



FEMA

October 30, 2007

Mr. James J. Donelon
Commissioner of Insurance
State of Louisiana
P.O. Box 94214
Baton Rouge, LA 70804-9214

Re: Stafford Act Insurance Certifications

Dear Mr. Donelon:

I am writing in response to your August 10, 2007, letter to President George W. Bush. You wrote to the President concerning the insurance purchase requirement imposed by section 311 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended ("the Stafford Act"), 42 U.S.C. 5154, on applicants for Public Assistance under the Stafford Act. As FEMA's Regional Administrator, I have been delegated the authority to respond to insurance purchase waiver certifications pursuant to 44 CFR 206.252 and 253 (relating to flood insurance and insurance for non-flood hazards, respectively). Therefore, I am responding to your letter to the President.

Your letter included a statement that a global insurance waiver should be granted due to difficult market conditions, excessive insurance premiums, and other financial hardships suffered by applicants throughout the State. The basis for your determination is section 311 of the Stafford Act, and you claim that the financial hardship of an entity is the rationale for insurance not being "reasonable." Under the authority to make such a determination granted to you by Section 311 of the Stafford Act, you certify that commercial property insurance is not reasonably available in the areas affected by Hurricanes Katrina and Rita..

Your statement, noted above, would appear to apply to all facilities on which an insurance purchase requirement had been placed. However, your letter then goes on to explain the system you are proposing to establish which would require applicants in Louisiana to purchase some insurance. Therefore, I presume that you are not certifying that all applicants are unable to obtain insurance, but only some. You propose to make this determination on the basis of what portion of an applicant's budget they would be required to spend on insurance premiums.

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As a condition of your certification, you indicate applicants will be required to commit a percentage of their current operating budget to obtain and maintain property insurance that can be purchased by reasonable expenditures as outlined. Under your system, there would be two types of insurance still required of applicants. The first is flood insurance available through the National Flood Insurance Program (NFIP) and this would be obtained up to the maximum amount available under the NFIP. The second would be the amount of other hazard insurance that could be purchased within the portion of an applicant's budget determined by you to be reasonable. Also included here would be an amount of excess flood insurance above the NFIP limits similarly determined to be reasonable to be required on each project.

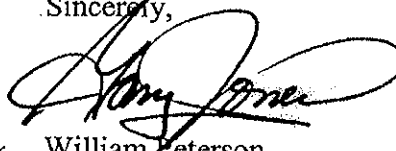
Your letter also states that you believe that policies with deductibles above a certain percentage of insured value are unreasonable and therefore insurance containing those increased deductible amounts is not reasonably available. However, it is not clear from your letter what level of deductible you consider unreasonable. The second paragraph on page two refers to 5 percent and numbered paragraph 4 on page three refers to 10 percent and 15 percent. Please specify the appropriate percentage to be required on each project.

Because your certification of insurance unavailability will only apply to some of the restoration projects, you will need to identify those projects to FEMA and include a list of those projects where NFIP flood insurance or partial other hazard insurance is reasonable and will be obtained. If the situation arises that insurance for all projects of a particular applicant is not reasonably available, then your certification could apply to all of that applicant's projects and be worded in that manner. We will await your list of projects to which the waiver of insurance purchase requirement will apply before changing the insurance requirement on any project.

Waiver certifications should be submitted from the State Insurance Commissioner office to the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP). GOHSEP should submit these to Jim Stark, Director of the Louisiana Transitional Recovery Office for processing.

Please call Jim Stark at (504) 762-2000 if you have any questions or concerns.

Sincerely,

for 
William Peterson
Regional Administrator

cc: James Stark
Gil Jamieson
Colonel Thomas Kirkpatrick
James Walke