
New Flood Maps and Insurance Grandfathering

FEMA and the State of Washington, as a FEMA Cooperating Technical Partner, are modernizing flood maps throughout the State, a process that is underway and is scheduled for completion in 2009. All of the new maps will be produced in a digital format that will be much more useful for local governments and citizens, though paper maps will continue to be produced. Most of these maps will not be derived from new hydrological and hydraulic engineering studies (H&H) in view of budget limitations, but all will be provided in the digital format that will include new base mapping, new topography where possible, elevations based on the North American Vertical Datum, and will be produced as a single map series for counties including all of their cities and towns. Because the new maps will in many cases produce floodplain boundaries that will differ from present boundaries, what does this mean in terms of flood insurance rating?

Typical Changes. Typically, there will be properties that formerly were outside of the 100-year floodplain, such as in a B, C or X Zone, that now may appear within the 100-year flood zone (A and V Zones). Also, there will be some properties within the 100-year flood zone that may see increases in Base Flood Elevations (BFE) where new H&H is provided through the re-mapping process. Conversely, some properties may be removed from the floodplain due to map changes.

FEMA's Grandfathering Policy and Principles. FEMA allows flood insurance premiums to be determined using the BFE and/or flood zone on the Flood Insurance Rate Map (FIRM) that was in effect when the building was originally constructed. FEMA's definition and policies follow:

Definition of Grandfathering. "An exemption based on circumstances previously existing. Under the NFIP, . . . Pre-FIRM buildings in the Regular Program are [remain] eligible for subsidized flood insurance rates. Post-FIRM buildings in the Regular Program built in compliance with the floodplain management regulations in effect at the start of construction will continue to have favorable rate treatment even though higher base flood elevations or more restrictive, greater risk zone designations result from FIRM revisions."

Everybody is in a Flood Zone. FEMA insurance maps indicate that everybody is in a flood zone, as follows:

- A, A1-30, AE, AO, AH and V, V1-30, VE Zones: areas of the 100-year flood, also called Special Flood Hazard Areas (SFHA). Insurance & regulations are mandatory.
- B and Shaded X Zones are areas of the 500-year flood or certain other shallow flooding areas. Insurance and floodplain regulations are not mandatory here.
- C and Unshaded X Zones are areas of minimal flooding; insurance and floodplain regulations are not mandatory here.

Continuous Coverage. To recognize policyholders who have maintained continuous coverage, FEMA gives them the option of using the current rating criteria for that property. This will result in a cost savings if the map revision would result in a higher premium rate.

Built in Compliance. To recognize policyholders who built in compliance with the FIRM, the insured has the option of having the premium rate determined by using the BFE and/or flood zone on the old FIRM in effect when the building was originally constructed.

So, What if there is a “Zone Change?” If a property is newly changed from, e.g., a C Zone to an A Zone, though this is not a “zone change” in the context of planning and zoning, here are the ramifications. First, the property will now be required to have flood insurance by a federally-backed lender as a condition of making, increasing, extending or renewing a loan. However, because it was in a C Zone on the effective FIRM at the time of construction, it can be rated using the C Zone rate which will provide cost savings to the insured (the same is true for changes from B and X Zones); such buildings do not have to demonstrate that they were “built in compliance.”

What is a Lender Required to Do in a “Zone Change?” A lender may require insurance for a property newly placed into an A or V Zone if that lender has their map determination company do a check of the revised areas against the lender’s loan portfolio. As mentioned above, a lender must require flood insurance for a property newly placed into an A or V Zone as a condition of making, increasing, extending or renewing a loan that is backed by the Federal Government, such as through the FDIC, National Credit Union Administration and Office of Thrift Supervision. For example, if a person takes out a Home Equity Loan on a structure that had been in a B, C or X Zone but is now in an A or V Zone, that person will be required to purchase flood insurance. If that person can produce the old map showing that he/she was in a B, C or X Zone, the grandfathered rate can be provided (however, grandfathering rules do not apply to the NFIP’s Preferred Risk Policy).

What Happens when Elevations Increase on Existing Floodplain Properties? For existing policyholders in the 100-year floodplain (A and V Zones), there will be no increase in premium when elevations increase, if the coverage is continuous. For an existing building in the 100-year floodplain that does not have continuous coverage, a policy can be rated on the basis of the map that was in effect at the time the building was built regardless of change of ownership, as long as:

- the insured can demonstrate that the building was built in compliance with the map in effect at the time of construction;
- the lowest floor remains the same, i.e., there has been no conversion of space below the lowest floor to habitable space; and
- the building has not been substantially improved (improved over 50% of market value).

These alteration restrictions are not required for older, Pre-FIRM construction (built before the date of the original FIRM) or to risks grandfathered to a B, C or X Zone.

Save those Old Maps. The key to rating buildings built in compliance with old maps is to retain copies of the old maps. For the grandfathered rates there must be documentation that shows:

- The date of the FIRM;
- The zone on that FIRM in which the property is located;
- The Base Flood Elevation (BFE) for that zone (if applicable);
- A copy of the map panel showing the location of the building; and
- The rating element that is to be grandfathered (rate or zone). Evidence supporting the rating element includes documents such as Elevation Certificates.

A letter from the community official verifying this information also is acceptable, as long as the above information is provided.

Map Revisions and the Waiting Period. During the 13-month period following a map revision, there is only a one-day waiting period for insurance to become effective for structures newly placed in the 100-year floodplain (the A or V Zone). The normal waiting period is 30 days.