Introduction to Lender Compliance

National Flood Insurance Program

Seminar Resources

National Flood Insurance Program Home page:
- [www.fema.gov/business/nfip](http://www.fema.gov/business/nfip)
- Go to Audience: Lenders

Mandatory Purchase of Flood Insurance Guidelines
- [http://www.fema.gov/library/viewRecord.do?id=2954](http://www.fema.gov/library/viewRecord.do?id=2954)
Mandatory Purchase of Flood Insurance Guidelines

A. Introduction
B. Coverage Availability
C. General Mandatory Purchase Provisions
D. Condos, Coops & Timeshares
E. Key Provisions
   • Appendices 1-12

Appendix 1 - Legal References
Appendix 2 - FDIC Regulation
Appendix 3 – Standard Flood Hazard Determination Form
Appendix 4 – Notice Requirements
Appendix 5 – Flood Insurance Resources
Appendix 6 - 30-Day Waiting Period
Appendix 7 – MPPP Guidelines and Requirements
Glossary & Index.
Section A

Introduction

NFIP Legislation

- National Flood Insurance Act of 1968
- Flood Disaster Protection Act of 1973
- National Flood Insurance Reform Act of 1994
- Flood Insurance Reform Act of 2004
What is a ‘designated loan’?

Designated Loan:
• A loan secured by a building or mobile home that is located or to be located in a “special flood hazard area” in which flood insurance is available under the Act.

Please note: Emphasis on a “building or mobile home” as collateral.

Mandatory Purchase Tripwires

M-I-R-E
• Making
• Increasing
• Renewing
• Extending
Identifying the NFIP Partners

DHS/FEMA → NFIP

Participating Communities

Federal Agencies & Lenders

Insurance Professionals

WYO

NFIP Direct

Search: ‘Write Your Own’
www.fema.gov
Many of the nation’s leading property and casualty insurance companies have opened their doors to flood insurance under the Write Your Own (WYO) Program by signing an arrangement with the Federal Emergency Management Agency. All policies are financially backed by the federal government and companies must follow the rules and regulations of the program.

Notices may also be written directly with the Federal Government through the National Flood Insurance Program (NFIP) servicing agent. For more information, contact the WYO Company of your choice, the NFIP servicing agent, or go to www.fema.gov/insurance/property.jsp.
What Lender Does

• Determines if structure in high-risk zone (SFHA)
• Documents determination on standard form - SFHDF
• If in SFHA, notifies borrower that flood insurance is required
• If in SFHA, requires adequate flood insurance is obtained
• Requires escrow of flood insurance premiums, as required
• During term of loan, ensures flood insurance coverage is maintained.
• Force places flood insurance as appropriate
Participating Communities

• FEMA agrees to make flood insurance available within a community when that community agrees to adopt and enforce floodplain management regulations.

Community Status Books/Lists

• Community Number
• Date of Entry into NFIP
• Regular vs. Emergency Program
• Date of Current Map
  ▪ NSFHA = No Special Flood Hazard Areas

• How to Obtain:
  ▪ http://www.fema.gov/fema/csb.shtm
  ▪ Contact FEMA Map Information Exchange @ 877-336-2627 (877- FEMA MAP)
www.fema.gov

FEMA Home Page
www.fema.gov
Resources
Community Status Book

Flood Publications
- Claims Handbook
- Coastal Barrier Resource System
- Community Status Book
- FIM Guidance Documents
- Flood Insurance (NFIP) Manual
- Floodplain Management
- NFIP Operation and Regulations
- Standard Flood Insurance Policies
- Summary of Coverage (English and Spanish)
- Technical Bulletins
- Watermark

The National Flood Insurance Program Community Status Book

Resources
Community Status Book
Introduction to Lender Compliance

Community Status List

Federal Emergency Management Agency
Community Status Book Report
TExAS
Communities Participating in the National Flood Program

<table>
<thead>
<tr>
<th>CID</th>
<th>Community Name</th>
<th>County</th>
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SFHAs and Non-SFHAs

**SFHAs (High Risk)**
- AE (replaces A1-A30)
- A, AH, AO, A99, AR
- VE (replaces V1-V30)
- V, VO

**Non-SFHAs (Low to Moderate)**
- B, C, X
Base Flood
“100-Year Flood Plain”

• “...1-percent chance of being flooded in any given year (base flood).”

• Over a 30 year period, there is at least a 26% of a building in SFHA will flood.

SFHAs appear as dark shading on a Flood Insurance Rate Map (FIRM).
Significance of the building location

- Improved Real property
- Partially in a SFHA
- Includes decks, etc.
Online Flood Insurance Rate Maps

FEMA Map Service Center
www.msc.fema.gov
FEMA Map Service Center
www.msc.fema.gov
Click green button to view Flood Insurance Rate Map
Effects of Grandfathering zone determinations

- May provide legitimate reason of zone discrepancies on policy declarations page
- Allows premium benefits after map zone changes or compliance standard changes
- Document Reconciliation
Map Grandfather Rule

• Allows a property owner to:

1. “Lock” in a previous flood zone

2. “Lock” in a previous Base Flood Elevation

Grandfather Indicator as of 10/01/2009
April 16, 2008

MEMORANDUM TO: Write Your Own Principal Coordinators and the NFIP Servicing Agent

FROM: David J. Maurstad
Federal Insurance Administrator
National Flood Insurance Program

SUBJECT: Procedures Relating to Flood Zone Discrepancies

The Federal regulatory agencies supervising federally regulated lending institutions must require their lenders to take certain actions to ensure buildings in high-risk areas known as Special Flood Hazard Areas (SFHAs), the areas subject to inundation by the base (1-percent-annual-chance) flood.

Effective May 1, 2008, WYO companies and the NFIP Servicing Agent are hereby directed to use the most hazardous flood zone for rating when presented with two different flood zones, unless the building qualifies for the following code. If the policyholder wants to dispute the high-risk flood zone determination, procedures are available, including the Letter of Determination Review (LODR) and the Letter of Map Amendment. These are cited in the Code of Federal Regulations (CFR) at 44 CFR 65.17, Review of Determination. More detailed information concerning the LODR process is available from the FEMA website http://www.fema.gov/plan/prevent/floodpln/admdocprog/floodpro91.

Information about additional options available to a property owner to appeal the lender’s flood zone determination is available from the FEMA websites http://www.fema.gov/plan/prevent/floodpln/admdocprog/floodpro91http://www.fema.gov/plan/prevent/floodpln/admdocprog/floodpro91

The attached document entitled “Options Available to a Borrower for Appealing a Lender’s..."
PRP Eligibility Extension Summary

- Developed to address the financial burden of mandatory purchase requirements on policy holders in newly mapped areas
- Buildings newly designated within the SFHA due to a map revision on or after October 1, 2008, are eligible for coverage under the PRP for a period of up to 2 years* after the later of the two following dates:
  - The effective date of the map revision, or
  - January 1, 2011
- Loss history requirements must be met

*After 2 year extension the policy must be written as standard-rated policy.

PRP Eligibility Extension Summary (cont’d)

- Insurance Carrier, not lender, validates PRP extension eligibility

- Effective 10/1/2010, NFIP declarations pages will display two flood zones:
  - **Current Flood Zone** - flood zone of property on current (revised) Flood Insurance Rate Map (FIRM)
  - **Flood Risk/Rated Zone**: flood zone from the previous map used to rate policy

- Lenders are not required to investigate or resolve differences between Current Flood Zone and Flood Risk/Rated Zone
Rated Zone/Current Zone

Letters of Map Change
Letter of Determination Review

- A lender and borrower may jointly request that FEMA review a determination where there is disagreement.
  - 45 day window to request.
  - Cost equals $80.
  - Process differs from LOMA/LOMR.
- Flood insurance would not be required at closing if FEMA does not respond within 45 days.
- When FEMA does respond and, if FEMA determines structure to be in a SFHA, insurance will be required.

www.fema.gov/business/nfip/lomri.shtm
Map Amendments/Revisions

• Letter of Map Amendment - LOMA
  ▪ Single structure, single lot
  ▪ Naturally high ground
• Letter of Map Revision - LOMR
  ▪ Multiple Structures/Lots
  ▪ Based on Fill
• LOMA “Out as Shown”

www.fema.gov/plan/prevent/fhm/dl_mt-ez.shtml

Community Participation

<table>
<thead>
<tr>
<th>Participation</th>
<th>Non-Participation</th>
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<tbody>
<tr>
<td>• Insurance available</td>
<td>• Insurance not available</td>
</tr>
<tr>
<td>• Federal backed loans available</td>
<td>• Conventional loans only in SFHAs</td>
</tr>
<tr>
<td>• Disaster Assistance available</td>
<td>• Disaster Assistance limitations</td>
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</table>
**Insurable Property**

- Walled and Roofed
- Permanent Site
- Principally Above Ground
- Manufactured Homes/Travel Trailers

**Section C**

Mandatory Purchase Provisions
Introduction to Lender Compliance

Entities Encompassed by the Act

• Federally Regulated Lenders
• Government-Sponsored Enterprises
• Federal Agency Lenders

Federal Entities for Lending Regulation/ Government Sponsored Enterprises

• Office of the Comptroller of the Currency (OCC)
• Federal Deposit Insurance Corporation (FDIC)
• Federal Reserve Board
• National Credit Union Administration (NCUA)
• Farm Credit Administration (FCA)
• Fannie Mae (FNMA)
• Freddie Mac (FHLMC)
### NFIP Limits Available

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<td><strong>Residential</strong></td>
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<td>(1-4 Family) Building</td>
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<td>Contents</td>
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<td><strong>Other Residential</strong></td>
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<tr>
<td></td>
<td>Building $100,000</td>
<td>$250,000</td>
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<tr>
<td><strong>Non-Residential</strong></td>
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<td>Building $100,000</td>
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</tr>
<tr>
<td></td>
<td>Contents $100,000</td>
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</tbody>
</table>

### What is acceptable proof of coverage?

- Copy of flood insurance application AND premium payment
- OR
- Copy of the declarations page

**NOTE:** The NFIP does not recognize binders. However, it does recognize certificates of property insurance or evidence of insurance forms provided for renewal policies that meet specific criteria.
Certificates of Property Insurance/ Evidence of Insurance Forms

• **Acceptable for renewals if they include:**
  - Policy Form/Type (GP, DP, RCBAP, PRP)
  - Policy Term
  - Policy Number
  - Insured's Name and Mailing Address
  - Property Location
  - Flood Risk Zone
  - Grandfathered Y/N
  - Mortgagee Name and Address
  - Coverage Limits, Deductibles
  - Annual Premium
  - For RCBAP – include number of units and RCV of building

Source: NFIP Flood Manual, page GR 8

Land Not Insurable
How much coverage?
Lesser of the following:

- Outstanding Principle Loan Balance
- Maximum available through the NFIP
- Insurable value of the building*

*Federal Register (Oct 2011)- Interagency Q & As Regarding Flood Insurance

Land Loan Only

- No building or improved real property - No requirement
- Subsequent development
  - Real Property of nominal value
  - Exclude building as part of the security to avoid requirement
Low-Value Building on High-Value Land

• Value of land alone sufficient to secure the loan
• If the land has a building on it, lender must require insurance
• Cannot insure in excess of the value of the insurable building

Buildings in Course of Construction

What are the Guidelines?

• If structure is or will be built in an SFHA
• Flood Insurance MAY be purchased
  ▪ Option 1: At time loan is made
  ▪ Option 2: When actual construction begins
Buildings in the course of construction (continued)

• Can be insured before construction begins
• Elevation certificate is based on constructions drawings (blueprints)
  ▪ Once the lowest floor for rating is in place, a new elevation certificate must be obtained

What about Manufactured Homes?

• Are or will be located in a SFHA
• Placement of Manufactured Home is unknown
  ▪ Borrower notice requirements do not apply
• Upon placement
  ▪ Determination must be made
  ▪ Borrower must then be notified
  ▪ If in a SFHA, flood insurance must be required
Personal Property / Contents

- Contents is not required unless in addition to building, contents secures the loan
- Residential mortgages – contents not required
- Commercial Inventory – only if building is in SFHA and building is used as security
- Weigh your risk exposures

Home Equity and Second Mortgages

- Required regardless of lien priority

- Negligence by Primary Lienholder requires Secondary Lienholder to obtain ENTIRE outstanding loan balance.
Prior to Loan Closing

- Zone Determination
- Notify Borrow of Insurance Requirement
- Obtain Policy for Closing

Notice Requirements

- When a bank makes, increases, extends, or renews a loan secured by a building or mobile home located or to be located in a special flood hazard area...
  - The bank shall mail or deliver a written notice to the borrower and servicer in all cases whether or not flood insurance is available under the Act for the collateral securing the loan.
    - Notice to borrower cannot be re-used.
    - Notice must be provided a “reasonable” time prior to closing.
      - Reasonable is generally regarded as 10 days
Notice Requirements

*Note from Interagency Q&A Preamble:*

What constitutes reasonable notice will necessarily vary according to the circumstances of particular transactions. Regulated lending institutions should bear in mind, however, that a borrower should receive notice timely enough to ensure that:

1. the borrower has the opportunity to become aware of his/her responsibilities under the NFIP
2. the borrower can purchase flood insurance before completion of the loan transaction.

Mandatory Purchase Guidelines

*New Addition to the 2007 Edition*

Created two Sample Forms of Notice of SFHAs and availability of Federal Disaster Assistance in Appendix 4.

- Loan in a non-participating community
- Loan in a participating community
Standard Flood Hazard Determination Form (SFHDF)

- Not a substitute for the borrower notification form
- Providing copy to borrower is encouraged to reduce zone discrepancies
- Electronic form is acceptable

Can the SFHDF be reused?

- May re-use when increasing, extending, renewing or purchasing a loan
- Cannot be reused when making a new loan
- Exceptions: Refinancing or assumption by same lender who obtained original determination and multiple loans to the same borrower only if:
  - It is less than 7 years old
  - No new or revised maps have been issued since
Multiple buildings

- Separate determinations for multiple buildings?
- One policy per building
- Are all buildings covered with flood insurance?
  - Pool houses
  - Barns
  - Storage buildings, etc.

Waiting Period and Exceptions

Also see Appendix 6

- 30-days*
- 1-days
- 0 days

General Rule: Use map in effect at time of application and presentment of payment
Introduction to Lender Compliance

Escrow Requirements

• If escrow is required for flood insurance, then escrow is required for flood insurance.

• Escrow exclusions:
  - Voluntary escrow
  - Lender termination of an escrow account

When to force-place?

• Lender determines at any time during the life of the loan that property securing the loan is located in SFHA;
• Flood insurance is available;
• Flood insurance is inadequate or does not exist; and
• After required notice, borrower fails to purchase appropriate amount of coverage.

Send 45-day letter

Allow time for borrower to purchase flood insurance

Force-Place
Introduction to Lender Compliance

Exceptions

- State-owned property

- Small loan
  - Original loan balance $5,000 or less, AND
  - Within 1 year or less

Section D

Condos, Coops and Timeshares
Condominiums

- Condominium Associations

- Residential Condominium Building Association Policy
  - Evidence of compliance
  - Coverage
  - Coinsurance Provision

Condos and Coverage Forms
Introduction to Lender Compliance

Residential Condominium Building Association Policy (RCBAP)

- Insures a residential condominium building owned by a condominium association.
- If insured to at least 80% of its replacement cost value at the time of loss or max limit there is no coinsurance penalty.
- RCBAP automatically provides Replacement Cost (RC) loss settlement for the building elements.

RCBAP

Maximum Amount of Insurance

- The maximum available building coverage is the replacement cost value of the building and its supporting structure or up to $250,000 per unit times the number of units, whichever is less.
Residential Condominium Building Association Policy (RCBAP)

- Insures a residential condominium building owned by a condominium association.
- If insured to at least 80% of its replacement cost value at the time of loss or max limit there is no coinsurance penalty.
- RCBAP automatically provides Replacement Cost (RC) loss settlement for the building elements.

RCBAP
Revisions to RCBAP Documentation as of 10/01/07

- Number of units in structure
- Statement of Replacement Cost
- Dec page evidence of compliance
Introduction to Lender Compliance

RCBAP

- Clarifies co-insurance penalties and loss assessments.

Example of RCBAP Coinsurance Penalty

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<td>$10,000,000</td>
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<tr>
<td>Actual amount of insurance carried</td>
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<td>Amount of loss</td>
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<td>Loss settlement (before deductible)</td>
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Example of Adequate Amount of Insurance, Avoiding RCBAP Coinsurance Penalty

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<tr>
<td>Loss settlement (before deductible)</td>
<td>$6,000,000</td>
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</table>

Dwelling Policy Form
Covers the Residential Unit Owner

- Insures a single family dwelling unit in a condominium building or a non-condominium 1-4 family dwelling.
- A condominium unit in a townhouse, rowhouse, high-rise or low-rise building is considered to be a single family dwelling.
- Maximum limits - $250,000 building & $100,000 contents.
Introduction to Lender Compliance

General Property Form
Covers Non-Residential Condo Associations

- Occupied less than 75% residential and not eligible for RCBAP.
- Maximum limit of $500,000 per building.
- The General Property Form provides Actual Cash Value coverage that includes a deduction for depreciation and Replacement Cost coverage is not available.

Coops and Timeshares

- Cooperatives
  - Ownership is not shared
  - Owner purchases General Property Policy
- Timeshares
  - Fee or real-estate ownership
    - Similar to condominium
  - Non-fee interest, such as right-to-use
    - Building owner can purchase a flood policy through a General Property Policy form
Section E

Key Provisions

Tripwires

• Loan Activity
  ▪ Remember M-I-R-E

• Loan Transfer or Purchase
  ▪ Not considered a New Loan
  ▪ Mandatory Purchase Requirement does not apply
  ▪ GSEs have set their own rules

• Portfolio Review
  ▪ Encouraged but not required
Private Flood Insurance

• Sometimes an NFIP policy is not available for all risks
• In lieu of an NFIP policy, six (6) FEMA criteria should be met:

1. Insurer must meet state department of insurance requirements
2. Surplus Lines insurer must be recognized by state department of insurance
3. Insurer must give 45-Day Cancellation/Non-Renewal Notice
4. Must be at least as broad as the NFIP policy
5. Must contain similar NFIP mortgage interest clause
6. Provide the same legal recourse as NFIP if claim is denied

Regulatory Overview

• Regulatory Examinations
  ▪ Review an institution’s practices dealing with flood insurance
  ▪ Proof of the Notice to Borrower form
  ▪ Observe timing requirements of notices
  ▪ Verify if the proper amount of coverage
  ▪ Check map change procedures
  ▪ Confirm force placement methods
Regulatory Overview (cont’d)

• Regulatory Penalties
  ▪ Failure to:
    • Place Insurance
    • Escrow flood insurance premium
    • Provide notice requirements
    • Force place insurance
  ▪ Looking for a “pattern or practice of committing violations”

Lender Training

www.nfipiservice.com/training
http://fema.webex.com

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