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its servicing agent, but not with respect to policies of flood insurance issued pursuant to Subpart C of this part, shall not be less than \$10 and is computed as follows:

(1) In the case of a new or renewal policy, the following commissions shall apply based on the total premiums paid for the policy term:

Premium amount	Commissions (percent)
First \$2,000 of Premium	15
Excess of \$2,000	5

(2) In the case of mid-term increases in amounts of insurance added by endorsements, the following commissions shall apply based on the total premiums paid for the increased amounts of insurance:

Premium amount	Commissions (percent)
First \$2,000 of Premium	15
Excess of \$2,000	5

(b) Any refunds of premiums authorized under this subchapter shall not affect a previously earned commission; and no agent shall be required to return that earned commission, unless the refund is made to establish a common policy term anniversary date with other insurance providing coverage against loss by other perils in which case a return of commission will be required by the agent on a pro rata basis. In such cases, the policy shall be immediately rewritten for a new term with the same amount(s) of coverage and with premium calculated at the then current rate and, as to return premium, returned, pro rata, to the insured based on the former policy's premium rate.

[46 FR 13515, Feb. 23, 1981, as amended at 53 FR 15221, Apr. 28, 1988; 57 FR 19541, May 7, 1992]

Subpart B—Claims Adjustment, Claims Appeals, and Judicial Review

§ 62.20 Claims appeals.

(a) *Definitions.*

Administrator means the Federal Insurance Administrator.

Appeal decision means the disposition of the appeal by the Administrator.

Decision means the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim.

(b) *Appeal.* A National Flood Insurance Program (NFIP) policyholder, whether insured by a participating Write-Your-Own (WYO) Company or directly by the Federal Emergency Management Agency (FEMA), may appeal a *decision*, including a determination of any insurance agent, adjuster, insurance company, or any FEMA employee or contractor with respect to a claim, proof of loss, and loss estimate. In order to file an appeal, the insured must comply with all requirements set out in the Standard Flood Insurance Policy (SFIP). This appeals process is available after the issuance of the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim. Once the final claim determination is issued, an insured may appeal any action taken by the insurer, FEMA employee, FEMA contractor, insurance adjuster, or insurance agent.

(c) *Limitations on Appeals.*

The appeals process is intended to resolve claim issues and is not intended to grant coverage or limits that are not provided by the SFIP. Filing an appeal does not waive any of the requirements for perfecting a claim under the SFIP or extend any of the time limitations set forth in the SFIP.

(1) Disputes that are or have been subject to appraisal as provided for in the SFIP cannot be appealed under this section.

(2) When a policyholder files an appeal on any issue, that issue is no longer subject to resolution by appraisal or other pre-litigation remedies.

(d) *Litigation preclusion.* An insured who files suit against an insurer on the flood insurance claim issue is prohibited from filing an appeal under this section. All appeals submitted for decision but not yet resolved shall be terminated upon notice of the commencement of litigation regarding the claim.

(e) *Procedures.* To pursue an appeal under this section a policyholder must:

(1) Submit a written appeal to FEMA within 60 days from the date of the decision. The appeal should be sent to:

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Federal Emergency Management Agency, Federal Insurance Administrator, Mitigation Division, 500 C Street, SW., Washington, DC 20472;

(2) Provide a copy of the insurer's written denial, in whole or in part, of the claim;

(3) Identify relevant policy and claim information and state the basis for the appeal; and

(4) Submit relevant documentation to support the appeal. The policyholder should submit only the documentation that pertains to his or her claim. The following are examples of the kinds of documentation which FEMA will require to adjudicate the appeal: A copy of the proof of loss submitted to the insurer as required in the policy; room by room itemized estimates from the adjuster (includes contractors' estimates), detailing unit cost and quantities for the items needing repair or replacement; replacement cost proofs of loss; Preliminary Report; Final Report; detailed damaged personal property inventories that include the approximate age of the items; completed Mobile Home Worksheet; Mobile Home Title, including Salvage Titles; real estate appraisals that exclude land values; advance payment information; clear photographs (exterior and interior) confirming damage resulted from direct physical loss by or from flood; proof of prior repair; evidence of insurance and policy information, *i.e.* declarations page; Elevation Certificate, if the risk is an elevated building; the community's determination made concerning substantial damage; information regarding substantial improvement; zone determinations; pre-loss and post-loss inventories; financial statements; tax records, lease agreements, sales contracts, settlement papers, deed, *etc.*; emergency (911) address change information; salvage information (proceeds and sales); condominium association by-laws; proof of other insurance, including homeowners or wind policies and any claim information submitted to the other companies; Waiver, Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) information; paid receipts and invoices including cancelled checks that support an insured's out-of-pocket expenses pertaining to the claim; un-

derwriting decisions; architectural plans and drawings; death certificates; a copy of the will; divorce decree, power of attorney; current lienholder information; current loss payee information; paid receipts and invoices documenting damaged stock; detailed engineering reports specifically addressing flood-related damage and pre-existing damage; engineering surveys; market values; documentation of Flood Insurance Rate Maps (FIRM) dates; documentation reflecting date(s) of construction and substantial improvement; loan documents including closings; evidence of insurability as a Residential Condominium Association; Franchise Agreements; letters of representation, *i.e.* attorneys and public adjusters; any assignment of interest in a claim; and, any other pertinent information which FEMA may request in processing a claim.

(f) *Appeal resolution.* (1) FEMA will acknowledge, in writing, receipt of a policyholder's appeal and include in the acknowledgement contact information for a FEMA point of contact who can advise the policyholder as to the status of his or her claim.

(2) The *Administrator* will review the appeal documents and may notify the policyholder in writing of the need for additional information. A request for the additional information will include the date by which the information must be provided, and shall in no case be less than 14 calendar days. Failure to provide the requested information in full, or to request an extension by the due date, may result in a dismissal of the appeal. A re-inspection of the policyholder's property may be conducted at the discretion of the *Administrator* to gather more information. The *Administrator* will ensure that all information necessary to rule on the appeal has been provided prior to making an *appeal decision*.

(3) The *Administrator* will review the appeal documents, including any re-inspection report, if appropriate. The *Administrator* will provide specific information on what grounds the claim was denied initially. The *Administrator* will provide an *appeal decision* in writing to the policyholder and insurer within 90 days from the date that all information has been submitted by the

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policyholder and include specific information for the resolution of the appeal. No further administrative review will be provided to the insured.

(4) A policyholder who does not agree with FEMA's appeal decision should refer to the SFIP, for options for further action (see Part 61, App. A(1) VII.R., Part 61, App. A(2) VII.R., and Part 61, App. A(3) VIII.R.). The one-year period to file suit commences with the written denial from the insurer and is not extended by the appeals process.

[71 FR 30298, May 26, 2006, as amended at 71 FR 60438, Oct. 13, 2006]

§ 62.21 Claims adjustment.

(a) In accordance with the Agreement, the servicing agent shall arrange for the prompt adjustment and settlement and payment of all claims arising from policies of insurance issued under the program. Investigation of such claims may be made through the facilities of its subcontractors or insurance adjustment organizations, to the extent required and appropriate for the expeditious processing of such claims.

(b) All adjustment of losses and settlements of claims shall be made in accordance with the terms and conditions of the policy and parts 61 and 62 of this subchapter.

§ 62.22 Judicial review.

(a) Upon the disallowance by the Federal Insurance Administration, a participating Write-Your-Own Company, or the servicing agent of any claim on grounds other than failure to file a proof of loss, or upon the refusal of the claimant to accept the amount allowed upon any claim after appraisal pursuant to policy provisions, the claimant within one year after the date of mailing by the Federal Insurance Administration, the participating Write-Your-Own Company, or the servicing agent of the notice of disallowance or partial disallowance of the claim may, pursuant to 42 U.S.C. 4072, institute an action on such claim against the insurer only in the U.S. District Court for the district in which the insured property or the major portion thereof shall have been situated, without regard to the amount in controversy.

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(b) Service of process for all judicial proceedings where a claimant is suing Director pursuant to 42 U.S.C. 4071 shall be made upon the appropriate United States Attorney, the Attorney General of the United States, and the Federal Insurance Administrator of the Federal Emergency Management Agency.

[43 FR 2573, Jan. 17, 1978. Redesignated at 44 FR 31177, May 31, 1979, as amended at 47 FR 43061 Sept. 30, 1982; 49 FR 33879, Aug. 27, 1984; 69 FR 45610, July 30, 2004]

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

§ 62.23 WYO Companies authorized.

(a) Pursuant to section 1345 of the Act, the Administrator may enter into arrangements with individual private sector property insurance companies or other insurers, such as public entity risk sharing organizations. Under these arrangements, such companies or other insurers may offer flood insurance coverage under the program to eligible applicants. Such WYO companies may offer flood coverage to policyholders insured by them under their own property business lines of insurance, pursuant to their customary business practices, including their usual arrangements with agents and producers. WYO companies may sell flood insurance coverage in any State in which the WYO company is authorized to engage in the business of property insurance. Other WYO insurers may offer flood insurance coverage to their pool members insured by them under their own property business lines of coverage, pursuant to their customary business practices. These other WYO insurers may provide flood coverage in any State that has authorized the other insurer to provide property coverage to its members. Arrangements entered into by WYO Companies or other insurers under this subpart must be in the form and substance of the standard arrangement, titled "Financial Assistance/Subsidy Arrangement," a copy of which is included in appendix A of this part and made a part of these regulations.

(b) Any duly authorized insurer so engaged in the Program shall be a WYO Company. (The term "WYO Company"