

§ 63.9

§ 63.9 Sale while claim pending.

If a claimant sells a structure prior to its demolition or relocation, no benefits are payable to that claimant under section 1306(c) of the Act, and any payments which may have been made under those provisions shall be reimbursed to the insurer making them.

§ 63.10 Demolition or relocation contractor to be joint payee.

If a demolition or relocation contractor is used, the instrument of payment for benefits under section 1306(c) of the Act for the fee of that contractor, shall include that contractor as a joint payee, unless that contractor has already been paid when the instrument of payment is issued.

§ 63.11 Requirement for a commitment before October 1, 1989.

The requirement in section 1306(c)(7) of the Act that a commitment be made on or before September 30, 1989 as a necessary condition to making any payments after September 30, 1989, is met if before October 1, 1989,

(a) There is either a condemnation in accordance with § 63.2 of this part or a certification in accordance with subpart B of this part, and

(b) A policyholder's notice of claim for benefits under section 1306(c) of the Act is received by the insurer.

§ 63.12 Setback and community flood plain management requirements.

(a) Where benefits have been paid under section 1306(c) of the Act, the setback requirements in section 1306(c)(5) of the Act, which if not met result in a prohibition against subsequently providing flood insurance or assistance under the Disaster Relief Act of 1974, shall apply:

(1) To the structure involved wherever it is located, and

(2) To any other structure subsequently constructed on or moved to the parcel of land on which the structure involved was located when the claim under section 1306(c) of the Act arose.

(b) In addition, any structures relocated under section 1306 of the Act must comply with the flood plain management criteria set forth in § 60.3 of this chapter.

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Subpart B—State Certification of Structures Subject to Imminent Collapse

§ 63.13 Purpose of subpart.

The purpose of this subpart is to establish criteria under the provisions of section 1306(c) of the National Flood Insurance Act of 1968, as amended, by which States can obtain approval from the Administrator to certify that structures are subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. The subpart also sets forth the procedures and data requirements to be utilized by those States in certifying structures as subject to imminent collapse. The State certification procedure represents an option to the use of the procedure whereby a structure is condemned by a State or local authority as a prerequisite to consideration for imminent collapse insurance benefits.

§ 63.14 Criteria for State qualification to perform imminent collapse certifications.

In order to qualify under this subpart, the State must be administering a coastal zone management program which includes the following components, as a minimum:

(a) A state-wide requirement that prohibits new construction and the relocation of structures seaward of an adopted erosion setback. Such setback must be based in whole or in part on some multiple of the local mean annual erosion (recession) rate; and

(b) An established, complete and functional data base of mean annual erosion rates for all reaches of coastal shorelines subject to erosion in the State, which is used as the basis to enforce these setback requirements.

§ 63.15 State application for eligibility to certify structures subject to imminent collapse.

(a) Application pursuant to this part shall be made by the Governor or other duly authorized official of the State.

(b) The application must be submitted to the Federal Emergency Management Agency, Federal Insurance

Administration, 500 C Street SW., Washington, DC 20472.

(c) Documents to be included in the application are as follows:

(1) Copies of all applicable State statutes and regulations verifying the existence of a coastal zone management program including setback requirements for new and relocated construction which are based in whole or in part on mean annual erosion rates established for the State's shorelines.

(2) A copy of the State's mean annual erosion rate data base, if not already provided, showing such rates for all reaches of coastal shorelines subject to erosion within the State.

(3) The title, address and phone number of a contact person within the State agency having authority for administering the coastal zone management program.

(4) A statement that adequate resources are available to carry out the certification services, and that certifications will be performed in accordance with the procedures described in § 63.17.

§ 63.16 Review of State application by the Administrator.

(a) The Administrator may return the application for eligibility upon finding it incomplete or upon finding that additional information is required in order to make a determination as to the adequacy of the coastal zone management program and erosion rate data base.

(b) Upon determining that the State's program and/or data base does not meet the criteria set forth in § 63.14, the Administrator shall in writing reject the application for eligibility and indicate in what respects the State program and/or data base fails to comply with the criteria.

(c) Upon determining that the State program and data base meets the criteria set forth in § 63.14, the Administrator shall approve the State as eligible to certify structures subject to imminent collapse. Such approval, however, is in all cases provisional. The Administrator shall review the State program and data base for continued compliance with the criteria set forth in this part and may request updated documentation for the purpose of such

review. If the program and/or data base is found to be inadequate and is not corrected within ninety days from the date that such inadequacies were identified, the Administrator may revoke his approval.

§ 63.17 Procedures and data requirements for imminent collapse certifications by States.

Any State that has been determined to be eligible by the Administrator may certify that a coastal structure is subject to imminent collapse. Such certification requires that the State collect scientific or technical information relative to the structure and its site and provide such information to the insured to be filed with a claim for insurance benefits under Section 1306 of the National Flood Insurance Act of 1968, as amended. The information which is provided to the insured shall include, but is not limited to, the following:

(a) Certification from the State agency that the structure is subject to imminent collapse. The certification shall cite the property address, legal description (e.g., lot, block), the date of application for certification, and the date of and basis for the certification, and

(b) Supporting scientific and technical data to substantiate the certification consisting of the following:

(i) Photographs of the structure in relation to the obvious peril. All photographs should be labeled with the location, direction, date and time from which they were taken. The collection of photographs should adequately display the following:

(i) Any evidence of existing damage. The damage can include loss or erosion of soil near or around the foundation, or structural damage to the foundation components.

(ii) Structure and waterbody. These photographs shall show both the structure and the waterbody that presents the peril. If the structure is on a high bluff or dune and not accessible from the water side, the top edge of the bluff or dune will be sufficient. These will usually be taken from one or both sides of the structure.

(iii) Physical reference features used in the measurements discussed below. The reference feature shall be in or