



## Federal Insurance and Mitigation Administration

### Sandy Claims Review Division Update

**June 30, 2017**

Beginning in March 2015, the Sandy Claims Division, formerly known as the National Flood Insurance Program (NFIP) Transformation Task Force, reached out to nearly 144,000 policyholders that filed Hurricane Sandy claims and provided an opportunity for all claims to be re-reviewed. The deadline for a policyholder to submit an NFIP flood claim through the Hurricane Sandy Claims Review program was October 15, 2015.

In total, FEMA received **19,440** requests from policyholders for their original Hurricane Sandy claim to be reviewed. To protect their personal information, FEMA complied with the federal [Privacy Act \(5 USC 552a\)](#) and required all NFIP policyholders in the Hurricane Sandy Claims Review to provide written documentation to verify their identity.

As of **June 30, 2017, 97.8 percent, or 19,004**, of policyholders who requested a review have received the results. When a policyholder receives the Results of Review, there are two options: a policyholder can accept the recommendations and sign the proof of loss, or request a Neutral Review which is conducted by a third-party such as a retired judge or an independent attorney.

While not every reviewed claim resulted in a determination of underpayment, all claims were carefully reviewed, and many policyholders are receiving additional payments for eligible items. As of **June 30, 2017**, FEMA has closed **16,351** claims in which policyholders have accepted an offer and signed proofs of loss. Nearly **83.3 percent** of the closed claims have received additional payments totaling **\$249,851,837**. The remaining **16.7 percent** of closed claims received no additional payment.

#### **Third-Party Neutral Review – Updated**

If a policyholder does not agree with the Results of Review recommendation, they may opt for an additional Neutral Review. If a policyholder decides on this course, a written request is required. On June 30, 2017, FEMA announced that for any outstanding claims in the Sandy Claims Review process where the policyholder desires a Neutral Review, the Neutral Review must be scheduled by August 1, 2017 and the oral presentation must be concluded on or before September 30, 2017.

Any Neutral Review that is not completed by September 30, 2017, or that is rescheduled more than one time (per prior guidelines) will only be eligible for a review based upon the documentation submitted, and JAMS will issue a recommendation to FEMA based on the content of the file.

After August 1, FEMA will not schedule a request for an oral presentation as part of a Neutral Review. The policyholder does have an option to request a “document review” and summarize in an email any issue not previously addressed in the current claims file. A “document review” must be requested by August 31, 2017.

As of **June 30, 2,100 policyholders** have chosen a Neutral Review, with **846** completing their Neutral Review.

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A Neutral Review request can take additional time if a policyholder requests a copy, or any part, of the file. The document must go through a redaction process to comply with the federal [Privacy Act and Freedom of Information Act](#). The neutral reviewer – as a contractor of the government – does not have the ability to direct payments or bind FEMA to any particular result that requires payment of government funds.

FEMA must ensure that the neutral’s recommendation aligns with statutory requirements, regulations, FEMA policy, and the Standard Flood Insurance Policy (SFIP). When the finding by the third-party neutral complies with agency regulations and policy, FEMA may adopt the recommendation by the neutral reviewer and authorize the recommendation for additional payment. More information about the “Sandy Claims Neutral Review Process” is available online at [www.fema.gov/media-library/assets/images/127741](http://www.fema.gov/media-library/assets/images/127741). NFIP-certified adjusters are focused on ensuring they have the necessary information to review submitted claims. They reach out to each policyholder assigned to provide status updates, seek additional documentation if warranted, and to answer policyholder questions.

### **Litigation**

The standard practice for a policyholder dissatisfied with an NFIP payment recommendation after a disaster is to either file an administrative appeal with FEMA or file a lawsuit in U.S. District Court. Following Hurricane Sandy, some policyholders did both. Nearly 2,000 Sandy flood insurance litigation cases were filed against NFIP insurers in the Federal District courts of New York and New Jersey. When the former NFIP Task Force formed in March 2015, FEMA worked with the courts through mediation efforts to settle these cases. Of the **1,633** eligible cases, **1,631** cases have been settled, with checks issued totaling **\$164,320,515** as of **June 30, 2017**.

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<b>Sandy Claims Review Data (June 30, 2017)</b>	<b>Number</b>
<b>Claims in Sandy Claims Review</b> Total claims entered into review process	<b>19,440</b>
<b>Results of Review Ready (cumulative)</b> Adjuster has reviewed the claim and has held, or is ready to hold, a Results of Review discussion with the policyholder.	<b>19,436</b>
<b>Results of Review</b> Adjuster has notified policyholder of the claim review results.  Total claims paid or payments proposed to policyholders: <b>16,142</b> Total claims closed and claims with no additional payment proposed: <b>2,862</b>	<b>19,004</b>
<b>Total payments proposed to policyholders to date</b>	<b>\$249,851,837</b>
<b>Claim files closed</b> After all claim review and payment activities are completed, the claim file is closed. Includes: claims with additional payment, claims voluntarily withdrawn and claims closed without additional payment ( <b>2,726</b> )	<b>16,351</b>
<b>Policyholders with closed, paid claims</b>	<b>13,625</b>
<b>Total payments accepted by policyholders to date</b> Policyholder signs Proof of Loss. FEMA directs the insurance company to process payment for building coverage, contents coverage, or both.	<b>\$217,320,492</b>
<b>Remaining claims to be reviewed</b>	<b>4</b>
<b>Sandy Neutral Review Data (June 30 2017)</b>	<b>Number</b>
<b>Total Files Received by Neutral Review Operations Group</b>	<b>2,099</b>
<b>Total Files Completed Neutral Review</b>	<b>846</b>
<b>Final Agency Decision Concurs with Neutral Reviewer's Recommendation</b>	<b>804</b>
<b>Final Agency Decision Does Not Concur with Neutral Reviewer's Recommendation</b>	<b>31</b>
<b>Total Neutral Review Upheld but with Additional Payment Identified by FEMA</b>	<b>11</b>
<b>Total Additional Payments from Neutral Review</b>	<b>\$15,368,544.30</b>

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# National Flood Insurance Program (NFIP) Transformation

## Summary of Changes

FEMA's top priority is to support disaster survivors and help communities recover from the devastating effects of disasters. FEMA is making significant improvements to the National Flood Insurance Program (NFIP) to continue to accomplish this mission and to better serve policyholders who experience loss from flooding.

FEMA has implemented several changes in how the NFIP operates, with a focus on the customer experience and greater oversight of the Write Your Own (WYO) insurance companies. Our vision for reform is a broad effort that emphasizes the principles of trust, predictability, value, and choice for the policyholder.

The Sandy Claims Review Division focused on improvements to the NFIP that included the need for increased oversight of the program; enhanced education and training; strengthened data gathering and analysis capabilities; and, improved customer experiences.

In May 2016, FEMA published in the Federal Register a [Notice of Proposed Rulemaking](#) to remove the Financial Arrangement between FEMA and the Write Your Own (WYO) insurance companies from the NFIP regulations in order to make changes without going through the rule-making process. After a public comment period, this [Final Rule](#) became effective on December 23, 2016.

FEMA is overhauling and realigning our entire organization to improve the customer experience. For example:

- The toll-free FEMA Registration Hotline provides customers direct access to the NFIP if they are having trouble with their claim, adjuster, or engineer. This one-to-one service improves the customer experience and serves as an “early warning system” for FEMA to become aware of problems sooner, so we can take action to address them.
- In some disaster operations, the NFIP establishes a field office, known as a Flood Response Office (FRO), to provide technical support to adjusters operating in the affected area. Being onsite with state insurance officials allows NFIP representatives to have immediate, direct visibility on daily flood-related activities. These NFIP experts also provide a unique perspective of the customer experience and help facilitate the relationship between policyholders and their flood insurance adjusters.
- FEMA established an oversight team to work closely with the NFIP to address standard billing practices provide litigation-related advice and concur on litigation settlements on NFIP cases when asked by a WYO company.

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## National Flood Insurance Program: Summary of Improvements

Fall 2015	The National Flood Insurance Program (NFIP) implemented advance payments of up to \$10,000 pre-inspection to put money quickly into the hands of policyholders to enable them to start the process of recovery.
February 2016	FEMA created an Appeals Branch with insurance specialists, program analysts and staff attorneys to resolve policy disputes on administrative appeal. This provides all policyholders the opportunity to explain and confirm any issues raised through an appeals process. FEMA reviews the documentation and issues a decision.
March 2016	At FEMA’s request, the <a href="#">Office of Inspector General (OIG)</a> conducted an audit that concluded that the agency does not provide adequate oversight of the National Flood Insurance Program (NFIP). FEMA concurred with each of the seven recommendations for improvement in the audit report.
May 2016	FEMA also announced steps to control legal costs associated with flood insurance-related litigation. When a policyholder sues a WYO Company as a fiscal agent of the United States, the company is responsible to its insured and taxpayers to defend the litigation in a cost-effective and appropriate manner. FEMA reimburses insurance companies that service flood insurance for all reasonable litigation expenses.
October 2016	FEMA published clarification for WYO companies about the listing of third parties on a payment check that is not in litigation. This program <a href="#">bulletin</a> lays out the procedures a third party must follow to be included as a payee. The manner in which a flood insurance claim payment is issued, including the payees on a check, is governed exclusively by applicable federal laws and regulations, and the terms of the Standard Flood Insurance Policy (SFIP), and must comply with the Assignment of Claims Act.
November 2016	FEMA clarifies guidance to Write Your Own Companies about third-party check endorsements. After FEMA and the policyholder reach an agreement on the results of the claim review, and if the review indicates additional payment, FEMA directs the NFIP insurer to issue a check in the name of the policyholder, including any loss payee. By law, FEMA must include on checks the names of those with secured interests at the time of loss, such as a mortgage company or the U.S. Small Business Administration. The policyholder is responsible for negotiating with lienholders regarding the distribution of funds.
December 2016	Due to significant delays in the Neutral Review process, FEMA modified the necessary requirements for a review to occur. When a policyholder requests a Neutral Review, this signifies that documentation is included for the review to occur on the presented information.
December 2016	In spring 2016, FEMA published a <a href="#">Notice of Proposed Rulemaking</a> in the Federal Register that proposed removing a copy of the current Financial Arrangement between FEMA and the Write Your Own (WYO) insurance companies from the NFIP regulations. This proposed rulemaking change allows FEMA in the future to make revisions and updates to an outdated WYO Arrangement. After a public comment period, the <a href="#">Final Rule</a> became effective on December 23, 2016.

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