragraph W., the term *effective date* means the date coverage that has been in effect without any lapse was first placed in effect. In addition to the provisions of this paragraph W. for increasing *policy* limits, the usual procedures for increasing limits by mid-term endorsement or at renewal time, with the appropriate waiting period, are applicable to the *policy* the Insured chooses to keep in effect.

#### Article 9—What Law Governs

This *policy* is governed by the flood insurance regulations issued by FEMA, the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, et seq.) and Federal common law.

In witness whereof, the Insurer has executed and attested these presents.

James L. Witt,

Director, Federal Emergency Management Agency.

(The information required under the terms of this *policy* has been approved by the Office of Management and Budget under OMB control number 3067-0021).

11. Appendix A (3) of part 61 is added to read as follows:

#### Appendix A(3)

Federal Emergency Management Agency,  
Federal Insurance Administration

Standard Flood Insurance Policy  
(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts

Amendatory Thereof (Hereinafter Called the Act), and Applicable Federal Regulations in Title 44 of the Code of Federal Regulations, Subchapter B)

#### Residential Condominium Building Association Policy

Read the *policy* carefully. The coverage provided is subject to limitations, restrictions and exclusions.

This *policy* covers only a residential condominium building in a regular program community. If the community reverts to emergency program status during the *policy* term and remains as an emergency program community at time of renewal, this *policy* cannot be renewed.

#### Insuring Agreement

Agreement of insurance between the Federal Emergency Management Agency (FEMA), as Insurer, and the Insured.

The Insurer insures the Insured against all *Direct physical loss by or from flood* to the insured property, based upon:

1. The Insured having paid the correct amount of premium; and
2. The Insurer's reliance on the accuracy of the information and statements the Insured has furnished; and
3. All the terms of this *policy*, the National Flood Insurance Act of 1968, as amended, and Title 44 of the Code of Federal Regulations.

On this basis, the Insured is insured up to the lesser of:

1. The *actual cash value*, except as provided in Article 8, not including any antique value, of the property at the time of loss; or
2. The amount it would cost to repair or replace the property with material of like kind and quality within a reasonable time after the loss.

#### Article 1—Persons Insured

The following are insured under this *policy*:

- A. The named Insured *condominium association*, unit owners in the insured *residential condominium building* and legal representatives;
- B. Any mortgagee and trustee named in the *application and declarations page*, as well as any other mortgagee or loss payee determined to exist at the time of a loss (See Article 10, paragraph L.), in the order of precedence and to the extent of their interest but for no more, in the aggregate, than the interest of the named Insured.

#### Article 2—Definitions

As used in this *Policy*:  
Act means the National Flood Insurance Act of 1968 and any acts amendatory thereof.  
*Actual Cash Value* means the replacement cost of an insured item of property at the time of loss, less the value of physical depreciation as to the item damaged.

*Application* means the statement made and signed by the Insured, or the Insured's agent, and giving information on the basis of which the Insurer determines the acceptability of the risk, the *policy* to be issued and the correct premium payment, which must accompany the *application* in order for the



**policy** to be issued. The application is a part of this flood insurance policy.

**Association** means the group of unit owners which manages the described Residential Condominium Building.

**Base flood** means the flood having a one percent chance of being equalled or exceeded in any given year.

**Basement** means any area of the building, including any sunken room or sunken portion of a room, having its floor subgrade (below ground level) on all sides.

**Building** means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, including a walled and roofed building in the course of construction, alteration or repair and a manufactured (i.e., mobile) home on a permanent foundation, subject to Article 6, paragraph H.

**Cancellation** means that ending of the insurance coverage provided by this policy prior to the expiration date.

**Coastal High Hazard Area** means an area subject to high velocity waters, including hurricane wave wash and tsunamis.

**Coinurance** means that the Insurer's liability for loss under the policy shall be in an amount which is of no greater proportion to the amount of loss than the amount of insurance which the Insured has purchased to cover the property bears, at the time of loss, to the value of the insured property under the terms and conditions of this policy, provided, if the property is insured at the time of loss in an amount equal to the lesser of 80 percent or more of its full replacement cost or the maximum amount of insurance available under the National Flood Insurance Program, the loss will be adjusted, subject to the policy's limit of coverage and all of the other terms and conditions of the policy, as if the amount of insurance and the value of the insured property are equal.

**Condominium** means a system of individual ownership of units in a multi-unit building or buildings or in single-unit buildings as to which each unit owner in the condominium has an undivided interest in the common areas of the building(s) and facilities that serve the building(s).

**Declarations Page** is a computer generated summary of information furnished by the Insured in the application for insurance. The declarations page also describes the term of the policy, limits of coverage, and displays the premium and the name of the Insurer. The declarations page is a part of this flood insurance policy.

**Direct Physical Loss By or From Flood** means any loss in the nature of actual loss of or physical damage, evidenced by physical changes, to the insured property (building or personal property) which is directly and proximately caused by a flood (as defined in this policy).

**Elevated Building** means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Emergency Program Community** means a community wherein a Flood Hazard Boundary Map (FHBM) is in effect and only limited amounts of insurance are available under the Act.

**Expense Constant** means a flat charge per policy term, paid by the Insured to defray the Federal Government's policywriting and other expenses.

**Expiration Date** means the ending of the insurance coverage provided by this policy on the expiration date shown on the declarations page.

**Federal policy fee** means a flat charge per policy term, paid by the Insured to defray certain administrative expenses incurred in carrying out the National Flood Insurance Program not covered by the expense constant. This fee was established by section 1307(a)(1)(B)(iii) of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4014, and is not subject to producers' commissions, expense allowances, or state or local premium taxes.

**Flood** means:

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subparagraph A-2 above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the cyclical levels which result in flooding as defined in subparagraph A-1 above.

**Improvements** means fixtures, alterations, or additions comprising a part of the insured building, including the units within the insured building.

**Manufactured home** means a building transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term *manufactured home* does not include park trailers, and other similar vehicles. To be eligible for coverage under this policy, a *manufactured home* must be on a permanent foundation and, if located in a FEMA designated Special Hazard Area, must meet the requirements of paragraph H. of Article 6.

**Mobile home** means a *manufactured home*.

**National Flood Insurance Program** means the program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations in title 44 of the Code of Federal Regulations, subchapter B.

**Policy** means the entire written contract between the Insured and the Insurer, including this printed form, the application, and declarations page, any endorsements which may be issued and any renewal certificates indicating that coverage has been instituted for a new policy and policy term. Only one building, specifically described by the Insured in the application, may be insured under this policy, unless application to cover more than one building is made on a form or in a format approved for that purpose by the Federal Insurance Administrator.

**Post-FIRM building** means a building for which the start of construction or substantial improvement occurred after December 31, 1974, or on or after the effective date of the initial Flood Insurance Rate Map (FIRM) for the community in which the building is located, whichever is later.

**Pre-FIRM rated building** means a building for which the start of construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of the initial FIRM for the community in which the building is located, whichever is later.

**Probation Additional Premium** means a flat charge per policy term paid by the Insured on all new and renewal policies issued covering property in a community that has been placed on probation under the provisions of 44 CFR 59.24.

**Regular Program Community** means a community wherein a FIRM is in effect and full limits of coverage are available under the Act.

**Residential Condominium Building** means a building owned by the members of a condominium association containing one or more residential units and in which at least 75 percent of the floor area within the building is residential.

**Residential Condominium Building Association Policy** means a policy of flood insurance coverage issued to an Association pursuant to the Act.

**Special hazard area** means an area having special flood, mudslide (i.e., mudflow), and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, AR, VO, V1-30, VE, V, M or E.

**Unit** means a single family dwelling unit, in a Residential Condominium Building.

**Valued policy** means a policy contract in which the Insurer and the Insured agree on the value of the property insured, that value being payable in event of total loss.

**Walled and Roofed** means the building has in place two or more exterior, rigid walls and the roof is fully secured so that the building will resist flotation, collapse and lateral movement.

#### Article 3—Losses Not Covered

The Insurer only provides coverage for direct physical loss by or from flood which means the following are not covered:

A. Compensation, reimbursement or allowance for:

1. Loss of use of the insured property or premises.
2. Loss of access to the insured property or premises.
3. Loss of profits.
4. Loss resulting from interruption of business, profession, or manufacture.
5. Any additional living expenses incurred while the insured building is being repaired or is uninhabitable for any reason.
6. Any increased cost of repair or reconstruction as a result of any ordinance regulating reconstruction or repair.
7. Any other economic loss.

B. Losses from other casualties, including loss caused by:

1. Theft, fire, windstorm, wind, explosion, earthquake, land sinkage, landslide,



destabilization or movement of land resulting from the accumulation of water in subsurface land areas, gradual erosion, or any other earth movement except such mudslides (i.e., mudflows) or erosion as is covered under the peril of flood.

2. Rain, snow, sleet, hail or water spray.

3. Land subsidence, sewer backup, or seepage of water unless, subject to additional deductibles as provided for at Article 7, (a) there is a general and temporary condition of flooding in the area, (b) the flooding is the proximate cause of the land subsidence, sewer backup, or seepage of water, (c) the land subsidence, sewer backup, or seepage of water damage occurs no later than 72 hours after the flood has receded, and (d) the insured building must be insured, at the time of the loss, for at least 80 percent of its replacement cost or the maximum amount of insurance available under the *National Flood Insurance Program*.

4. Freezing, thawing, or the pressure or weight of ice or water.

5. Water, moisture, mildew, mold or mudslide (i.e., mudflow) damage resulting primarily from any condition substantially confined to the insured building or from any condition which is within the Insured's control (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures or equipment).

#### C. Losses of the following nature:

1. A loss which is already in progress as of 12:01 a.m. of the first day of the policy term, or, as to any increase in the limits of coverage which is requested by the Insured, a loss which is already in progress as of 12:01 a.m. on the date when the additional coverage becomes effective.

2. A loss from a flood which is confined to the premises on which the insured property is located unless the flood is displaced over two acres of the premises.

3. A loss caused by the Insured's modification to the insured property which materially increases the risk of flooding.

4. A loss caused intentionally by the Insured.

5. A loss caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on the premises where the described building or unit is located, caused by a flood.

6. A loss to any building or contents located on property leased from the Federal Government, arising from or incident to the flooding of the property by the Federal Government where the lease expressly holds the Federal Government harmless, under flood insurance issued under any Federal Government program, from loss arising from or incident to the flooding of the property by the Federal Government.

**Article 4—Property Covered (Subject to Articles 3, 5 and 6 Provisions, Which Also Apply to the Other Articles, Terms, and Conditions of This Policy, Including the Insuring Agreement)**

#### Coverage A—Building Property

This policy covers the Residential Condominium Building (the building) at the

premises which is described in the application, and includes:

1. The entire building, for its real property elements, including all units within the building and the improvements within the units.

2. Additions and extensions attached to and in contact with the building by means of a common wall (but see Article 6, paragraph D.2.).

3. Fixtures, machinery and equipment, including the following property, all while within the building, including its units, as to which coverage is not provided under "Coverage B—Personal Property":

- Furnaces.
- Wall Mirrors Permanently Installed.
- Permanently Installed Corner Cupboards, Bookcases, Paneling, and Wallpaper.
- Ventilating Equipment.
- Fire Extinguishing Apparatus.
- Venetian Blinds.
- Central Air Conditioners.
- Awnings and Canopies.
- Elevator Equipment.
- Fire Sprinkler Systems.
- Outdoor Antennas and Aerials.
- Pumps and Machinery for Operating them.

• Carpet Permanently Installed Over Unfinished Flooring.

• In the Units Within the Building.

#### Installed:

- Built-in Dishwashers.
- Garbage Disposal Units.
- Hot Water Heaters.
- Kitchen Cabinets.
- Built-in Microwave Ovens.
- Plumbing Fixtures.
- Radiators.
- Ranges.
- Refrigerators.
- Stoves.

4. Materials and supplies to be used in constructing, altering or repairing the building while stored inside a fully enclosed building:

- a. At the property address; or
- b. On an adjacent property at the time of loss; or
- c. In case of another building at the property address which does not have walls on all sides, while stored and secured to prevent flotation out of the building during flooding (the flotation out of the building shall be deemed to establish the conclusive presumption that the materials and supplies were not reasonably secured to prevent flotation, in which case no coverage is provided for such materials and supplies under this policy).

5. A building in the course of construction before it is walled and roofed subject to the following conditions:

a. The amount of the deductible for each loss occurrence before the building is walled and roofed is two times the deductible which is selected to apply after the building is walled and roofed;

b. Coverage is provided before the building is walled and roofed only while construction is in progress, or if construction is halted, only for a period of up to 90 continuous days thereafter, until construction is resumed; and

c. There is no coverage before the building is walled and roofed where the lowest floor,

including basement floor, of a non-elevated building or the lowest elevated floor of an elevated building is below the base flood elevation in Zones AH, AE or A1-30 or is below the base flood elevation adjusted to include the effect of wave action in Zones VE or V1-30. The lowest floor levels are based on the bottom of the lowest horizontal structural member of the floor in Zones VE or V1-30 and the top of the floor in Zones AH, AE or A1-30.

#### Coverage B—Personal Property

A. Subject to paragraphs B. and C. below, this policy covers personal property which is in or on the insured, fully enclosed building and is:

1. Owned by the unit owners of the condominium in common, i.e., as to which each unit owner has an undivided ownership interest; or

2. Owned solely by the Condominium Association and used exclusively in the conduct of the business affairs of the condominium.

3. Such personal property is also covered while stored at a temporary location, as expressly authorized under this policy (see Article 5, paragraph B.2.).

B. Coverage for personal property includes the following property, whether owned by the Association or unit owner and subject to paragraph A. 1. and 2., above, for which coverage is not provided (irrespective of the manner in which the property is installed in or adapted to the building) under "Coverage A—Building Property":

- Clothes Washers.
- Clothes Dryers.
- Food Freezers.
- Air Conditioning Units Installed in the Building.
- Portable Dishwashers.
- Carpet, including wall-to-wall carpet, over finished flooring and whether or not it is permanently installed.
- Carpet not permanently installed over unfinished flooring.
- Outdoor equipment and furniture stored inside the dwelling or another fully enclosed building at the property address.
- Portable microwave ovens and "cook-out" grills, ovens and the like.

C. Limitations. Under this "Coverage B—Personal Property", the Insured shall not be reimbursed for loss as to the following personal property to the extent the loss to any one or more of such property exceeds, individually or in total, \$250.00:

- Artwork, including but not limited to, paintings, etchings, pictures, tapestries, art glass windows including their frames, statuary, marbles, and bronzes;
- Rare books;
- Necklaces, bracelets, gems, precious or semi-precious stones, watches, articles of gold, silver, or platinum; or
- Furs or any article containing fur which represents its principal value.

#### Coverage C—Debris Removal

This insurance covers expense incurred in the removal of debris of, or on, or from the building or personal property covered hereunder, which may be occasioned by loss caused by a flood. Under these provisions coverage extends to:



1. Non-owned debris from beyond the boundaries of the described premises which is physically on the insured property (i.e., on the building or the personal property).

2. Parts of the insured property anywhere:  
a. On the described premises; and  
b. On property beyond the boundaries of the described premises.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

**Article 5—Special Provisions Applicable to Coverages A, B, and C**

A. This policy is not a valued policy. Loss will be paid, provided the Insured has purchased a sufficient amount of coverage, i.e., in an amount equal to the lesser of the value of the damaged property under the terms and conditions of this policy (and regardless of whether the amount of insurance purchased is greater than such value) or the limit of coverage permitted under the Act.

B. Insured Property, Covered Locations. The building and personal property are covered while the property is located:

1. At the property address shown on the application; and

2. For 45 days at another place above ground level or outside of the special hazard area, to which any of the insured property shall necessarily be removed in order to protect and preserve it from flood, due to the imminent danger of flood (provided, personal property so removed must be placed in a fully enclosed building or otherwise reasonably protected from the elements to be insured against loss), in which case the reasonable expenses incurred by the Insured, including the value of its own labor at prevailing Federal minimum wage rates, in moving any of the insured property temporarily away from the peril of flood shall be reimbursed in an amount not to exceed \$500.00. This policy's deductible amounts, as provided for at Article 7, shall not be applied to this reimbursement, but shall be applied to any other benefits under this policy's coverage.

C. Coverage For Certain Loss Mitigation Measures. When the insurance under this policy covers a building, reasonable expenses incurred by the Insured for the purchase of the following items are also covered, in an aggregate amount not to exceed \$750.00:

1. Sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them;
2. Fill for temporary levees;
3. Pumps; and
4. Wood;

all for the purpose of saving the building due to the imminent danger of a flood loss, including the value of the Insured's own labor at prevailing Federal minimum wage rates.

The policy's building deductible amount, as provided for at Article 7, shall not be applied to this reimbursement, but shall be applied to any other benefits under the policy's building coverage.

For reimbursement under this paragraph C, to apply, the following conditions must be met:

a. The insured property must be in imminent danger of sustaining flood damage; and

b. The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

c. A general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

**Article 6—Property Not Covered**

This policy shall not cover any of the following:

A. Valuable and commercial property, meaning:

1. Accounts, bills, currency, deeds, evidences of debt, money, coins, medals, postage stamps, securities, bullion, manuscripts, other valuable papers or records, and personal property used in a business.

2. Personal property used in connection with any incidental commercial occupancy or use of the building.

B. Property over water or in the open, meaning:

1. A building and personal property in the building located entirely in, on, or over water or seaward of mean high tide, if the building was newly constructed or substantially improved on or after October 1, 1982.

2. Personal property in the open.

C. Structures other than buildings, including:

1. Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks.

2. Indoor and outdoor swimming pools.

3. Open structures and personal property located in, on, or over water, including boat houses or any structure or building into which boats are floated.

4. Underground structures and equipment, including wells, septic tanks and septic systems.

D. Other real property, including:

1. Land, land values, lawns, trees, shrubs, plants, and growing crops.

2. Those portions of walks, walkways, decks, driveways, patios, and other surfaces, all whether covered or not and all of whatever kind of construction, located outside the perimeter, exterior walls of the insured building.

E. Other personal property, meaning:

1. Animals, livestock, birds, and fish.

2. Aircraft.

3. Any self-propelled vehicle or machine and motor vehicle (other than motorized equipment pertaining to the service of the described unit or building, operated principally on the premises of the Insured, and not licensed for highway use) including their parts and equipment.

4. Trailers on wheels and other recreational vehicles whether affixed to a permanent foundation or on wheels.

5. Watercraft including their furnishings and equipment.

6. Personal property owned by or in the care, custody or control of a unit owner,

except for the property described in Article 4 under "Coverage B—Personal Property", paragraph B. of this policy.

F. Basements, building enclosures lower than the elevated floors of elevated buildings, and personal property as follows:

1. In a special hazard area, at an elevation lower than the lowest elevated floor of an elevated Post-FIRM building, including a manufactured (i.e., mobile) home:

a. Personal property.  
b. Building enclosures, equipment, machinery, fixtures and components, except for the required utility connections and the footings, foundation, posts, pilings, piers or other foundation walls and anchorage system as required for the support of the building.

2. In a basement as defined in Article 2:

a. Personal property.  
b. Building equipment, machinery, fixtures and components, including finished walls, floors, ceilings and other improvements, except for the required utility connections, fiberglass insulation, drywalls and sheetrock walls, and ceilings but only to the extent of replacing drywalls and sheetrock walls in an unfinished manner (i.e., nailed to framing but not taped, painted, or covered).

3. Provided, with regard to both 1. and 2., above, the following building and personal property items connected to a power source and installed in their functioning location are covered so long as the Insured has purchased building and personal property coverage, as appropriate:

- Sump pumps.
- Well water tanks and pumps.
- Oil tanks and the oil in them.
- Cisterns and the water in them.
- Natural gas tanks and the gas in them.
- Pumps and/or tanks used in conjunction with solar energy.
- Furnaces.
- Hot water heaters.
- Clothes washers and dryers.
- Food freezers and the food in them.
- Air conditioners.
- Heat pumps.
- Electrical junction and circuit breaker boxes.

• Stairways and staircases attached to the building which are not separated from the building by elevated walkways.

• Clean-up.  
• Elevators, dumbwaiters, and relevant equipment, except for such relevant equipment located below the base flood elevation if such relevant equipment was installed on or after October 1, 1987.

G. Property below ground, meaning a building or unit and its contents, including personal property and machinery and equipment, which are part of the building or unit, where more than 49 percent of the actual cash value of such building or unit is below ground, unless the lowest level is at or above the base flood elevation by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques.

H. Certain manufactured homes, meaning a manufactured (i.e., mobile) home located or placed within a FEMA designated Special Hazard Area that is not anchored to a permanent foundation to resist flotation, collapse, or lateral movement:



1. By over-the-top or frame ties to ground anchors; or

2. In accordance with manufacturer's specifications; or

3. In compliance with the community's floodplain management requirements; unless it is a *manufactured* (i.e., *mobile*) home on a permanent foundation continuously insured by the *National Flood Insurance Program* at the same site at least since September 30, 1982.

I. Containers such as but not limited to gas tanks or liquid tanks.

J. Buildings and their contents made ineligible for flood insurance pursuant to the provisions of the Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq.*, and the Coastal Barrier Improvement Act of 1990, Pub. L. 101-591, 16 U.S.C. 3501 *et seq.*

#### Article 7—Deductibles

A. Each loss to the insured property is subject to a deductible provision under which the Insured bears a portion of the loss before payment is made under the *policy*.

B. The loss deductible shall apply separately to each *building* and personal property coverage loss including, as to each, any appurtenant structure loss and debris removal expense.

C. For any flood insurance *policy* issued or renewed for any property located in Zones A, AO, AH, A1-30, AE, VO, V1-30, VE, or V where the rates available for *buildings* built before the effective date of the initial Flood Insurance Rate Map or December 31, 1974, whichever is later, are used to compute the premium, the amount of the deductible for each loss occurrence is determined as follows: The Insurer shall be liable only when such loss exceeds \$750.00, or the amount of any higher deductible which the Insured selected when it applied for this *policy* or subsequently by endorsement.

D. For policies other than those described in paragraph C. above, the amount of the deductible for each loss occurrence is determined as follows: The Insurer shall be liable only when such loss exceeds \$500.00, or the amount of any higher deductible which the Insured selected when it applied for this *policy* or subsequently by endorsement.

E. Notwithstanding the applicable deductible in paragraphs C. or D. above, an

additional deductible in the sum of \$250.00 shall apply separately to each *building* and contents loss before payment is made under the *policy* for land subsidence, sewer backup, or seepage of water as provided for in Article 3, paragraph B.3.

#### Article 8—Replacement Cost Coverage (For Building Coverage Only)

Subject to Articles 7 and 9, this *policy* will, in the event of a loss for which there is coverage and subject to the limits of *building* coverage purchased, pay the full cost of repair or replacement of the damaged parts of the *building* without deduction for depreciation. Under this Article:

A. The following outdoor property, whether attached to the insured *building* or not, are excluded from Replacement Cost Coverage: Antennas, aerials, carpeting, awnings, appliances, and other outdoor equipment.

B. Carpeting inside the insured *building* and laid over or affixed to finished or unfinished flooring is excluded from Replacement Cost Coverage.

C. The Insurer's liability for loss under this *policy* shall not exceed the smallest of the following amounts:

1. The limit of liability of this *policy* applicable to the damaged or destroyed *building*; or

2. The cost to repair or replace the *building* or any part thereof with material of like kind and quality on the same premises and intended for the same occupancy and use; or

3. The amount actually and necessarily expended in repairing or replacing said *building* or any part thereof intended for the same occupancy and use.

D. The Insurer shall not be liable for any loss on a Replacement Cost Coverage basis unless and until actual repair or replacement of the damaged *building*, or parts thereof, is completed.

E. These Replacement Cost Provisions do not apply to any *manufactured* (i.e., *mobile*) home which when assembled is not at least 16 feet wide or does not have an area within its perimeter walls of at least 600 square feet nor do they apply to any loss where insured property is abandoned and remains as debris at the property address following a loss.

F. If the *building* sustains a total loss or if the Insurer should pay the entire *building*

loss proceeds under these Replacement Cost Provisions, there is no requirement that the *building* be rebuilt at the insured property address.

#### Article 9—Coinsurance (For Building Coverage Only)

A. In consideration of the rate and form under which this *policy* is written, it is expressly stipulated and made a condition of this contract that the Insurer's liability for loss under this *policy* shall be in an amount which is of no greater proportion to the amount of loss than the amount of insurance which the Insured has purchased to cover the insured property bears, at the time of loss, to the replacement cost value of the insured property, as follows:

1. If at the time of loss the total amount of insurance applicable to the insured property is the lesser of 80 percent or more of the full replacement cost of the insured property or the maximum amount of insurance available under the *National Flood Insurance Program*, the loss will be adjusted, subject to the *policy's* limit of coverage and all of the other terms and conditions of this *policy*, as if the amount of insurance and the value of the insured property are equal.

2. If at the time of loss the Insured has not purchased the maximum amount of insurance available under the *National Flood Insurance Program*, or if the replacement cost value of the covered property at the time of the loss times 80 percent is greater than the amount of insurance purchased to cover the property, the full cost of replacement or repair of the insured property, subject to the terms and conditions of this *policy*, arising out of a covered loss, shall not be paid and payment shall be made as follows:

To the extent the Insured has not purchased insurance in an amount equal to the lesser of 80 percent or more of the full replacement cost of the insured property at the time of loss or the maximum amount of insurance available under the *National Flood Insurance Program*, the Insured will not be reimbursed fully for a loss. The amount of loss to be paid in such cases shall be determined in accordance with the following formula:

$$\frac{\text{Insurance Carried}}{\text{Insurance Required}} \times \text{Amount of Loss} = \text{Limit of Recovery}$$

a. Example 1: The insurance carried is \$500,000.00, the replacement cost value of

the *building* is \$1,000,000.00 (which is available under the *National Flood Insurance*

*Program*) and the amount of the loss is \$240,000.00. The formula is applied as follows:

$$\frac{\$500,000.00}{\$1,000,000.00 \times 80\%} \times \$240,000.00 = \frac{\$500,000.00}{\$800,000.00} \times \$240,000.00 = \$149,500.00 \text{ Limit of Recovery}^*$$

\*(\$150,000 Less Deductible) The balance of the loss in the sum of \$90,500.00 is not covered.

b. Example 2: The insurance carried is \$1,850,000.00, the replacement cost value of the *building* is \$2,000,000.00 and the amount

of loss is \$1,000,000.00. The formula is not applied because \$1,850,000 exceeds



\$1,600,000 (\$2,000,000×80%). The Insured is paid the full amount of the loss (\$1 Million).

B. In determining if the whole amount of insurance applicable to the building is 80 percent or more of the full replacement cost of such building:

1. The replacement cost value of any covered building property described in Article 4 shall be included and the replacement cost value of any building property described in Article 4 which constitutes property not covered under this policy shall not be included.

2. Regarding improvements, only the replacement cost value of improvements installed by the Association shall be included.

#### Article 10—General Conditions and Provisions

A. *Pair and Set Clause*: If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

B. *Concealment, Fraud*: This policy shall be void, nor can this policy be renewed or any new flood insurance coverage be issued to the Insured if any person insured under Article 1, paragraph A., whether before or after a loss, has:

1. Sworn falsely, or willfully concealed or misrepresented any material fact; or
2. Done any fraudulent act concerning this insurance (see paragraph E.1.d. below); or
3. Willfully concealed or misrepresented any fact on a "Recertification Questionnaire," which causes the Insurer to issue a policy based on a premium amount which is less than the premium amount which would have been payable were it not for the misstatement of fact (see paragraph F. below).

C. *Other Insurance*: If a loss covered by this policy is also covered by other insurance, whether collectible or not, the Insurer will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss, provided, if at the time of loss, there is other insurance made available under the Act, in the name of a unit owner which provides coverage for the same loss covered by this policy, this policy's coverage shall be primary and not contributing with such other insurance.

D. *Amendments and Waivers, Assignment*: This Standard Flood Insurance Policy cannot be amended nor can any of its provisions be waived without the express written consent of the Federal Insurance Administrator. No action the Insurer takes under the terms of this policy can constitute a waiver of any of its rights. Except in the case of 1. a contents only policy and 2. a policy issued to cover a building in the course of construction, assignment of this policy, in writing, is allowed upon transfer of title.

E. *Voidance, Reduction or Reformation of the Coverage*:

1. *Voidance*: This policy shall be void and of no legal force and effect in the event that any one of the following conditions occurs:

a. The property listed on the application is not eligible for coverage, in which case the policy is void from its inception;

b. The community in which the property is located was not participating in the National Flood Insurance Program on the policy's inception date and did not qualify as a participating community during the policy's term and before the occurrence of any loss;

c. If, during the term of the policy, the participation in the National Flood Insurance Program of the community in which the property is located ceases, in which case the policy shall be deemed void effective at the end of the last day of the policy year in which such cessation occurred and shall not be renewed.

In the event the voided policy included 3 policy years in a contract term of 3 years, the Insured shall be entitled to a pro-rata refund of any premium applicable to the remainder of the policy's term;

d. In the event any Insured or its agent has:

- (1) Sworn falsely; or
- (2) Fraudulently or willfully concealed or misrepresented any material fact including facts relevant to the rating of this policy in the application for coverage, or upon any renewal of coverage, or in connection with the submission of any claim brought under the policy, in which case this entire policy shall be void as of the date the wrongful act was committed or from its inception if this policy is a renewal policy and the wrongful act occurred in connection with an application for or renewal or endorsement of a policy issued to the Insured in a prior year and affects the rating of or premium amount received for this policy. Refunds of premiums, if any, shall be subject to offsets for the Insurer's administrative expenses (including the payment of agent's commissions for any voided policy year) in connection with the issuance of the policy;

e. The premium submitted is less than the minimum set forth in 44 CFR 61.10 in connection with any application for a new policy or policy renewal, in which case the policy is void from its inception date.

2. *Reduction of Coverage Limits or Reformation*: In the event that the premium payment is not sufficient (whether evident or not) to purchase the amount of coverage requested by an application, renewal, endorsement, or other form and paragraph E.1.d. does not apply, then the policy shall be deemed to provide only such coverage as can be purchased for the entire term of the policy, for the amount of premium received, subject to increasing the amount of coverage pursuant to 44 CFR 61.11; provided, however:

a. If the insufficient premium is discovered by the Insurer prior to a loss and the Insurer can determine the amount of insufficient premium from information in its possession at the time of its discovery of the insufficient premium, the Insurer shall give a notice of additional premium due, and if the Insured remits and the Insurer receives the additional premium required to purchase the limits of coverage for each kind of coverage as was initially requested by the Insured within 30 days from the date the Insurer gives the Insured written notice of additional premium due, the policy shall be reformed, from its inception date, or, in the case of an endorsement, from the effective date of the

endorsement, to provide flood insurance coverage in the amount of coverage initially requested.

b. If the insufficient premium is discovered by the Insurer at the time of a loss under the policy, the Insurer shall give a notice of premium due, and if the Insured remits and the Insurer receives the additional premium required to purchase (for the current policy term and the previous policy term, if then insured) the limits of coverage for each kind of coverage as was initially requested by the Insured within 30 days from the date the Insurer gives the Insured written notice of additional premium due, the policy shall be reformed, from its inception date, or, in the case of an endorsement, from the effective date of the endorsement, to provide flood insurance coverage in the amount of coverage initially requested.

c. Under subparagraphs a. and b. as to any mortgagee or trustee named in the policy, the Insurer shall give a notice of additional premium due and the right of reformation shall continue in force for the benefit only of the mortgagee or trustee, up to the amount of the Insured's indebtedness, for 30 days after written notice to the mortgagee or trustee.

F. *Policy Renewal*: The term of this policy commences on its inception date and ends on its expiration date, as shown on the declarations page which is attached to the policy. The Insurer is under no obligation to:

1. Send the Insured any renewal notice or other notice that the policy term is coming to an end and the receipt of any such notice by the Insured shall not be deemed to be a waiver of this provision on the Insurer's part.
2. Assure that policy changes reflected in endorsements submitted during the policy term are included in any renewal notice or new policy sent to the Insured. Policy changes includes the addition of any increases in the amounts of coverage.

This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the renewal premium payment is received by the Insurer at the office of the National Flood Insurance Program within 30 days of the expiration date of this policy, subject to paragraph E. above. If the renewal premium payment is mailed by certified mail to the Insurer prior to the expiration date, it shall be deemed to have been received within the required 30 days. The coverage provided by the renewal policy is in effect for any loss occurring during this 30-day period even if the loss occurs before the renewal premium payment is received, so long as the renewal premium payment is received within the required 30 days. In all other cases, this policy shall terminate as of the expiration date of the last policy term for which the premium payment was timely received and in that event, the Insurer shall not be obligated to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice.

In connection with the renewal of this policy, the Insured may be requested during the policy term to recertify, on a Recertification Questionnaire the Insurer will provide, the rating information used to rate the most recent application for or renewal of insurance.



Notwithstanding the Insured's responsibility to submit the appropriate renewal premium in sufficient time to permit its receipt by the Insurer prior to the expiration of the *policy* being renewed, the Insurer has established a business procedure for mailing renewal notices to assist Insureds in meeting their responsibility. Regarding the business procedure, evidence of the placing of any such notices into the U.S. Postal Service, addressed to the Insured at the address appearing on its most recent *application* or other appropriate form (received by the Insurer prior to the mailing of the renewal notice), does, in all respects, for purposes of the *National Flood Insurance Program*, presumptively establish delivery to the Insured for all purposes irrespective of whether the Insured actually received the notice.

However, in the event the Insurer determines that, through any circumstances, any renewal notice was not placed into the U.S. Postal Service, or, if placed, was prepared or addressed in a manner which the Insurer determines could preclude the likelihood of its being actually and timely received by the Insured prior to the due date for the renewal premium, the following procedures shall be followed:

In the event that the Insured or its agent notified the Insurer, not later than 1 year after the date on which the payment of the renewal premium was due, of a nonreceipt of a renewal notice prior to the due date for the renewal premium, which the Insurer determines was attributable to the above circumstance, the Insurer shall mail a second bill providing a revised due date, which shall be 30 days after the date on which the bill is mailed.

If the renewal payment requested by reason of the second bill is not received by the revised due date, no renewal shall occur and the *policy* shall remain as an expired *policy* as of the expiration date prescribed on the *policy*.

**G. Conditions Suspending or Restricting Insurance:** Unless otherwise provided in writing added hereto, the Insurer shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured.

**H. Liberalization clause:** If during the period that insurance is in force under this *policy* or within 45 days prior to the inception date thereof, should the Insurer have adopted under the *Act*, any forms, endorsements, rules or regulations by which this *policy* could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then, such extended or broadened insurance shall inure to the benefit of the Insured as though such endorsement or substitution of form had been made. Any broadening or extension of this *policy* to the Insured's benefit shall only apply to losses occurring on or after the effective date of the adoption of any forms, endorsements, rules or regulations affecting this *policy*.

**I. Alterations and Repairs:** The Insured may, at the Insured's own expense, make alterations, additions and repairs, and complete structures in the course of construction.

**J. Cancellation of Policy By Insured:** The Insured may cancel this *policy* at any time but a refund of premium money will only be made when:

1. The Insured cancels a *policy* having a term of 3 years, on an anniversary date, and the reason for the cancellation is that:

a. A *policy* of flood insurance has been obtained or is being obtained in substitution for this *policy* and the Insurer has received a written concurrence in the *cancellation* from any mortgagee of which the Insurer has actual notice, or

b. The Insured has extinguished the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage. Refund of any premium, under this subparagraph 1., shall be pro rata but with retention of the *expense constant* and the *Federal policy fee*.

2. The Insured cancels because the Insurer has determined that the property is not, in fact, in a *special hazard area*; and the Insured was required to purchase flood insurance coverage by a private lender or Federal agency pursuant to Public Law 93-234, section 102 and the lender or agency no longer requires the retention of the coverage. In this event, if no claims have been paid or are pending, the premium payments will be refunded in full, according to applicable *National Flood Insurance Program* regulations.

**K. Loss Clause:** Payment of any loss under this *policy* shall not reduce the amount of insurance applicable to any other loss during the *policy* term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

**L. Mortgage Clause:** (Applicable to *building* coverage only and effective only when the *policy* is made payable to a mortgagee or trustee named in the *application* and *declarations page* attached to this *policy* or of whom the Insurer has actual notice prior to the payment of loss proceeds under this *policy*.)

Loss, if any, under this *policy*, shall be payable to the aforesaid as mortgagee or trustee as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee or trustee, in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee or trustee only therein, shall not be invalidated:

1. By any act or neglect of the mortgagor or owner of the described property; nor

2. By any foreclosure or other proceedings or notice of sale relating to the property; nor

3. By any change in the title or ownership of the property; nor

4. By the occupation of the premises for purposes more hazardous than are permitted by this *policy*, provided, that it in case the mortgagor or owner shall neglect to pay any premium due under this *policy*, the mortgagee or trustee shall, on demand, pay the same.

Provided, also, that the mortgagee or trustee shall notify the Insurer of any change of ownership or occupancy of the *building* or

increase of hazard which shall come to the knowledge of said mortgagee or trustee and, unless permitted by this *policy*, it shall be noted thereon and the mortgagee or trustee shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise, this *policy* shall be null and void.

If this *policy* is cancelled by the Insurer, it shall continue in force for the benefit of the mortgagee or trustee for 30 days after written notice to the mortgagee or trustee of such *cancellation* and shall then cease.

Whenever the Insurer shall pay the mortgagee or trustee any sum for loss under this *policy* and shall claim that, as to the mortgagor or owner, no liability therefor existed, the Insurer shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee or trustee the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities, but no subrogation shall impair the right of the mortgagee or trustee to recover the full amount of said mortgagee's or trustee's claim.

**M. Mortgage Obligations:** If the Insured fails to render proof of loss, the named mortgagee or trustee, upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this *policy* relating to appraisal and time of payment and of bringing suit.

**N. Loss Payable Clause (Applicable to contents items only):** Loss, if any, shall be adjusted with the Insured and shall be payable to the Insured and loss payee as their interests may appear.

**O. Requirements in Case of Loss:** Should a flood loss occur to the insured property, the Insured must:

1. Notify the Insurer in writing as soon as practicable;

2. As soon as reasonably possible, separate the damaged and undamaged property, putting it in the best possible order so that the Insurer may examine it; and

3. Within 60 days after the loss, send the Insurer a proof of loss, which is the Insured's statement as to the amount it is claiming under the *policy* signed and sworn to by the Insured and furnishing the following information:

a. The date and time of the loss;

b. A brief explanation of how the loss happened;

c. The Insured's interest in the property damaged (for example, "owner") and the interests, if any, of others in the damaged property;

d. The actual cash value or replacement cost, whichever is appropriate, of each damaged item of insured property and the amount of damages sustained;

e. The names of mortgagees or anyone else having a lien, charge or claim against the insured property;

f. Details as to any other contracts of insurance covering the property, whether valid or not;



g. Details of any changes in ownership, use, occupancy, location or possession of the insured property since the policy was issued;

h. Details as to who occupied any insured building at the time of loss and for what purpose; and

i. The amount the Insured claims is due under this policy to cover the loss, including statements concerning:

(1) The limits of coverage stated in the policy; and

(2) The cost to repair or replace the damaged property (whichever costs less).

4. Cooperate with the Insurer's adjuster or representative in the investigation of the claim;

5. Document the loss with all bills, receipts, and related documents for the amount being claimed;

6. The insurance adjuster whom the Insurer hires to investigate the claim may furnish the Insured with a proof of loss form, and she or he may help the Insured to complete it. However, this is a matter of courtesy only, and the Insured must still send the Insurer a proof of loss within 60 days after the loss even if the adjuster does not furnish the form or help the Insured complete it. In completing the proof of loss, the Insured must use its own judgment concerning the amount of loss and the justification for the amount.

The adjuster is not authorized to approve or disapprove claims or to tell the Insured whether the claim will be approved by the Insurer.

7. The Insurer may, at its option, waive the requirement for the completion and filing of a proof of loss in certain cases, in which event the Insured will be required to sign and, at the Insurer's option, swear to an adjuster's report of the loss which includes information about the loss and the damages needed by the Insurer in order to adjust the claim.

8. Any false statements made in the course of presenting a claim under this policy may be punishable by fine or imprisonment under the applicable Federal laws.

P. *Options After a Loss:* Options the Insurer may, in its sole discretion, exercise after loss include the following:

1. *Evidence of Loss:* If the Insurer specifically requests it, in writing, the Insured may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, including details as to quantities, costs, *actual cash values* or replacement cost (whichever is appropriate), amount of loss claims, and any written plans and specifications for repair of the damaged property which can reasonably be made available to the Insurer.

2. *Examination Under Oath and Access to the Condominium Association's Articles of Association or Incorporation, Property Insurance Policies, and Other Condominium Documents:* The Insurer may require the Insured to:

a. Show the Insurer, or its designee, the damaged property;

b. Be examined under oath by the Insurer or its designee;

c. Sign any transcripts of such examinations; and

d. At such reasonable times and places as the Insurer may designate, permit the Insurer

to examine and make extracts and copies of any condominium documents, including the Articles of Association or Incorporation, Bylaws, rules and regulations, Declarations of the condominium, property insurance policies, and other condominium documents; and all books of accounts, bills, invoices and vouchers, or certified copies thereof if the originals are lost, pertaining to the damaged property.

3. *Options to Repair or Replace:* The Insurer may take all or any part of the damaged property at the agreed or appraised value and, also, repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving the Insured notice of the Insurer's intention to do so within 30 days after the receipt of the proof of loss herein required under paragraph O. above.

4. *Adjustment Options:* The Insurer may adjust loss to any insured property of others with the owners of such property or with the Insured for their account. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

Q. *When Loss Payable:* Loss is payable within 60 days after the Insured files its proof of loss (or within 90 days after the insurance adjuster files an adjuster's report signed and sworn to by the Insured in lieu of a proof of loss) and ascertainment of the loss is made either by agreement between the Insured and the Insurer in writing or by the filing with the Insurer of an award as provided in paragraph S. below.

If the Insurer rejects the Insured's proof of loss in whole or in part, the Insured may accept such denial of its claim, or exercise its rights under this policy, or file an amended proof of loss as long as it is filed within 60 days of the date of the loss or any extension of time allowed by the Administrator.

R. *Abandonment:* The Insured may not abandon damaged or undamaged insured property to the Insurer.

However, the Insurer may permit the Insured to keep damaged, insured property ("salvage") after a loss and reduce the amount of the loss proceeds payable to the Insured under the policy by the value of the salvage.

S. *Appraisal:* If at any time after a loss, the Insurer is unable to agree with the Insured as to the *actual cash value*—or, if applicable, replacement cost—of the damaged property so as to determine the amount of loss to be paid to the Insured, then:

1. On the written demand of either the Insurer or the Insured, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand.

2. The appraisers shall first select a competent and disinterested umpire and failing, after 15 days, to agree upon such umpire, then on the Insurer's request or the Insured's request, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located.

3. The appraisers shall then appraise the loss, stating separately replacement cost, *actual cash value* and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire.

4. An award in writing, so itemized, of any two (appraisers or appraiser and umpire) when filed with the Insurer shall determine the amount of *actual cash value* and loss or, should this policy's replacement cost provisions apply, the amount of the replacement cost and loss.

5. Each appraiser shall be paid by the party selecting him or her and the expenses of appraisal and umpire shall be paid by both parties equally.

T. *Action Against the Insurer:* No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Insurer must be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

U. *Subrogation:* In the event of any payment under this policy, the Insurer shall be subrogated to all the Insured's rights of recovery therefor against any party, and the Insurer may require from the Insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the Insurer. The Insured shall do nothing after loss to prejudice such rights; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all rights of recovery against any party for loss occurring to the described property.

V. *Continuous Lake Flooding:* Where the insured building has been inundated by rising lake waters continuously for 90 days or more and it appears reasonably certain that a continuation of this flooding will result in damage, reimbursable under this policy, to the insured building equal to or greater than the building policy limits plus the deductible(s) or the maximum payable under the policy for any one building loss, the Insurer will pay the Insured the lesser of these two amounts without waiting for the further damage to occur if the Insured signs a release agreeing to:

1. *Make no further claim under this policy;* and

2. *Not seek renewal of this policy;* and

3. *Not apply for any flood insurance under the Act for property at the property location of the insured building.*

If the policy term ends before the insured building has been flooded continuously for 90 days, the provisions of this paragraph V. still apply so long as the first building damage reimbursable under this policy from the continuous flooding occurred before the end of the policy term.

W. *Duplicate Policies Not Allowed:* Property may not be insured under more than one policy issued under the Act. When the Insurer finds that duplicate policies are in effect, the Insurer shall by written notice give the Insured the option of choosing which policy is to remain in effect, under the following procedures:

1. If the Insured chooses to keep in effect the policy with the earlier effective date, the Insurer shall by the same written notice give



the Insured an opportunity to add the coverage limits of the later *policy* to those of the earlier *policy*, as of the effective date of the later *policy*.

2. If the Insured chooses to keep in effect the *policy* with the later effective date, the Insurer shall by the same written notice give the Insured the opportunity to add the coverage limits of the earlier *policy* of those of the later *policy*, as of the effective date of the later *policy*.

In either case, the Insured must pay the pro rata premium for the increased coverage limits within 30 days of the written notice. In no event shall the resulting coverage limits exceed the statutorily permissible limits of coverage under the *Act* or the Insured's insurable interest, whichever is less.

The Insurer shall make a refund to the Insured, according to applicable *National Flood Insurance Program* rules, of the premium for the *policy* not being kept in effect.

For purposes of this paragraph W., the term *effective date* means the date coverage that has been in effect without any lapse was first placed in effect. In addition to the provisions of this paragraph W. for increasing *policy*

limits, the usual procedures for increasing limits by mid-term endorsement or at renewal time, with the appropriate waiting period, are applicable to the *policy* the Insured chooses to keep in effect.

#### Article 11—What Law Governs

This *policy* is governed by the *flood* insurance regulations issued by FEMA, the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, *et seq.*) and Federal common law.

*In witness whereof*, the Insurer has executed and attested these presents.

James L. Witt,

Director, Federal Emergency Management Agency.

(The information required under the terms of this *policy* has been approved by the Office of Management and Budget under OMB control number 3067-0021.)

#### PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

12. The authority citation for part 62 is revised to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### § 62.3 [Amended]

13. Section 62.3 is amended as follows:

a. By revising paragraph (b) to read as follows:

\* \* \* \* \*

(b) National Con-Serv, Inc., whose offices are located in Rockville, Maryland, is the servicing agent for the Federal Insurance Administration.

\* \* \* \* \*

b. By removing paragraph (d).

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: November 12, 1993.

James L. Witt,

Director.

[FR Doc. 93-28487 Filed 11-24-93; 8:45 am]

BILLING CODE 6718-05-P