

IT's FLOODING! - Substantial Damage and Increased Cost of Compliance – What a Floodplain Administrator Needs to Know

Substantial Damage

Damage of any origin (fire, flood, etc.) sustained by a structure whereby 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. All structures that are determined to be substantially damaged are automatically considered to be substantial improvements, regardless of the actual repair work performed. If the cost necessary to fully repair the structure to its before damage condition is equal to or greater than 50% of the structure's market value before damages, then the structure must be elevated (or floodproofed if it is non-residential) to or above the Base Flood Elevation (BFE), and meet other applicable NFIP requirements.

Increased Cost of Compliance (ICC)

The Standard Flood Insurance Policy has a provision that will pay the policy holder to comply with a State or local floodplain management law or ordinance affecting repair or reconstruction of a structure suffering flood damage. Mitigation activities eligible for payment are: elevation, floodproofing (non-residential structures only), relocation, or demolition (or any combination of these activities) of the structure.

Policyholders in the Special Flood Hazard Area may receive up to \$30,000 under this coverage. The structure must meet certain eligibility criteria, including a substantial damage or repetitive loss determination by a local official.

When ICC applies

Structure is located in the SFHA and the community has determined (in written form) that the structure is Substantially Damaged (SD) or is a Repetitive Loss (RL). Because of SD or RL, the structure must be brought into compliance with the current ordinance requirements. ICC helps the property owner defray some of those costs; up to \$30,000; some restriction apply, see the Standard Flood Insurance Policy.

Process

In most cases, the following will occur with an ICC claim:

1. Policyholder reports flood loss to insurer.
2. Claims adjuster makes estimate of flood damage and tells policyholder (with a structure in the SFHA) he/she may be eligible for ICC benefits.
3. Community official determines building is substantially damaged or is a repetitive loss. Community can use any method to determine SD but the methodology must be consistent throughout the community. (Community can use the FEMA program Residential Substantial Damage Estimator to develop damage costs; <http://www.fema.gov/library/viewRecord.do?id=1597> or other methodology). Documentation should be maintained by community. Provide written determination of SD/RL to policyholder. Discuss mitigation options with policyholder which will comply with floodplain regulations; issue necessary permits for mitigation measures.
4. Policyholder provides the community's written determination of substantial damage or repetitive loss to the adjuster.
5. Insurer sets up an ICC claims file; claims adjuster obtains damage and market value info on building from policyholder. For Repetitive Loss, obtains prior loss info. Verifies that the flood related damage for the current building claim supports community information. Obtains repetitive loss ordinance from community (if applicable).
6. Policyholder obtains a signed contract that details costs to perform the mitigation activity and give it to the claims representative (must have two estimates).
7. Policyholder completes the mitigation measure within 4 years from the date of the community letter.
8. Community official inspects completed mitigation work and issue a Certificate of Occupancy (or other written evidence) that the work is compliant with floodplain management ordinances.

9. Policyholder provides the Certificate of Occupancy (or other written documentation) to the insurance company
10. Adjuster receives certificate of occupancy from policyholder, completes ICC closing report and submits Proof of Loss to policyholder for signature.
11. Policyholder completes the Proof of Loss and submits for ICC payment consideration.
12. Adjuster/claims representative makes ICC claim payment upon receipt of the completed Proof of Loss and ICC closing report with all required supporting documentation.

If you have questions! Contact Marijo Brady at 303-235-4835 or Marijo.brady@dhs.gov or Traci Sears at 406-444-6654 or tsear@mt.gov.