GRANDFATHERING RULES FOR INSURANCE AGENTS

INTRODUCTION

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 and modernizing the nation's flood maps using the latest data gathering and mapping technology. New flood maps (known as Digital Flood Insurance Rate Maps, or DFIRMs) 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 (noted on the flood maps with the letter beginning with "A" or "V"); and 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 their Base Flood Elevation (BFE) for the property has increased. Either of these changes could result in higher flood insurance premiums.

WHAT IS THE GRANDFATHER RULE?

When flood map changes occur, the National Flood Insurance Program (NFIP) provides a lower-cost flood insurance 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 can 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, and that is **before** the new flood map becomes effective.

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.

The following are conditions and examples of applying grandfather rules and some important facts about Preferred Risk Policies:

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 and Base Flood Elevation as long as continuous coverage is maintained. The policy can be assigned to a new owner at the option of the policyholder.

   Example: 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 an A flood zone. As a result of a 2009 map revision, the new flood zone is a VE zone. 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 A zone 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 structure was in an AE flood zone. As a result of a 1986 map revision, the new flood zone is a VE zone. In 1993, 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 VE flood zone rates, and the year of construction will change to 1993. 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). 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: An office building is built in 1974; the community's first FIRM was 1971. It is located in a B zone, behind a levee. In 2009, a new FIRM becomes effective showing the levee as no longer providing the required protection ("deaccredited"), placing the structure into an AE zone. The property owner is notified 3 months after the new FIRM is effective that flood insurance is now required. Even though the building is technically classified as a pre-FIRM structure, the B zone can be grandfathered for rating as there was a FIRM in effect at the time of construction.

Post-FIRM (construction on or after the date of the community's initial FIRM)

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

   Example: A house was built in 1994 and the community's first FIRM was 1986. When the insured's policy was written, the structure was in an A06 flood zone. As a result of a 2009 map revision, its new flood zone is AE. As long as there was no interruption in coverage and no substantial improvements or damage, the customer's policy can continue to be rated in the A06 zone. However, if an elevation certificate is available, the premium using the AE flood zone information should be compared to that of the A06 to see which provides the lowest premium.

2. If a building was constructed in compliance related to a specific FIRM, the property owner is always eligible to obtain a policy using the zone and Base Flood Elevation (BFE) for that particular map, provided that proof is submitted to the insurance company (refer to the Rating Section of the Flood Insurance Manual, Rating section for acceptable documentation). Continuous coverage is not required.

   Example: A small restaurant was built in 2001 in an AE zone; the community's first FIRM was 1993. The BFE was 10 feet 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 2008. The building remained in an AE zone, 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.

Preferred Risk Policies

Buildings written on Preferred Risk Policies are required to be located in zones B, C, or X on the FIRM in effect when a policy is obtained and following every renewal. A building, which becomes ineligible for a Preferred Risk Policy due to a map change to a Special Flood Hazard Area, can be rewritten on the renewal date to a standard rated policy using the B, C, or X zone. For information about and help in determining the eligibility requirements for this policy, refer to the PRP Section of the Flood Insurance Manual.

Summary

When a map change is approaching, it is important to remember that most pre-FIRM structures have but one chance to lock in the current flood zone for future rating and that policy 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 at the time of construction. 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 SAVINGS EXAMPLES[1]

The NFIP's grandfathering provision does offer 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.

Example 1: A home was constructed in 1974. The first (and current) FIRM became effective in 1984. The new DFIRM will soon become effective and the property will be mapped into Zone AE. It is considered a pre-FIRM building and if they do not grandfather, an AE zone rate will be used and the premium will be $2,171 for flood insurance the first year. However, if a Preferred Risk Policy (PRP) is purchased before the maps become effective[2], they will pay only $326 for the first year. Upon renewal, the PRP will have to be converted to a standard-rated policy and will continue to be rated that way following every renewal. The premium on renewal would be $1,307 (assuming no general rate increases). If continuous coverage was maintained over three years (and again, not applying any rate increases), this would result in a savings of over $3,500.

Example 2: A home was built in an AE zone in 1995; the community's first FIRM was issued in 1991. The difference between BFE and LFE was +1 foot. When the new DFIRMs 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 $5,615. However, because it was a post-FIRM structure, it could be grandfathered using the previous BFE. This resulted in a premium of $777 or a savings of over $13,700 over the next 3 years.

Example 3: A community's first FIRM was issued 6 years ago. A home was built a year later in an X zone. Now, new DFIRMs are being issued that will place it in an AE zone. The property owner has an elevation certificate that places the lowest floor 2 feet above the BFE. If the property is grandfathered, a PRP would be purchased first ($326) and then a policy using a standard X zone rate would be used for subsequent years ($1,307). So, over a two year period, the total premium

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[1] All calculations are based upon $200,000 in building coverage and $80,000 in contents using October 2009 rates.

[2] When grandfathering, a policy can be purchased up to the day before the maps become effective, even though it may become effective after the new FIRM's effective date.

would be $1,633. However, using the new maps for year two onward would actually provide additional savings, as the rate for an elevation difference of +2 is only $548. So the first two year's worth of premium would be just $874, or almost half of the grandfathered rate.

ADDITIONAL RESOURCES

The following are resources regarding map changes and grandfathering:

- NFIP Help Desk- 1-800-427-4661
- Rating using the Grandfather Rule: 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: www.FloodSmart.gov
- View and print current and past (historic) flood maps for grandfathering: msc.fema.gov
- For answers to most flood hazard mapping questions, contact a FEMA Map Specialist at the FEMA Map Assistance Center at 1-877-336-2627
- Information about FEMA's latest efforts in modernizing the flood maps: www.fema.gov/plan/ffmm.shtm
- For more information on substantial improvements: www.fema.gov/plan/prevent/floodplain/nfipkeywords/si.shtm
- For more information about the Georgia Map Modernization Program: www.GeorgiaDFIRM.com