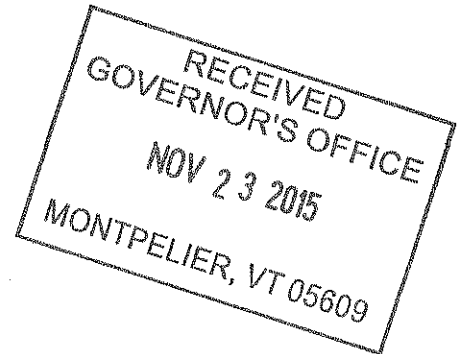




FEMA

November 5, 2015



The Honorable Peter Shumlin
Governor of Vermont
109 State Street
Pavilion Office Building
Montpelier, Vermont 05609

Re: Provisional Exemption for the State of Vermont from the Requirement to Purchase
Flood Insurance Pursuant to 44 C.F.R. § 75.1, *et seq.*

Dear Governor Shumlin:

I am writing this letter with regard to the provisional exemption from the requirement to purchase flood insurance for buildings owned by the state in Special Flood Hazard Areas (SFHAs) allowed by 44 C.F.R. § 75.1, *et seq.* As a condition of the state receiving disaster assistance for flood-related losses, the State of Vermont is required to have flood insurance for its buildings located in SFHAs. *See* 42 U.S.C. § 5154; 42 U.S.C. § 4012a. However, instead of purchasing flood insurance policies for the state's buildings, the state may act as a self-insurer pursuant to a self-insurance plan that FEMA approves. *Id.*

The regulations governing self-insurance plans are found in 44 C.F.R. § 75.1, *et seq.* In particular, the plan must meet the requirements set forth in 44 C.F.R. §§ 75.11 and 75.12. If the state's plan meets those requirements, it may receive a provisional exemption from the requirement to purchase flood insurance. *See* 44 C.F.R. § 75.13(c). The list of provisionally exempt states may be found at 44 C.F.R. 75.14. However, the states in this list are only provisionally exempted, and I am required to periodically review the state's plan for continued compliance with the criteria for receiving the provisional exemption.

Therefore, pursuant to 44 C.F.R. § 75.13, within six months from receipt of this letter, I am requesting that your state provide its current and updated self-insurance plan, and the information required by 44 C.F.R. § 75.11. I have attached a summary of these requirements to this letter for your use.

Please feel free to contact me with any questions or concerns you may have. Please note that I have designated Mary Chang as the point of contact within my office for this matter. She may be contacted by email at mary.chang@fema.dhs.gov.

Respectfully yours,

Roy E. Wright
Deputy Associate Administrator
for Insurance and Mitigation

RW:mc

Attachment

emailed out



**Summary of Information Required by 44 CFR 75 for Determination of the
Adequacy of a State's Self-Insurance Plan for Flood**

- A summary statement, with supporting documentation, outlining the state's statutory authority to indemnify flood losses to state-owned structures through a self-insurance fund that is funded by periodic premiums or charges allocated for state-owned structures and their contents in FEMA-identified Special Flood Hazard Areas (SFHAs). This summary statement and documentation should include:
 - Information on the adequacy of the reserves of the state's self-insurance fund to cover estimated annual flood damage to state-owned structures in FEMA-identified SFHAs. The state should have a fund with adequate reserves to cover flood losses below the policy deductibles.
 - Detailed information concerning any commercial policies of flood insurance (including carrier's name, amount of coverage, deductible, and property covered) that the state has for structures in FEMA-identified SFHAs.
 - Documentation showing that the coverage amount provided to state-owned structures and contents under the state self-insurance plan is equal to the maximum coverage limits that would otherwise be available under a Standard Flood Insurance Policy.
- In lieu of the summary statement and documentation, documentation of an enforceable commitment of funds by the state that is certified by the state's Attorney General or other principal legal officer. This enforceable commitment of funds must not be less than the maximum limits of coverage available under the Standard Flood Insurance Policy for all state-owned structures and contents in FEMA-identified SFHAs.
- An inventory of all state-owned structures and contents located in FEMA-identified SFHAs, accompanied by a statement that this inventory is updated annually. The inventory should include: (1) the location of the individual structures; (2) an estimate of the replacement costs and/or the fair market value of such structures and their contents; and (3) an estimate of the anticipated annual loss due to flood damage. The state should provide a summary statement indicating the total number and value of state-owned buildings and contents located in FEMA-identified SFHAs.
- A copy of the state's records showing dates, locations, and amounts of flood losses to state-owned structures since 1985.
- A certified copy of the state's floodplain management regulations (pursuant to 44 CFR §60.12) that govern construction and development in the designated SFHA for all state departments and agencies that undertake development and construction activities.



State Self-Insurance for Flood

The Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 et seq., recognized that a reasonable method of sharing the nation's risk of flooding at the national level was required. This established a requirement to purchase flood insurance for properties at risk from a flood. It also further provided an exception to this requirement for state-owned properties that are covered under an adequate state policy of self-insurance (42 U.S.C. 4012(c) (1) (Section 102)). When states provide proof of this self-insurance, the designated property is not required to be covered by flood insurance.

Title 44 CFR Part 75 establishes standards with respect to the Federal Insurance Administrator's determinations that a state's plan of self-insurance is adequate and satisfactory for the purposes of the Act, from the requirement of purchasing flood insurance coverage, for state-owned structures and their contents in areas identified by the Administrator as A, AO, AH, A1-A30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1-V30, VE, and E zones, in which the sale of insurance has been made available, and to establish the procedures by which a state may request exemption.

To receive an exemption from the requirement to purchase flood insurance, the state must provide proof of self-insurance which specifies that the hazards covered by the self-insurance plan expressly include flood and flood-related hazards and coverage to state-owned structures and their contents equal to that under a regular flood insurance policy. Also required is the location of the property/structures, an estimate of the replacement costs for the property/structures, an estimate of the annual losses to flood damage, flood loss experience of state-owned property/structures and a certified copy of flood plain management regulations setting forth standards for affected state-owned property/structures.

Title 44 CFR Part 75.13 directs the Federal Insurance Administrator to review the plans for continued compliance, indicating that he may request updated documentation for the purpose of such review. If the plan is found to be inadequate and is not corrected within ninety days from the date that such inadequacies were identified, the Federal Insurance Administrator may revoke his certification.

Title 44 CFR Part 75.14 lists 13 states with approved plans of self-insurance for flood: Florida, Georgia, Iowa, Kentucky, Maine, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Tennessee, and Vermont.

The last (and only) review of the approved State Self-Insurance Plans for Flood was conducted in 1985.