

EFFECTIVE DATE: May 1, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

On December 16, 1999, we published at 64 FR 70191 a final rule that increased the limit of liability under Coverage D—Increased Cost of Compliance of the Standard Flood Insurance Policy from \$15,000 to \$20,000. This is how we summarized our reasons for the increase in 1999 at 64 FR 70191:

“In making initial estimates of ICC claims, we had access to our loss experience from 1978 through 1994. The latest experience period for estimating ICC claims runs through 1998. Based on our additional experience with flood losses—losses large enough to trigger community declarations of substantial damage—we have decreased the number of expected annual ICC claims to a range of 2700–2900. On this basis, we are confident that the limit of liability for ICC coverage can be increased from \$15,000 to \$20,000 (a 33% increase) with no change in premiums.”

With this rule, we are proposing to further increase the limit of liability to \$30,000.

First, the pricing for this coverage has to be actuarially sound with premiums varying, to the extent possible, by risk. Second, section 555 of the National Flood Insurance Reform Act of 1994, which mandates ICC coverage, sets a cap of \$75 that we may charge for this coverage. Third, our previous estimate was that the number of policyholders receiving benefits under ICC coverage would be 2700–2900 each year. Fourth, we considered the uncertainties associated with the introduction of the product and which extend through the first few years of the coverage.

In making our revised estimate of ICC claims on which we based the increase in the coverage limit to the current level of \$20,000, we relied on our loss experience available at the time—both for ICC during the limited time that it had been offered, and on our total program experience from 1978 through 1998. Based on our additional loss experience, which includes data through calendar year end 2001, and concentrating on losses large enough to trigger community declarations of substantial damage, we have further

decreased our estimate of the expected annual number of ICC claims to a range of 2200–2500. On this basis, we are confident that the limit of liability can be increased from \$20,000 to \$30,000 (a 50% increase) with no change in premium. The number of ICC claims actually filed since the introduction of this coverage is small compared to the number that we expected based on our flood claims filed under building coverage. We intend to continue analyzing this discrepancy, make further adjustments in premium charges, coverage amounts, or both as warranted, and to continue our education efforts with policyholders and local officials to make sure that they adequately understand this coverage.

Administrative Procedure Act Determination

We are publishing this final rule without opportunity for prior public comment under the Administrative Procedure Act, 5 U.S.C. 553. This final rule is a rule of agency procedure or practice that is excepted from the prior public comment requirements of section 553(b). The rule makes nonsubstantive, nonsignificant changes to 44 CFR part 61 by conferring a benefit to flood insurance policyholders, increasing coverage for increased cost of compliance without an increase in premium.

National Environmental Policy Act (NEPA)

The requirements of 44 CFR part 10, Environmental Consideration, categorically exclude this final rule. We have not prepared an environmental impact assessment.

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action within the meaning of section 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, but attempts to adhere to the regulatory principles set forth in E.O. 12866. The Office of Management and Budget has not reviewed this final rule under E.O. 12866.

Paperwork Reduction Act

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

Executive Order 13132, Federalism

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is,

regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action. We have reviewed this proposed rule under E.O. 13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. We do not foresee the rule affecting the distribution of power and responsibilities among the various levels of government or limiting the policymaking discretion of the States.

Executive Order 12778, Civil Justice Reform

This final rule meets the applicable standards of section 2(b)(2) of E.O. 12778.

Congressional Review of Agency Rulemaking

We have sent this final rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Public Law 104–1221. The rule is not a “major rule” within the meaning of that Act. It is an administrative action in support of normal day-to-day activities that increases a benefit to policyholders without increasing premiums. It does not result in nor is it likely to result in an annual effect on the economy of \$100,000,000 or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have “significant adverse effects” on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. This final rule is exempt (1) from the requirements of the Regulatory Flexibility Act, and (2) from the Paperwork Reduction Act. The rule is not an unfounded Federal mandate within the meaning of the Unfunded Mandate Reform Act of 1995, Public Law 104–4. It does not meet the \$100,000,000 threshold of that Act, and any enforceable duties are imposed as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 61

Flood insurance.