

§ 355.40 Emergency release notification.

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 (vi) * * *

(B) Naturally from land disturbance activities, including farming, construction, and land disturbance incidental to extraction during mining activities, except that which occurs at uranium, phosphate, tin, zircon, hafnium, vanadium, monazite, and rare earth mines. Land disturbance incidental to extraction includes: land clearing; overburden removal and stockpiling; excavating, handling, transporting, and storing ores and other raw (not beneficiated or processed) materials; and replacing in mined-out areas coal ash, earthen materials from farming or construction, or overburden or other raw materials generated from the exempted mining activities.

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[FR Doc. 99-6512 Filed 3-16-99; 8:45 am]

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**FEDERAL EMERGENCY
 MANAGEMENT AGENCY**
44 CFR Part 61
RIN 3067-AC96
**National Flood Insurance Program
 (NFIP); Insurance Coverage and Rates**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: We (the Federal Insurance Administration) are increasing the amount of premium you (the flood insurance policyholder) pay for flood insurance coverage for "pre-FIRM" buildings in coastal areas subject to high velocity waters, such as storm surges, and wind-driven waves ("V" zones). ("Pre-FIRM" buildings are those whose construction was started before January 1, 1975, or the effective date of a community's Flood Insurance Rate Map (FIRM), whichever is later. Pre-FIRM buildings and their contents are eligible for subsidized rates.) We are increasing rates for pre-FIRM, V-zone properties to recognize the inherently greater flood risk of these properties.

EFFECTIVE DATE: This rule is effective on May 1, 1999.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: We proposed a rule at 64 FR 3909, January 26, 1999, that would increase the premium rates that we charge under the National Flood Insurance Program for pre-FIRM, V-zone properties. We received comments from: the Association of State Floodplain Managers, Inc., the Amite River Basin Drainage and Water Conservation District, and the Coast Alliance.

The *Association of State Floodplain Managers, Inc.* raised three issues. The first issue deals with the subsidy. The Association said that "we believe that any rate increase, however justified, needs to be made in the context established by Congress—that owners of buildings constructed before the communities joined the NFIP are intended to be subsidized." This rule does not eliminate the subsidy for pre-FIRM, V-zone structures. It only reduces the subsidy. The change in rates for the pre-FIRM, V-zone policyholders, currently paying an average annual premium of \$440, will result in an average increase of about seven percent. The rule remains consistent with the National Flood Insurance Program's enabling legislation and the discretionary authority granted to FEMA to administer the program.

The second issue the Association raised is that the National Flood Insurance Reform Act of 1994 requires FEMA to conduct a study "of the impact of reducing the subsidy of pre-FIRM policies." The Association pointed out correctly that FEMA has not yet finished that study. However, the Association's comment incorrectly characterizes the nature of the study, which involves examining economic impacts of eliminating the subsidy by charging full actuarial premiums to pre-FIRM structures. Our current regulatory action calls for a modest rate increase for pre-FIRM, V-zone properties and does not need to await completion of the study.

The Association's third issue is that "any rate increase must be part of an overall effort to evaluate all measures to reduce flood losses, and such measures must not be based solely on increasing income by increasing the cost of insurance, but needs to focus on mitigation measures to reduce claims against the NFIP." We have not forsaken nor do we intend to forsake mitigation efforts in favor of merely raising premiums for a small group of policyholders. Experience shows us that we can make small improvements to the program without jeopardizing or delaying larger initiatives such as the

agency's repetitive for dealing with properties with multiple flood losses.

The *Amite River Basin Drainage and Water Conservation District* agreed with our overall objective of minimizing losses, but disagreed with the rule as proposed saying that "we do not agree on the proposed rules to increase the subsidized rates for pre-FIRM properties in A and V zones." The District went on to say that any "increase in subsidized insurance rates should be considered in the context of an overall strategy and program to reduce flood losses at this time, which FEMA has not done. The overall strategy and program should include a very critical and important 'phase-out' program that will lead us from a 'high loss' status to a 'low loss' status. This will require time (years) and funding at the federal, state, and local level."

There are several misunderstandings by the District. First, the rule does not affect pre-FIRM, A-zone properties. The rule affects only the rates for pre-FIRM, V-zone properties. The affected properties currently constitute a little more than one percent of the National Flood Insurance Program's policies in force. Second, our action complements rather than stands apart from other initiatives that FEMA has undertaken or is currently developing, particularly with regard to structures with multiple flood losses. The agency is currently looking at permanent solutions, including funding, technical assistance, and insurance approaches, to the recurring problems of multiple-flood-loss structures. Taking this action now in no way diminishes any of those other initiatives. Third, we have phased in rate increases for pre-FIRM properties over time. The last time we increased subsidized premium rates was in 1996. So we believe we are consistent with the District's recommendation for a phased-in approach.

The *Coast Alliance* agreed with the proposed rule saying, "We support the Federal Emergency Management Agency's proposed rule to increase the amount of premium paid by the policyholder for flood insurance for 'pre-FIRM' buildings in coastal areas subject to high velocity waters and wind-driven waves ('V' zones)." The Coast Alliance, however, expressed concern about any availability of subsidized or non-actuarial premium rates in coastal areas and recommended that "FEMA must take the next logical step to deny new flood policies in high risk areas." We believe that this recommendation should be dealt with legislatively, as were the two precedents for denying flood insurance coverage in certain geographical areas at 42 U.S.C.

4028-4029. As required by the National Flood Insurance Reform Act of 1994, we are evaluating the impact of erosion hazards on the NFIP. Part of that study will explore the economic impact of denying insurance in areas subject to coastal erosion. It is premature for us to comment on the Alliance's recommendation before we complete that study and report to Congress.

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

National Environmental Policy Act

Under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4371 *et seq.*, and the implementing regulations of the Council on Environmental Quality, 40 CFR parts 1500-1508, we conducted an environmental assessment of this rule. The assessment concludes that there will be no significant impact on the

human environment as a result of the issuance of this final rule, and no Environmental Impact Statement will be prepared. Copies of the environmental assessment are on file for inspection through the Rules Docket Clerk, Federal Emergency Management Agency, room 840, 500 C Street SW., Washington, DC 20472.

Executive Order 12866, Regulatory Planning and Review

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

Paperwork Reduction Act

This rule does not contain a collection of information and therefore is not subject to the provisions of the Paperwork Reduction Act of 1995.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 61

Flood insurance.
Accordingly, we amend 44 CFR Part 61 as follows:

PART 61—INSURANCE COVERAGE AND RATES

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

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

2. We are revising Section 61.9 to read as follows:

§ 61.9 Establishment of chargeable rates.

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

Type of structure	A zone rates ¹ per year per \$100 coverage on:		V zone rates ² per year per \$100 coverage on:	
	Structure	Contents	Structure	Contents
1. Residential:				
No Basement or Enclosure .....	.68	.79	.82	.95
With Basement or Enclosure .....	.73	.79	.88	.95
2. All other including hotels and motels with normal occupancy of less than 6 months duration:				
No Basement or Enclosure .....	.79	1.58	.95	1.90
With Basement or Enclosure .....	.84	1.58	1.01	1.90

¹ A zones are zones A1-A30, AE, AO, AH, and unnumbered A zones.
² V zones are zones V1-V30, VE, and unnumbered V zones.

(b) We will charge rates for contents in pre-FIRM buildings according to the use of the building.

(c) A-zone rates for buildings without basements or enclosures apply uniformly to all buildings throughout emergency program communities.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance"; No. 83.516, "Disaster Assistance")

Dated: March 11, 1999.

Jo Ann Howard

Administrator,

Federal Insurance Administration.

[FR Doc. 99-6466 Filed 3-16-99; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AE48

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Catesbaea melanocarpa*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, determine *Catesbaea melanocarpa* (no common name) to be an endangered species under the Endangered Species Act of 1973, as

amended (Act). *Catesbaea melanocarpa* is known from Puerto Rico, St. Croix in the U.S. Virgin Islands, Barbuda, Antigua, and Guadeloupe. In Puerto Rico, it is currently known from only one location in Cabo Rojo; in the U.S. Virgin Islands, it is known from one location near Christiansted, St. Croix. Both populations are located on privately-owned land subject to intense pressure for development for residential, tourist, and industrial purposes. This final rule implements the Federal protection and recovery provisions afforded by the Act for *C. melanocarpa*.

EFFECTIVE DATE: April 16, 1999.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business