

GRANDFATHERING RULES FOR INSURANCE AGENTS

BACKGROUND

To reflect 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 and their building is mapped into a high-risk flood zone. Such a zone is known as a Special Flood Hazard Area (SFHA) and is noted on the flood maps with a letter beginning with "A" or "V." If there is a mortgage on the property through a federally regulated or insured lender, they will now be required to purchase flood insurance. Others will learn that the Base Flood Elevation (BFE) for the property has increased. Either of these changes could result in higher flood insurance premiums. As an insurance professional, it is important to know what the best option is for your client.

WHAT IS THE GRANDFATHER RULE?

When flood map changes occur, the National Flood Insurance Program (NFIP) provides lower-cost flood insurance rating options: Newly Mapped procedure (see box at right) and "grandfathering" for property owners whose flood risk has increased. This fact sheet will focus on grandfathering, which 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.

While grandfathering will typically provide cost savings to a property owner when the new FIRM takes effect, there may be cases when using the elevation rating with the new FIRM will result in lower premiums than grandfathering. So, both options should always be evaluated.

Timing is important as most pre-FIRM buildings have only one chance to grandfather and lock in the existing zone for future rating. For a pre-FIRM property 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 to buy a policy **before** the new flood map becomes effective. For a pre-FIRM property being mapped into an SFHA for

the first time (e.g., Zone X to Zone AE) that does not qualify for a Preferred Risk Policy (PRP), a policy must be in place **before** the new map becomes effective to qualify for grandfathering.

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.

Newly Mapped Procedure Rating Option

Qualified buildings that were newly mapped into high-risk flood zones are eligible to be rated using the lower-cost Newly Mapped procedure rating option. This option is different than grandfathering and uses the Preferred Risk Policy rates for the first 12 months after a new flood map becomes effective. The rates then will increase no more than 18 percent a year until they reach standard Zone X rates (or rates using the current map's flood zone and/or Base Elevation if that is cheaper for the specific property).

The following are conditions and examples of applying grandfather rules:

Pre-FIRM (construction prior to the date of the community's initial FIRM)

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 2017 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. If the owner sells the house and there is interruption in coverage (i.e., the policy is not assigned to the new owner), then the new owner's policy will be rated using the new FIRM.
- **Example B:** A house that was built in 1983 was mapped into Zone X in the community's first and only

FIRM in 1984. It had two policy claims, one in 1993 and in 1994. In anticipation of the upcoming new flood maps and it being mapped into a Zone AE, the current homeowner purchased a Zone X standard-rated policy (due to the loss history, it did not qualify for a PRP) 30 days before the new FIRM's effective date of November 1, 2016. Consequently, when the standard-rated Zone X policy came up for renewal, it would then be renewed using Zone X standard rates. At subsequent renewals, coverage would then have to be continuously maintained in order to keep using the Zone X rates. If the owner sells this house, the policy and the Zone X rating can be assigned to the new owner.

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 Zone VE. In 2016, the property owner completely renovated the building. As a result of the substantial improvement, grandfathering will not be an option. The property owner will now be required to use the Zone VE rates, and the year of construction will change to 2016. The building now must be rated as post-FIRM.

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 to avoid having to provide additional documentation, is the continuous coverage option. When a policy is obtained prior to the effective date of a map change, the prior zone and Base Flood Elevation can be used for rating 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 damage or improvement since its construction). 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 feet. 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 2016, another map revision occurred and the house remained in the Zone AE, but the BFE increased to 11 feet. 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 feet 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 2016. The building remained in Zone AE, but the BFE became 12 feet, resulting in an elevation difference of a -1 foot. Since the building had not been altered, and was in compliance when constructed, it can continue 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 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 zone³—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 be applied.

³ For buildings newly mapped into an SFHA and qualify for PRPs, the building should be rated using the Newly Mapped option.

ADDITIONAL RESOURCES

The following are resources regarding map changes and grandfathering:

- Rating using the Grandfather Rule: www.fema.gov/flood-insurance-manual
- View and print current and past (historic) flood maps for grandfathering: msc.fema.gov
- Flood hazard mapping questions: the FEMA Map Information eXchange (FMIX) at 1-877-FEMA-MAP (336-2627)
- Information about FEMA's latest efforts in updating the flood maps: www.FEMA.gov/Risk-Mapping-Assessment-Planning
- For more information about the Georgia Flood M.A.P. Program: www.GeorgiaDFIRM.com