NFIP Grandfathering Rules: *Know Your Options*

Background

Flood risks can change over time. Water flow and drainage patterns can change dramatically because of surface erosion, land use, and natural forces. Likewise, the ability of levees and dams to provide the necessary protection can change. As a result, the flood maps for those areas may no longer accurately portray the current flood risks. To reflect the most current flood risks, the Federal Emergency Management Agency (FEMA) is updating the nation's flood maps using the latest data gathering and mapping technology. New flood maps (known as Flood Insurance Rate Maps, or FIRMs) are being issued nationwide.

When the new flood maps become effective, some residents and business owners will find that their property's flood risk has changed. Some will find that their building is mapped into a high-risk flood zone (known as a Special Flood Hazard Area (SFHA) and noted on the flood maps with the letter beginning with "A" or "V"). If there is a mortgage on the property through a federally regulated or insured lender, they will be required to purchase flood insurance. Others will find that the Base Flood Elevation (BFE) for the property has increased. Either of these changes could result in higher flood insurance premiums.

Preferred Risk Policy Eligibility Extension Option

As of January 1, 2011, buildings that are newly mapped into a high-risk flood zone are eligible for a lower-cost Preferred Risk Policy (PRP) for two years from the map revision date.

As of January 1, 2013, that eligibility period has been extended another year at renewal by FEMA until further notice.

What is the Grandfathering Rule?

When flood map changes occur, the National Flood Insurance Program (NFIP) provides a lower-cost flood insurance rating option known as "grandfathering." Grandfathering is available for property owners who:

- have a flood insurance policy in effect when the new flood map becomes effective and then maintain continuous coverage, or
- have built in compliance with the FIRM in effect at the time of construction.

The results of grandfathering may provide cost savings to a property owner when the new map takes effect. However, there will be cases when using elevation rating with the new flood map may result in lower premiums than grandfathering. So, both options should always be evaluated.

Timing is also important as most pre-FIRM buildings have only one chance to grandfather and lock in the existing zone for future rating. For pre-FIRM properties already in an SFHA and being mapped into a higher risk zone (e.g., Zone AE to Zone VE), the last chance to qualify for grandfathering is buying a policy ***before*** the new flood map becomes effective. For pre-FIRM properties being mapped into an SFHA for the first time (e.g., Zone X to Zone AE) and *that do not qualify for a PRP*, a policy must be in place ***before*** the new flood map becomes effective for grandfathering. As of January 1, 2011, buildings newly mapped into a high-risk zone and that *do qualify for a PRP* may be rated up to two-years as a PRP. Starting January 1, 2013, FEMA has extended this eligibility period another year until further notice.

It is important to remember that if a building has been substantially damaged or improved, it is not eligible to be grandfathered to the flood map that was in effect at the time of the building's original construction date. The map in effect at the time of the last substantial improvement or damage must be used.

Below are conditions and examples of applying grandfather rules:

PRE-FIRM (CONSTRUCTION PRIOR TO THE DATE OF THE COMMUNITY'S INITIAL FIRM OR PRIOR TO JANUARY 1, 1975)

1. If a policy was obtained prior to the effective date of a map change, the policyholder is eligible to maintain the prior zone as long as continuous coverage is maintained. The policy can be assigned to a new owner at the option of the policyholder.

   Example A: A house was built in 1974 and the community's first FIRM was 1986. When the insured's policy was written, the structure was in Zone A. As a result of a 2013 map revision, the new flood zone is Zone VE. As long as there was no interruption in coverage, and there has been no substantial improvements or damage, the customer's policy can continue to be rated using pre-FIRM Zone A rates.

   Example B: A house that was built in 1983 was mapped into Zone X in the community's first and only FIRM in 1984. In anticipation of the upcoming new flood maps, the homeowner purchased a standard-rated policy (due to loss history it did not qualify for a PRP) 30 days before the new FIRM's effective date of November 1, 2011. Consequently, when the standard-rated Zone X policy came up for renewal, it would then be renewed using standard Zone X rates. At subsequent renewals, coverage would then have to be continuously maintained in order to keep using the Zone X rates.

2. If a policy was obtained prior to a map revision, but then the building was substantially improved, the building must be re-rated using the FIRM that was in effect at the time that the substantial improvement occurred.

   Example: A house was built in 1968 and the community's first FIRM was 1976. When the insured's policy was written, the pre-FIRM structure was in Zone AE. As a result of a 2009 map revision, the new flood zone is a Zone VE. In 2013, the property owner completely renovated the building. As a result of the substantial improvement, grandfathering will not be an option for this policyholder. The property owner will now be required to use the Zone VE rates, and the year of construction will change to 2013. The building now must be rated as post-FIRM.

Pre-FIRM Exception: If the community's first FIRM was effective *prior* to January 1, 1975, and a building has not been substantially damaged or improved since its original construction, the rates can be based on the FIRM zone and/or the BFE on the FIRM in effect at the time of construction (i.e., it can be treated like a post-FIRM structure) if construction is after the initial FIRM date, but before January 1, 1975. In this case, proper documentation must be provided. In all other instances, new policies for pre-FIRM buildings must use the FIRM in effect when the coverage is applied for.

> **Example:** A small office building is built in 1974; the community's first FIRM was 1971. It is located in a Zone B, behind a levee. In 2011, a new FIRM becomes effective showing the levee as no longer providing the required protection ("de-accredited"), placing the structure into Zone AE. The property owner decides not to purchase flood insurance as there is no mortgage on the building. Three years later, the building is sold and the new owner's lender requires flood insurance. Even though the building is technically classified as a pre-FIRM structure, the Zone B can be grandfathered for rating as there was a FIRM in effect at the time of construction (see POST-FIRM below).

POST-FIRM (CONSTRUCTION ON OR AFTER THE DATE OF THE COMMUNITY'S INITIAL FIRM)

Post-FIRM buildings have two opportunities to have a previous zone or Base Flood Elevation (BFE) grandfathered. The simplest way, and avoid having to provide additional documentation, is the continuous coverage option where a policy is obtained prior to the effective date of a map change so that the policyholder is eligible to maintain the prior zone and/or base flood elevation as long as continuous coverage is maintained (Example A). If coverage is not purchased before the new effective date of a map, a building can still be grandfather-rated by providing the proper documentation to show it was built in compliance as of the date of construction (as long as there has been no substantial improvement or damage since its construction; see Example B). In either example, the policy can be assigned to a new owner at the option of the policyholder.

Example A (Continuous Coverage): In 1986, a house was built in an Unnumbered Zone A with no estimated BFE. The community's first FIRM was issued in 1978. There was no mortgage on this Post-FIRM building, and the property owner did not initially purchase flood insurance. In 1994, the zone changed to Zone AE with a BFE of 10. The property owner applied for a loan soon after, and the lender required flood insurance on the building. Insurance was applied for and an Elevation Certificate submitted with the Flood Insurance Application indicated that the lowest floor was constructed at the current BFE. The policy was issued using the new map, because it provided a more favorable rate than the Unnumbered Zone A in effect when the house was built. In 2010, another map revision occurred and the house remained in the Zone AE, but the BFE increased to 11. As long as there was no interruption in coverage and no substantial improvement or damage, the property owner's policy can continue to be rated using the BFE of 10 in the Zone AE, at each subsequent renewal.

Example B (Built in Compliance): A small restaurant was built in 2001 in a Zone AE. The community's first FIRM was in 1993 and was still in effect on the date of construction. The BFE was 10 feet on the 1993 FIRM and the lowest floor elevation (LFE) was 11 feet, resulting in a +1 elevation difference for rating. A new FIRM for the community became effective in 2011. The building remained in Zone AE, but the BFE became 12 feet, resulting in an elevation difference of -1 foot. Since the building has not been altered, and was in compliance when constructed, it can remain being rated using +1 elevation difference.

SUMMARY

When a map change is approaching, it is important to remember that most pre-FIRM structures have but one chance[1] to lock in the current flood zone for future rating which is before the new maps become effective; that policy then needs to be renewed each year. The benefits of the grandfathered zone can always be transferred to the new owner if the building is sold. Post-FIRM buildings have two chances to lock in the BFE and/or flood zone[1] – before the maps become effective or after the effective date, but with the proper documentation. Continuous coverage is not required. If, however, a building is substantially damaged or improved, grandfathering of previous zones or BFEs can no longer can be applied.

Grandfathering Premium Saving Examples[2]

The NFIP's grandfathering provision often offers a premium savings to property owners. The examples below will show how an agent can utilize a variety of cost saving options available through the NFIP. To simplify the examples, potential annual premium increases were *not* applied to any of the premiums. Note that examples related to properties newly mapped into high-risk zones are not provided here as those would utilize the Preferred Risk Policy Eligibility Extension rating option, including the additional extension which becomes effective January 1, 2013.

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[1] For buildings newly mapped into an SFHA and qualify for PRPs, the building should be rated using the PRP Eligibility Extension option.

[2] Premiums are based upon $200,000 in building coverage and $80,000 in contents, using standard deductibles and **October 2012** rates for a single-family residence, one-floor, without a basement.

EXAMPLE 1:

A home was constructed in 1974. The first (and current) FIRM became effective in 1984 and mapped the home into a Zone C. A new FIRM will become effective on March 1, 2013 and the property will be mapped into Zone A. The home is considered a pre-FIRM building, and due to losses on a previous policy that is no longer in effect, it is not eligible for a PRP. If no standard-rated Zone X policy is purchased before the map's effective date, the building *will not* qualify for grandfathering; a Zone A rate will be used and the annual premium will be $2,643.

However, if a policy is purchased before March 1, 2013, the property will be eligible for grandfathering. By purchasing a policy before the maps become effective, the homeowner will pay $1,584. Compared to the non-grandfathered Zone A-rated premium, grandfathering results in savings of more than $1,000 a year.

EXAMPLE 2:

A community's first FIRM was issued seven years ago. A home was built a year later in a Zone X. The original homeowner carried a Preferred Risk Policy but due to losses the building is no longer eligible for the PRP. Now, new FIRMs are being issued that will place it in Zone AE. The property owner purchases an elevation certificate after the new map takes effect, and the survey indicates that the lowest floor is 2 feet above the BFE. If the property owner purchases a policy using Zone X standard rates ($1,584), the building can be grandfathered using Zone X for rating in subsequent years. However, by using the new maps, elevation rating would actually provide additional savings, as the premium for an elevation difference of +2 is only $570. So, by using the new FIRM information to rate would result in premiums that are less than half the grandfathered premium and a savings of more than to $3,00 in 3 years.

EXAMPLE 3:

A home was built in Zone AE in 1995; the community's first FIRM was issued in 1991. The difference between BFE and LFE was +1 foot. When the new FIRMs became effective, the BFE increased 2 feet, so that the elevation difference was now a -1 foot. The property received a notice requiring flood insurance. The premium calculated out to be $5,042. However, because it was a post-FIRM structure, it could be grandfathered using the previous BFE. This resulted in a premium of $810 or a savings of more than $12,000 over the next 3 years.

Additional Resources

The following are resources regarding map changes and grandfathering:

- NFIP Help Desk: 1-800-427-4661
- Rating using the Grandfather Rule or Preferred Risk Policy Extension: www.fema.gov/pdf/nfip/manual
- Information about effects of mapping changes and a status of mapping projects nationwide: Agents.FloodSmart.gov
- FEMA's consumer site about flood insurance and PRP Eligibility Extension: www.FloodSmart.gov
- View and print current and past (historic) flood maps for grandfathering: msc.fema.gov
- Flood hazard mapping questions, contact the FEMA Map Information eXchange (FMIX): 1-877-336-2627
- Information about FEMA's latest efforts in updating the flood maps: www.fema.gov/rm-main
- For more information on substantial damage and substantial improvements: www.fema.gov/library/viewRecord.do?id=4160