FEMA

Flood Insurance and the Grandfathering Rule

New Flood Maps; New Insurance Requirements

The Federal Emergency Management Agency's (FEMA's) current nationwide flood hazard remapping effort, Risk Mapping, Assessment, and Planning (Risk MAP), builds on the success of FEMA's Flood Map Modernization program. Risk MAP is updating current flood hazard maps resulting in more accurate Flood Insurance Rate Maps (FIRMs) that reflect current flood risk. During this process, residents and business owners may find that their current flood risk has changed and in some cases a property may be mapped into a lower-risk zone. For others, a property's risk may change from a moderate- or low-risk area to a high-risk area, making flood insurance mandatory by most lenders. Other changes could include a change in high-risk area designation (e.g., from a zone beginning with the letter "A" to a zone beginning with the letter "V") or a change in the Base Flood Elevation (BFE).[1]

If a property is mapped into a higher risk zone, or if the BFE changes, the flood insurance premium could increase. Property owners need to understand their options following changes to their community's FIRM. One of their options might be "grandfathering," which is a National Flood Insurance Program (NFIP) rule that was created in order to recognize property owners who carried a policy before the maps became effective or built to the correct standards relative to the flood map in effect at the time of construction. This rule,along with other NFIP rules, can result in significant cost savings to policyholders compared to a potentially higher premium rate that results from a flood map revision.

Low-Cost Policies Extended for Two Years

With past flood hazard map changes, FEMA required a flood insurance policy for properties mapped into a high-risk area to be rated using the new flood risk zone, unless it was grandfathered. One method for property owners to grandfather was to purchase an NFIP low-cost Preferred Risk Policy (PRP) before the new FIRM became effective. At renewal, the

Staying Informed

Knowing when and where map changes are occurring will help you understand what insurance options are available. FEMA provides updated monthly listings of all communities that have received a Letter of Final Determination (LFD), a document that states that a flood risk map will become effective in six months.[2]

LFD Listings:
http://www.fema.gov/plan/prevent/fhm/st_hot.shtm#2

Risk MAP:
http://www.fema.gov/plan/prevent/fhm/rm_main.shtm

Rating Using the Grandfather Rule:
http://www.fema.gov/business/nfip/manual.shtm

Flood Insurance:
http://www.floodsmart.gov

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policy could be rewritten using standard rates, but would still be based on the grandfathered lower-risk zone.

The resulting premium would typically be lower than using the updated map's higher-risk zone rating, though it would be higher than the previous PRP premium. Recognizing the financial burden that this may place on affected property owners, starting January 1, 2011, FEMA is extending the eligibility to write the PRP for two policy years after an updated flood map's date. Consequently, the ability to grandfather in a flood zone for future rating for a property newly mapped into a high-risk area has been extended for two years.

Pre-FIRM Buildings Have One Opportunity

A pre-FIRM building is one that was constructed prior to the date of the community's first FIRM. In most cases, owners of pre-FIRM buildings have just one opportunity to use the grandfathering rule, which is to purchase a policy before the updated FIRM becomes effective The exception is a pre-FIRM building that is newly mapped into a high-risk area. If it qualifies for a PRP, the property owner has up to two years from the new map's effective date to purchase a PRP to then grandfather in the lower risk zone for future rating. In either instance, to maintain the grandfathered zone, the policy must stay continuously in effect. Continuity of coverage can be maintained even if the building is sold, as the policy can be assigned to the new owner.

Post-FIRM Buildings Have Two Opportunities

Buildings constructed after the effective date of the initial FIRM (known as post-FIRM structures) have two opportunities to apply the grandfathering rules:

- Purchase a policy before the FIRM becomes effective and lock in the zone or BFE for future rating (as described above for pre-FIRM structures); or
- Purchase after the updated FIRM is effective, but provide evidence that the building was built in compliance with the FIRM in effect at the time of construction (note to grandfather in a flood zone for post-FIRM properties newly mapped into a high-risk area, the two-year extension for PRP eligibility also applies, so this opportunity to grandfather applies after the two-year PRP period).

If a post-FIRM building was constructed in compliance with the FIRM in effect at the time of construction, the owner is eligible to obtain a policy using the zone and the BFE from that FIRM if it results in a lower insurance rate. To do so, the building cannot have been altered in a way that resulted in a floor being lower than the BFE on that FIRM (e.g., enclosing the area below an elevated building) and the building cannot have been substantially improved or damaged.[3] The property owner must also provide proper documentation to the insurance company or agent that shows:

- The date of the FIRM
- The flood zone on the FIRM panel in which the property is located
- The BFE, if any, for that zone
- A copy of the map panel showing the location of the building; and
- The rating element that is to be grandfathered; or
- A letter from a community official verifiying this information or an Elevation Certificate.

Note that continuous coverage is not required to maintain this rate and this method of grandfathering can be used at any time after the new FIRM becomes effective.

Use the Best Rate

Sometimes using the data based on the new FIRM will provide a better rate than grandfathering. Both options should always be explored, but always use the new map if it will provide a more favorable premium (lower rate).

[1] The height to which floodwater has at least a 1-percent chance of reaching in any given year.
[2] Assuming that the community passes an ordinance that adopts the new flood maps before the proposed effective date of the map.
[3] A structure is considered substantially damaged if the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantially improved refers to any improvement of a structure where the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement.

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