

Federal Emergency Management Agency

§61.17

the Administrator as to form and substance for uniform use.

(e) *Oral and written binders.* No oral binder or contract shall be effective. No written binder shall be effective unless issued with express authorization of the Administrator.

(f) The Standard Flood Insurance Policy and endorsements may be issued by private sector "Write-Your-Own" (WYO) property insurance companies, based upon flood insurance applications and renewal forms, all of which instruments of flood insurance may bear the name, as Insurer, of the issuing WYO Company. In the case of any Standard Flood Insurance Policy, and its related forms, issued by a WYO Company, wherever the names "Federal Emergency Management Agency" and "Federal Insurance Administration" appear, the WYO Company is authorized to substitute its own name therefor. Standard Flood Insurance Policies issued by WYO Companies may be executed by the issuing WYO Company as Insurer, in the place and stead of the Federal Insurance Administrator.

[43 FR 2570, Jan. 17, 1978. Redesignated at 44 FR 31177, May 31, 1979, as amended at 44 FR 62517, Oct. 31, 1979; 48 FR 46791, Oct. 14, 1983; 58 FR 62424, Nov. 26, 1993]

§61.14 Standard Flood Insurance Policy Interpretations.

(a) *Definition.* A Standard Flood Insurance Policy Interpretation is a written determination by the Administrator construing the scope of the flood insurance coverage that has been and is provided under the policy.

(b) *Publication and requests for interpretation.* The Administrator shall, pursuant to these regulations from time to time, issue interpretative rulings regarding the provisions of the Standard Flood Insurance Policy. Such Interpretations shall be published in the FEDERAL REGISTER, made a part of appendix C to these regulations, and incorporated by reference as part of these regulations. Any policyholder or person in privity with a policyholder may file a request for an interpretation in writing with the Federal Insurance Administration, Federal Emergency Man-

agement Agency, Washington, DC 20472.

[43 FR 2570, Jan. 17, 1978. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 39072, Aug. 29, 1983]

§61.16 Probation additional premium.

The additional premium charged pursuant to §59.24(b) on each policy sold or renewed within a community placed on probation prior to October 1, 1992, is \$25.00. Where the community was placed on probation on or after October 1, 1992, the additional premium charge is \$50.00."

[50 FR 36026, Sept. 4, 1985, as amended at 57 FR 19541, May 7, 1992]

§61.17 Group Flood Insurance Policy.

(a) A Group Flood Insurance Policy (GFIP) is a policy covering all individuals named by a State as recipients under §411 of the Stafford Act (42 U.S.C. 5178) of an Individual and Family Grant (IFG) program award for flood damage as a result of a major disaster declaration by the President.

(b) The premium for the GFIP, initially, is a flat fee of \$200 per policyholder. Thereafter, the premium may be adjusted to reflect NFIP loss experience and any adjustment of benefits under the IFG program.

(c) The amount of coverage will equal the maximum grant amount established under §411 of the Stafford Act (42 U.S.C. 5178).

(d) The term of the GFIP will be 37 months and will begin 60 days from the date of the disaster declaration.

(e) Coverage for individual grantees begins on the thirtieth day after the NFIP receives the required data for individual grantees and their premium payments.

(f) A Certificate of Flood Insurance will be sent to each individual insured under the GFIP.

(g) The GFIP is the Standard Flood Insurance Policy Dwelling Form (a copy of which is included in Appendix A(1) of this part), except that:

(1) The GFIP provides coverage for losses caused by land subsidence, sewer backup, or seepage of water without regard to the requirement in paragraph B.3. of Article 3 that the structure be insured to 80 percent of its replacement

cost or the maximum amount of insurance available under the NFIP.

(2) Article 7, Deductibles, does not apply to the GFIP. Instead, a special deductible of \$200 (applicable separately to any building loss and any contents loss) applies to insured flood-damage losses sustained by the insured property in the course of any subsequent flooding event during the term of the GFIP. The separate deductible applicable to Article 3 B.3 does not apply.

(3) Article 9 E., Cancellation of Policy by You, does not apply to the GFIP.

(4) Article 9 G., Policy Renewal, does not apply to the GFIP.

(h) A notice will be sent to the GFIP certificate holders approximately 60 days before the end of the 3-year term of the GFIP. The notice will:

(1) Encourage them to contact a local insurance agent or producer or a private insurance company selling NFIP policies under the Write Your Own program of the NFIP to apply for a conventional NFIP Standard Flood Insurance Policy; and

(2) Advise them as to the amount of coverage they must maintain in order not to jeopardize their eligibility for future disaster assistance. The amount of flood insurance coverage to be maintained by certificate holders will be provided to the NFIP by the IFG program or the State with its own fully funded disaster assistance program.

[64 FR 41306, July 30, 1999]

APPENDIX A(1) TO PART 61

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]

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.

ENDORSEMENT FOR CLOSED BASIN LAKES

Under 44 CFR 61.13 (d), we are establishing this endorsement for closed basin lakes, which supplements Article 9.T of the Dwelling Policy, Article 8.V of the General Property Policy, and Article 10.V of the Residential Condominium Building Association Policy. (A "closed basin lake" is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) If your insured building is subject to continuous lake flooding from a closed basin lake, we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

1. Lake flood waters must damage or imminently threaten to damage your building.

2. Prior to approval of your claim, you must:

a. Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and

b. Grant the conservation easement contained in the Federal Emergency

Management Agency's (FEMA) "Policy Guidance for Closed Basin Lakes," to be recorded on the deed of the property. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding. FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the National Flood Insurance Program (NFIP) and are insured under the NFIP, they will not be eligible for the benefits of this endorsement. If a U.S. Army Corps of Engineers (USACE) certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC.

3. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if there is sufficient reason to extend the time.

4. Prior to the final payment of your claim, you must acquire an elevation certificate and a floodplain management permit from the local floodplain administrator for the new location of your building.

5. Prior to the approval of your claim, the community having jurisdiction over your building must:

a. Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use ordinance, that is consistent with the provisions specified in the easement required in 2.b. above.

b. Agree to declare and report any violations of this ordinance to FEMA so that under §1316 of the National Flood Insurance Act of 1968, as amended, it can deny flood insurance to the building; and

c. Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of 2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of 2.b. above.

6. Prior to the approval of your claim, the affected State must take all action set forth in FEMA's "Policy Guidance for Closed Basin Lakes."

7. You must have NFIP flood insurance coverage continuously in effect from a date established by FEMA until you file a claim under this endorsement. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement.

8. This endorsement will be in effect for a community when the FEMA

Regional Director for the affected region gives the community, in writing, the following:

a. Confirmation that the community and the State are in compliance with the conditions in numbers 5 and 6 above, and

b. The date by which you must have flood insurance in effect.

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 except as provided in Coverage D—Increased Cost of Compliance.

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.

Coverage D—Increased Cost of Compliance Coverage

Increased Cost of Compliance coverage (Coverage D) is for the consequential loss brought on by a floodplain management ordinance or law affecting repair and reconstruction involving elevation, floodproofing, relocation, or demolition (or any combination thereof) of a structure, after a direct loss caused by a “flood” as defined by this policy. (Floodproofing activities eligible for Coverage D and referred to hereafter in this policy are limited to residential structures with basements that satisfy the criteria of 44 CFR 60.6 (b) or (c) and to non-residential structures.)

The limit of liability under this Coverage D (Increased Cost of Compliance) will not exceed \$15,000. This coverage is only applicable to policies with building coverage (Coverage A) and is in addition to the Building limit you selected on your application, and appears on the Declarations Page. No separate deductible applies. The maximum amount collectible under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Compliance), however, cannot exceed the maximum permitted under the Act.

Eligibility

A structure covered under Coverage A—Building Property—sustaining a loss caused by a “flood” as defined by this policy must:

1. Be a structure that is a repetitive loss structure. A *repetitive loss structure* means a structure, covered by a contract for flood insurance issued pursuant to the Act, that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event. In addition to the current claim, the National Flood Insurance Program must have paid the previous qualifying claim, and the State or community must have a cumulative, substantial damage provision or repetitive loss provision in its flood plain management law or ordinance being enforced against the structure; or
2. Be a structure that has had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood event. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.

This Coverage D will not pay for Increased Cost of Compliance to meet State or community floodplain management laws or ordinances which exceed the minimum criteria at 44 CFR 60.3, except as provided in 1. above or a. or b. as follows:

a. elevation or floodproofing in any risk zone to preliminary or advisory base flood elevations provided by FEMA which the State or local government has adopted and is enforcing for flood-damaged structures in such areas. (This includes compliance activities in B, C, X, or D zones which are being changed to zones with base flood elevations. This also includes compliance activities in zones where base flood elevations are being increased, and a flood-damaged structure must comply with the higher advisory base flood elevation.) Increased Cost of Compliance coverage does not respond to situations in B, C, X, or D zones where the community has derived its own elevations and is enforcing elevation or floodproofing requirements for flood-damaged structures to elevations derived solely by the community.

b. elevation or floodproofing above the base flood elevation to meet State or local “freeboard” requirements, i.e., that a structure must be elevated above the base flood elevation.

Under the minimum NFIP criteria at 44 CFR 60.3(b)(4), States and communities must require the elevation or floodproofing of structures in unnumbered A zones to the base flood elevation where elevation data are obtained from a Federal, State, or other source. Such compliance activities are also eligible for this Coverage D.

This coverage will also pay for the incremental cost, after demolition, or relocation, of elevating or floodproofing a structure during its rebuilding at the same or another site to meet State or local floodplain management laws or ordinances, subject to Exclusion (7).

This coverage will also pay to bring a flood-damaged structure into compliance with State or local floodplain management laws or ordinances even if the structure had received a variance before the present loss from the applicable floodplain management requirements.

Conditions

(1) When a structure covered under Coverage A—Building Property—sustains a loss caused by a “flood” as defined by this policy, our payment for the loss under this Coverage D will be for the increased cost to elevate, floodproof, relocate, demolish, or any combination thereof, caused by enforcement of current State or local floodplain management ordinances or laws. Our payment for eligible demolition activities will be for the cost to demolish and clear the site of the building or a portion thereof caused by enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

(2) When the building is repaired or rebuilt, it must be intended for the same occupancy

as the present building unless otherwise required by current floodplain management ordinances or laws.

Exclusions

Under this Coverage D (Increased Cost of Compliance), we will not pay for:

(1) The cost associated with enforcement of any floodplain management ordinance or law in communities participating in the Emergency Program.

(2) The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants. Pollutants include but are not limited to any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.

(3) The loss in value to any covered building or other structure due to the requirements of any ordinance or law.

(4) The loss in residual value of the undamaged portion of a building demolished as a consequence of enforcement of any State or local floodplain management law or ordinance.

(5) Any increased cost of compliance under this Coverage D:

(a) Until the covered building is actually elevated, floodproofed, demolished or relocated on the same or to another premises; and

(b) Unless the covered building is elevated, floodproofed, demolished, or relocated as soon as reasonably possible after the loss, not to exceed two years.

(6) For any code upgrade requirements, e.g., plumbing or electrical wiring, not specifically related to the State or local floodplain management law or ordinance.

(7) For any compliance activities needed to bring additions or improvements made after the loss occurred into compliance with State or local floodplain management laws or ordinances.

(8) Loss due to any ordinance or law that you were required to comply with before the current loss.

(9) For any rebuilding activity to standards that do not meet the NFIP's minimum requirements. This includes any situation where the insured has received from the State or community a variance in connection with the current flood loss to rebuild the property to an elevation below the base flood elevation.

(10) Increased cost of compliance for appurtenant structure(s).

(11) For any structure insured under a Group Flood Insurance Policy issued pursuant to 44 CFR 61.17.

(12) Assessments made by a condominium association on individual condominium unit

owners to pay increased costs of repairing commonly owned buildings after a flood in compliance with State or local floodplain management ordinances or laws.

Other Provisions

(1) Increased Cost of Compliance coverage will not be included in the calculation to determine whether coverage meets the 80% insurance-to-value requirement for replacement cost coverage under Article 8 or for payment under Article 3.B.3 for loss from land subsidence, sewer backup, or seepage of water.

(2) All other conditions and provisions of the policy apply.

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 *dwelling*s 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. *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* 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-A30, AE, AR, AR/AE, AR/AH, AR/AO, AR/A1-A30, AR/A, VO, V1-V30, 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 \$1,000, or the amount of any other deductible that 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 pay-

ments 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.

1. *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. *Mortgagee 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.)

[58 FR 62424, Nov. 26, 1993, as amended at 62 FR 8397, Feb. 25, 1997; 62 FR 66029, Dec. 17, 1997; 54 FR 41826, Aug. 2, 1999]

APPENDIX A(2) TO PART 61

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]

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.

ENDORSEMENT FOR CLOSED BASIN LAKES

Under 44 CFR 61.13 (d), we are establishing this endorsement for closed basin lakes, which supplements Article 9.T of the Dwelling Policy, Article 8.V of the General Property Policy, and Article 10.V of the Residential Condominium Building Association Policy. (A "closed basin lake" is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) If your insured building is subject to continuous lake flooding from a closed basin lake, we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

1. Lake flood waters must damage or imminently threaten to damage your building.
2. Prior to approval of your claim, you must:
 - a. Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and
 - b. Grant the conservation easement contained in the Federal Emergency Management Agency's (FEMA) "Policy Guidance for Closed Basin Lakes," to be recorded on the deed of the property. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding.

FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the National Flood Insurance Program (NFIP) and are insured under the NFIP, they will not be eligible for the benefits of this endorsement. If a U.S. Army Corps of Engineers (USACE) certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC.

3. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if there is sufficient reason to extend the time.

4. Prior to the final payment of your claim, you must acquire an elevation certificate and a floodplain management permit from the local floodplain administrator for the new location of your building.

5. Prior to the approval of your claim, the community having jurisdiction over your building must:

a. Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use ordinance, that is consistent with the provisions specified in the easement required in 2.b. above.

b. Agree to declare and report any violations of this ordinance to FEMA so that under §1316 of the National Flood Insurance Act of 1968, as amended, it can deny flood insurance to the building; and

c. Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of 2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of 2.b. above.

6. Prior to the approval of your claim, the affected State must take all action set forth in FEMA's "Policy Guidance for Closed Basin Lakes."

7. You must have NFIP flood insurance coverage continuously in effect from a date

established by FEMA until you file a claim under this endorsement. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement.

8. This endorsement will be in effect for a community when the FEMA

Regional Director for the affected region gives the community, in writing, the following:

- a. Confirmation that the community and the State are in compliance with the conditions in numbers 5 and 6 above, and
- b. The date by which you must have flood insurance in effect.

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 except as provided in Coverage D— Increased Cost of Compliance.

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 fail-

ure 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.

Coverage D—Increased Cost of Compliance Coverage

Increased Cost of Compliance coverage (Coverage D) is for the consequential loss brought on by a floodplain management ordinance or law affecting repair and reconstruction involving elevation, floodproofing, relocation, or demolition (or any combination thereof) of a structure, after a direct loss caused by a "flood" as defined by this policy. (Floodproofing activities eligible for Coverage D and referred to hereafter in this policy are limited to residential structures with basements that satisfy the criteria of 44 CFR 60.6 (b) or (c) and to non-residential structures.)

The limit of liability under this Coverage D (Increased Cost of Compliance) will not exceed \$15,000. This coverage is only applicable to policies with building coverage (Coverage A) and is in addition to the Building limit you selected on your application, and appears on the Declarations Page. No separate deductible applies. The maximum amount collectible under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Compliance), however, cannot exceed the maximum permitted under the Act.

Eligibility

A structure covered under Coverage A—Building Property—sustaining a loss caused by a "flood" as defined by this policy must:

1. Be a structure that is a repetitive loss structure. A *repetitive loss structure* means a structure, covered by a contract for flood insurance issued pursuant to the Act, that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event. In addition to the current claim, the National Flood Insurance Program must have paid the previous qualifying claim, and the State or community must have a cumulative, substantial damage provision or repetitive loss provision in its flood plain management law or ordinance being enforced against the structure; or
2. Be a structure that has had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood event. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.

This Coverage D will not pay for Increased Cost of Compliance to meet State or community floodplain management laws or ordinances which exceed the minimum criteria at 44 CFR 60.3, except as provided in 1. above or a. or b. as follows:

a. Elevation or floodproofing in any risk zone to preliminary or advisory base flood elevations provided by FEMA which the State or local government has adopted and is enforcing for flood-damaged structures in such areas. (This includes compliance activities in B, C, X, or D zones which are being changed to zones with base flood elevations. This also includes compliance activities in zones where base flood elevations are being increased, and a flood-damaged structure must comply with the higher advisory base flood elevation.) Increased Cost of Compliance coverage does not respond to situations in B, C, X, or D zones where the community has derived its own elevations and is enforcing elevation or floodproofing requirements for flood-damaged structures to elevations derived solely by the community.

b. Elevation or floodproofing above the base flood elevation to meet State or local "freeboard" requirements, i.e., that a structure must be elevated above the base flood elevation.

Under the minimum NFIP criteria at 44 CFR 60.3(b)(4), States and communities must require the elevation or floodproofing of structures to the base flood elevation where elevation data are obtained from a Federal, State, or other source. Such compliance activities are also eligible for this Coverage D.

This coverage will also pay for the incremental cost, after demolition, or relocation, of elevating or floodproofing a structure during its rebuilding at the same or another site to meet State or local floodplain management laws or ordinances, subject to Exclusion (7).

This coverage will also pay to bring a flood-damaged structure into compliance with State or local floodplain management laws or ordinances even if the structure had received a variance before the present loss from the applicable floodplain management requirements.

Conditions

(1) When a structure covered under Coverage A—Building Property—sustains a loss caused by a "flood" as defined by this policy, our payment for the loss under this Coverage D will be for the increased cost to elevate, floodproof, relocate, demolish, or any combination thereof, caused by enforcement of current State or local floodplain management ordinances or laws. Our payment for eligible demolition activities will be for the cost to demolish and clear the site of the building or a portion thereof caused by enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

(2) When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise re-

quired by current floodplain management ordinances or laws.

Exclusions

Under this Coverage D (Increased Cost of Compliance), we will not pay for:

(1) The cost associated with enforcement of any floodplain management ordinance or law in communities participating in the Emergency Program.

(2) The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants. Pollutants include but are not limited to any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.

(3) The loss in value to any covered building or other structure due to the requirements of any ordinance or law.

(4) The loss in residual value of the undamaged portion of a building demolished as a consequence of enforcement of any State or local floodplain management law or ordinance.

(5) Any increased cost of compliance under this Coverage D:

(a) Until the covered building is actually elevated, floodproofed, demolished or relocated on the same or to another premises; and

(b) Unless the covered building is elevated, floodproofed, demolished, or relocated as soon as reasonably possible after the loss, not to exceed two years.

(6) For any code upgrade requirements, e.g., plumbing or electrical wiring, not specifically related to the State or local floodplain management law or ordinance.

(7) For any compliance activities needed to bring additions or improvements made after the loss occurred into compliance with State or local floodplain management laws or ordinances.

(8) Loss due to any ordinance or law that you were required to comply with before the current loss.

(9) For any rebuilding activity to standards that do not meet the NFIP's minimum requirements. This includes any situation where the insured has received from the State or community a variance in connection with the current flood loss to rebuild the property to an elevation below the base flood elevation.

(10) For any structure insured under a Group Flood Insurance Policy issued pursuant to 44 CFR 61.17.

Other Provisions

(1) Increased Cost of Compliance coverage will not be included in the calculation to determine whether coverage meets the 80% insurance-to-value requirement for payment

under Article 3.B.3 for loss from land subsidence, sewer backup, or seepage of water.

(2) All other conditions and provisions of the policy apply.

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 com-

mon 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 apurtenant 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-A30, AE, AR, AR/AE, AR/AH, AR/AO, AR/A1-A30, AR/A, VO, V1-V30, 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 \$1,000, or the amount of any other deductible that 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, 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. 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

Pt. 61, App. A(3)

44 CFR Ch. I (10-1-99 Edition)

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).

[58 FR 62432, Nov. 26, 1993, as amended at 62 FR 8398, Feb. 25, 1997; 62 FR 66029, Dec. 17, 1997; 64 FR 41826 Aug. 2, 1999]

APPENDIX A(3) TO PART 61

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.

ENDORSEMENT FOR CLOSED BASIN LAKES

Under 44 CFR 61.13 (d), we are establishing this endorsement for closed basin lakes, which supplements Article 9.T of the Dwelling Policy, Article 8.V of the General Property Policy, and Article 10.V of the Residential Condominium Building Association Policy. (A "closed basin lake" is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) If your insured building is subject to continuous lake flooding from a closed basin lake, we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

1. Lake flood waters must damage or imminently threaten to damage your building.

2. Prior to approval of your claim, you must:

a. Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and

b. Grant the conservation easement contained in the Federal Emergency

Management Agency's (FEMA) "Policy Guidance for Closed Basin Lakes," to be recorded on the deed of the property. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding. FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the National Flood Insurance Program (NFIP) and are insured under the NFIP, they will not be eligible for the benefits of this endorsement. If a U.S. Army Corps of Engineers (USACE) certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC.

3. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if there is sufficient reason to extend the time.

4. Prior to the final payment of your claim, you must acquire an elevation certificate and a floodplain management permit from the local floodplain administrator for the new location of your building.

5. Prior to the approval of your claim, the community having jurisdiction over your building must:

a. Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use ordinance, that is consistent with the provisions specified in the easement required in 2.b. above.

b. Agree to declare and report any violations of this ordinance to FEMA so that under §1316 of the National Flood Insurance Act of 1968, as amended, it can deny flood insurance to the building; and

c. Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an

interest in. These deed restrictions must be consistent with the provisions of 2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of 2.b. above.

6. Prior to the approval of your claim, the affected State must take all action set forth in FEMA's "Policy Guidance for Closed Basin Lakes."

7. You must have NFIP flood insurance coverage continuously in effect from a date established by FEMA until you file a claim under this endorsement. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement.

8. This endorsement will be in effect for a community when the FEMA

Regional Director for the affected region gives the community, in writing, the following:

a. Confirmation that the community and the State are in compliance with the conditions in numbers 5 and 6 above, and

b. The date by which you must have flood insurance in effect.

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 except as provided in Coverage D—Increased Cost of Compliance.
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.

Coverage D—Increased Cost of Compliance Coverage

Increased Cost of Compliance coverage (Coverage D) is for the consequential loss brought on by a floodplain management ordinance or law affecting repair and reconstruction involving elevation, floodproofing, relocation, or demolition (or any combination thereof) of a structure, after a direct loss caused by a "flood" as defined by this policy. (Floodproofing activities eligible for Coverage D and referred to hereafter in this policy are limited to residential structures with basements that satisfy the criteria of 44 CFR 60.6 (b) or (c) and to non-residential structures.)

The limit of liability under this Coverage D (Increased Cost of Compliance) will not exceed \$15,000. This coverage is only applicable to policies with building coverage (Coverage A) and is in addition to the Building limit

you selected on your application, and appears on the Declarations Page. No separate deductible applies. The maximum amount collectible under this policy for both Coverage A (Building Property) and Coverage D (Increased Cost of Compliance), however, cannot exceed the maximum permitted under the Act.

Eligibility

A structure covered under Coverage A—Building Property—sustaining a loss caused by a “flood” as defined by this policy must:

1. Be a structure that is a repetitive loss structure. A *repetitive loss structure* means a structure, covered by a contract for flood insurance issued pursuant to the Act, that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event. In addition to the current claim, the National Flood Insurance Program must have paid the previous qualifying claim, and the State or community must have a cumulative, substantial damage provision or repetitive loss provision in its flood plain management law or ordinance being enforced against the structure; or

2. Be a structure that has had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood event. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.

This Coverage D will not pay for Increased Cost of Compliance to meet State or community floodplain management laws or ordinances which exceed the minimum criteria at 44 CFR 60.3, except as provided in 1. above or a. or b. as follows:

a. Elevation or floodproofing in any risk zone to preliminary or advisory base flood elevations provided by FEMA which the State or local government has adopted and is enforcing for flood-damaged structures in such areas. (This includes compliance activities in B, C, X, or D zones which are being changed to zones with base flood elevations. This also includes compliance activities in zones where base flood elevations are being increased, and a flood-damaged structure must comply with the higher advisory base flood elevation.) Increased Cost of Compliance coverage does not respond to situations in B, C, X, or D zones where the community has derived its own elevations and is enforcing elevation or floodproofing requirements for flood-damaged structures to elevations derived solely by the community.

b. Elevation or floodproofing above the base flood elevation to meet State or local “freeboard” requirements, i.e., that a struc-

ture must be elevated above the base flood elevation.

Under the minimum NFIP criteria at 44 CFR 60.3(b)(4), States and communities must require the elevation or floodproofing of structures to the base flood elevation where elevation data are obtained from a Federal, State, or other source. Such compliance activities are also eligible for this Coverage D.

This coverage will also pay for the incremental cost, after demolition, or relocation, of elevating or floodproofing a structure during its rebuilding at the same or another site to meet State or local floodplain management laws or ordinances, subject to Exclusion (7).

This coverage will also pay to bring a flood-damaged structure into compliance with State or local floodplain management laws or ordinances even if the structure had received a variance before the present loss from the applicable floodplain management requirements.

Conditions

(1) When a structure covered under Coverage A—Building Property—sustains a loss caused by a “flood” as defined by this policy, our payment for the loss under this Coverage D will be for the increased cost to elevate, floodproof, relocate, demolish, or any combination thereof, caused by enforcement of current State or local floodplain management ordinances or laws. Our payment for eligible demolition activities will be for the cost to demolish and clear the site of the building or a portion thereof caused by enforcement of current State or local floodplain management ordinances or laws. Eligible activities for the cost of clearing the site will include those necessary to discontinue utility service to the site and ensure proper abandonment of on-site utilities.

(2) When the building is repaired or rebuilt, it must be intended for the same occupancy as the present building unless otherwise required by current floodplain management ordinances or laws.

Exclusions

Under this Coverage D (Increased Cost of Compliance), we will not pay for:

(1) The cost associated with enforcement of any floodplain management ordinance or law in communities participating in the Emergency Program.

(2) The cost associated with enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants. Pollutants include but are not limited to any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed.

(3) The loss in value to any covered building or other structure due to the requirements of any ordinance or law.

(4) The loss in residual value of the undamaged portion of a building demolished as a consequence of enforcement of any State or local floodplain management law or ordinance.

(5) Any increased cost of compliance under this Coverage D:

(a) Until the covered building is actually elevated, floodproofed, demolished or relocated on the same or to another premises; and

(b) Unless the covered building is elevated, floodproofed, demolished, or relocated as soon as reasonably possible after the loss, not to exceed two years.

(6) For any code upgrade requirements, e.g., plumbing or electrical wiring, not specifically related to the State or local floodplain management law or ordinance.

(7) For any compliance activities needed to bring additions or improvements made after the loss occurred into compliance with State or local floodplain management laws or ordinances.

(8) Loss due to any ordinance or law that you were required to comply with before the current loss.

(9) For any rebuilding activity to standards that do not meet the NFIP's minimum requirements. This includes any situation where the insured has received from the State or community a variance in connection with the current flood loss to rebuild the property to an elevation below the base flood elevation.

(10) For any structure insured under a Group Flood Insurance Policy issued pursuant to 44 CFR 61.17.

Other Provisions

(1) Increased Cost of Compliance coverage will not be included in the calculation to determine whether coverage meets the 80% replacement cost requirement under Article 9 or for payment under Article 3.B.3 for loss from land subsidence, sewer backup, or seepage of water.

(2) All other conditions and provisions of the policy apply.

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. *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 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-A30, AE, AR, AR/AE, AR/AH, AR/AO, AR/A1-A30, AR/A, VO, V1-V30, 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 \$1,000, or the amount of any other deductible that 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 cov-

erage 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 mort-

gagor 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.)

[58 FR 62439, Nov. 26, 1993, as amended at 62 FR 8399, Feb. 25, 1997; 62 FR 66029, Dec. 17, 1997; 64 FR 41826, Aug. 2, 1999]

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Subpart A—Issuance of Policies

Sec.

- 62.1 Purpose of part.
- 62.2 Definitions.
- 62.3 Servicing agent.
- 62.4 Limitations on sale of policies.
- 62.5 Premium refund.
- 62.6 Minimum commissions.

Subpart B—Claims Adjustment and Judicial Review

- 62.21 Claims adjustment.
- 62.22 Judicial review.

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

- 62.23 WYO Companies authorized.
- 62.24 WYO Company participation criteria: new applicants.

APPENDIX A TO PART 62—FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, FINANCIAL ASSISTANCE/SUBSIDY ARRANGEMENT

APPENDIX B TO PART 62—NATIONAL FLOOD INSURANCE PROGRAM

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.

SOURCE: 43 FR 2573, Jan. 17, 1978, unless otherwise noted. Redesignated at 44 FR 31177, May 31, 1979.

Subpart A—Issuance of Policies

§ 62.1 Purpose of part.

The purpose of this part is to set forth the manner in which flood insurance under the Program is made available to the general public in those communities designated as eligible for the sale of insurance under part 64 of this subchapter, and to prescribe the gen-

eral method by which the Administrator exercises his/her responsibility regarding the manner in which claims for losses are paid.

§ 62.2 Definitions.

The definitions set forth in part 59 of this subchapter are applicable to this part.

§ 62.3 Servicing agent.

(a) Pursuant to sections 1345 and 1346 of the Act, the Administrator has entered into the Agreement with a servicing agent to authorize it to assist in issuing flood insurance policies under the Program in communities designated by the Administrator and to accept responsibility for delivery of policies and payment of claims for losses as prescribed by and at the discretion of the Administrator.

(b) National Con-Serv, Inc., whose offices are located in Rockville, Maryland, is the servicing agent for the Federal Insurance Administration.

(c) The servicing agent will arrange for the issuance of flood insurance to any person qualifying for such coverage under parts 61 and 64 of this subchapter who submits an application to the servicing agent in accordance with the terms and conditions of the contract between the Agency and the servicing agent.

[43 FR 2573, Jan. 17, 1978. Redesignated at 44 FR 31177, May 31, 1979, as amended at 48 FR 44544, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984; 58 FR 62447, Nov. 26, 1993]

§ 62.4 Limitations on sale of policies.

(a) The servicing agent shall be deemed to have agreed, as a condition of its contract that it shall not offer flood insurance under any authority or auspices in any amount within the maximum limits of coverage specified in § 61.6 of this subchapter, in any area the Administrator designates in part 64 of this subchapter as eligible for the sale of flood insurance under the Program, other than in accordance with this part, and the Standard Flood Insurance Policy.

(b) The agreement and all activities thereunder are subject to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and to the applicable Federal regulations and requirements issued