

(5) Used to produce California gasoline as defined in § 80.81(a)(2).

13. Section 80.104 is amended by revising paragraph (a)(1)(i) and removing and reserving paragraph (a)(2)(ix) to read as follows:

§ 80.104 Recordkeeping requirements.

* * * * *

(a) * * *

(1) * * *

(i) Each batch of conventional gasoline; and

* * * * *

14. Section 80.105 is amended by removing and reserving paragraphs (a)(2) and (a)(3).

15. Section 80.106 is amended by removing and reserving paragraph (b).

16. Section 80.128 is amended by removing paragraphs (h) and (i).

Appendix D—[Reserved.]

17. Appendix D is removed and reserved.

Appendix E to Part 80—[Reserved.]

18. Appendix E is removed and reserved.

Appendix F to Part 80—[Reserved.]

19. Appendix F is removed and reserved.

Appendix G to Part 80—[Reserved.]

20. Appendix G is removed and reserved.

[FR Doc. 01-29777 Filed 11-30-01; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

44 CFR Part 61

RIN 3067-AD27

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

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: We (the Federal Insurance and Mitigation Administration of FEMA) propose to increase the amount of premium policyholders pay for flood insurance coverage under the NFIP for “pre-FIRM” buildings in coastal areas subject to high velocity waters, such as storm surges, and wind-driven waves (“V” zones). (The term “pre-FIRM buildings” means buildings whose construction began on or before December 31, 1974, or the effective date of the community’s Flood Insurance Rate Map (FIRM), whichever date is

later. Most pre-FIRM buildings and their contents are eligible for subsidized rates under the NFIP.) We propose this rate increase to bring the premiums we currently charge for pre-FIRM, V-zone properties more in line with their actual risk.

DATES: We invite comments on this proposed rule, which we should receive on or before January 2, 2002.

ADDRESSES: Please submit any written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (facsimile) 202-646-4536, or (e-mail) rules@fema.gov.

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

SUPPLEMENTARY INFORMATION:

Background

On March 17, 1999, we published at 64 FR 13115 a final rule that increased the subsidized premiums rates for “pre-FIRM” buildings in V-zones—areas subject to high velocity waters, such as storm surges and wind-driven waves. (We use the term “pre-FIRM” to describe construction that was started on or before December 31, 1974, or the effective date of the Flood Insurance Rate Map (FIRM) for a community, whichever date is later. The premium rates we charge for flood insurance coverage on pre-FIRM buildings are less than full-risk premiums.) This is how we summarized our reasons for the increase in 1999 at 64 FR 13116:

“In summary, we believe that targeting a particularly risky class of properties with higher premium rates supports FEMA’s overall program of loss reduction. It more accurately reflects the loss exposure of pre-FIRM, V-zone properties, which are at a greater exposure to flood loss than pre-FIRM, A-zone properties. Also, it helps make policyholders aware of the danger of their V-zone properties.”

Currently, the rates for pre-FIRM, V-zone properties that apply to the first-layer limits of flood insurance coverage established by 42 U.S.C. 4013 are roughly twenty percent higher than the equivalent rates for pre-FIRM, A-zone properties. (For example, first layer coverage for single-family dwellings amounts to \$35,000 out of \$250,000—the maximum amount available for such structures under the National Flood Insurance Program.) We believe that the difference in loss exposure between

these two groups of risks is much greater than that. Therefore, we are proposing a further increase in the pre-FIRM, V-zone rates.

Section 572 of the National Flood Insurance Reform Act of 1994, Pub. L. 103-325, 42 U.S.C. 4015, however, imposes the following annual limitation on rate increases under the NFIP:

“Notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 10 percent of the average of the risk premium rates for properties within the risk classification upon commencement of such 12-month period.” (42 U.S.C. 4015)

Our proposed rate increase for such properties would comply with this statutory limitation on annual rate increase under the NFIP.

Statutory Mandates for Setting Flood Insurance Premiums

The Flood Disaster Protection Act of 1973 requires us to charge full-risk premiums for flood insurance coverage on buildings when their construction began after December 31, 1974, or on or after the effective date of the Flood Insurance Rate Map, if the second date is later. (We call such construction “post-FIRM” construction.)

The Flood Disaster Protection Act of 1973 also authorizes us to apply chargeable premiums to pre-FIRM property and gives FEMA flexibility to set the flood insurance rates for such property. The legislation calls for us to balance the need to offer reasonable rates that encourage people to buy flood insurance with the statutory goal to distribute burdens fairly between all who will be protected by flood insurance and the general public.

Proposed Changes and Their Purposes

We are proposing to increase the current subsidized rates we charge for the initial limits of coverage under the NFIP for pre-FIRM properties in “V” zones on FEMA’s FIRMs. (“V” zones represent coastal areas subject to high velocity water such as wind-driven waves from storms or tidal surges that are extremely hazardous to people and property.) Currently, these premium rates are about twenty percent higher than the equivalent rates we charge for pre-FIRM, A-zone zone properties. We are proposing to further increase the rates we charge for V-zone, pre-FIRM properties to bring them more in line with their greater exposure to flood losses.

Currently, the sum of the premium and other administrative fees one pays for flood insurance on subsidized pre-FIRM properties is less than our expected expenses and loss payments. This applies especially to pre-FIRM, V-zone properties.

Subsidized Rate Increases in the Past

We have increased the chargeable or subsidized premium rates four times during the program's history for the same reason that we are proposing this rule: to distribute burdens fairly among

all who will be protected by flood insurance and to reduce the burden on the general public. The changes proposed in this rule for pre-FIRM, V-zone properties would move us closer toward that goal by bringing subsidized premiums charged for buildings in extremely hazardous areas more in line with the actual risk.

Comparison of Proposed Rate Increases With Current Rates

The following chart compares the current rates we charge for pre-FIRM, V-

zone properties with the proposed rate increases for pre-FIRM, V-zone properties. The rates for pre-FIRM, A-zone properties would be unaffected by this proposal. Also these proposed increases apply only to the rates charged for the "first layer" of flood insurance coverage set by Congress in Section 1306 of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-448):

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

¹ V Zones are Zones V1-V30, VE, and unnumbered V Zones.

National Environmental Policy Act (NEPA)

Pursuant to section 102(2) (C) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4317 *et seq.*, we are conducting an environmental assessment of this proposed rule. The assessment will be available for inspection through the Rules Docket Clerk, Federal Emergency Management Agency, room 840, 500 C St. SW., Washington, DC 20472.

Executive Order 12866, Regulatory Planning and Review

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

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs or the rights and obligations of recipients thereof; or

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

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

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

Paperwork Reduction Act

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

Executive Order 13132, Federalism

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

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

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, we propose to amend 44 CFR part 61 as follows:

PART 61—INSURANCE COVERAGE AND RATES

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

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

2. Revise § 61.9 to read as follows:

§ 61.9 Establishment of chargeable rates.

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

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

¹A Zones are zones A1–A30, AE, AO, AH, and unnumbered A Zones

²V Zones are zones V1–V30, VE, and unnumbered V Zones

Dated: November 26, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–29747 Filed 11–30–01; 8:45 am]

BILLING CODE 6718–03–P