



FEMA

March 5, 2019

The following correspondence is from the Floodplain Management Division at the Federal Insurance and Mitigation Administration

Subject: Announcement of FEMA's intent to implement program modifications based upon the Record of Decision on the Final Nationwide Programmatic Environmental Impact Statement (NPEIS) for the National Flood Insurance Program (NFIP)

Dear NFIP Community Official,

With the May 25, 2018 announcement in the Federal Register, FEMA released its Record of Decision (ROD) to announce its intent to implement the Preferred Alternative from the National Flood Insurance Program's (NFIP) Final Nationwide Programmatic Environmental Impact Statement (NPEIS) pursuant to the National Environmental Policy Act of 1969 (NEPA). NEPA specifically directs federal agencies to thoroughly assess the environmental consequences of major federal actions that could significantly affect the environment. Because changes to the NFIP are considered to be a major federal action, FEMA undertook the preparation of a NPEIS. To learn more about the NFIP NPEIS, visit the project website at: <https://www.fema.gov/programmatic-environmental-impact-statement>.

The following proposed program modifications contained in the Preferred Alternative to the NFIP NPEIS are needed to implement the legislative requirements of the Biggert-Waters Flood Insurance Reform Act of 2012 and the Homeowner Flood Insurance Affordability Act of 2014, and to demonstrate compliance with the Endangered Species Act (ESA).

1. Phase out of subsidies on certain pre-FIRM (Flood Insurance Rate Map) properties (non-primary residences, business properties, severe repetitive loss properties, substantially damaged or improved properties, and properties for which the cumulative claims payments exceed fair market value of the property) at a rate of 25 percent premium increases per year.
2. Phase out of subsidies on all other pre-FIRM properties through annual premium rate increases of an average rate of at least 5 percent, but no more than 15 percent, per risk classification, with no individual policy exceeding an 18 percent premium rate increase.
3. Implement a monthly installment plan payment option for non-escrowed flood insurance policies.
4. Clarify that pursuant to 44 C.F.R. § 60.3(a)(2), a community must obtain and maintain documentation of compliance with the appropriate federal or state laws, including the ESA, as a condition of issuing floodplain development permits.
5. Clarify that the issuing of certain Letter of Map Change (LOMC) requests (i.e., map revisions) is contingent on the community, or the project proponent on the community's behalf, submitting documentation of compliance with the ESA.

The NFIP insurance pre-FIRM discount phase-outs as described under items A and B have been underway for the past several years and should not come as news to most communities or policyholders. In addition, Item C—the implementation of a monthly installment plan payment option—is on a separate track and moving forward. Therefore, the focus of this letter is to direct community attention to the fact that in the coming months, FEMA will begin developing the necessary policies and processes for demonstration of NFIP compliance with the ESA by implementing items D and E (hereafter “ESA NFIP Program Modifications”).

Under the proposed ESA NFIP Program Modifications, FEMA proposes to issue clarification guidance stating that, per the minimum floodplain management criterion for participation in the NFIP, the community must obtain and maintain documentation of ESA compliance as a condition of granting floodplain development permits. Furthermore, FEMA will require the community, or the project proponent on the community's behalf, to submit documentation of this ESA compliance prior to processing Letter of Map Revisions (LOMR) and LOMR-F (based on fill) requests based on physical development in the floodplain. While FEMA has not yet determined the specific ESA compliance documentation requirements associated with floodplain development permits and LOMC applications, FEMA always has the authority to request additional information or documentation of compliance with program requirements at any time.

FEMA is initiating efforts to identify where and how it can provide technical assistance and guidance for this policy clarification to participating NFIP communities. FEMA plans to provide a comprehensive technical assistance and outreach campaign related to the proposed ESA NFIP Program Modifications. This outreach will be directed to all NFIP stakeholders and will include Best Management Practices, guidance, tools, compliance checklists, etc. FEMA has recently introduced a website to start this important dialogue, which may be found at: <https://www.fema.gov/floodplains-and-wildlife-conservation>.

FEMA plans to keep communities informed as we move forward in implementing the ESA NFIP Program Modifications. This will include a notification to all NFIP participating communities and states in advance of the final effective date of the clarification of the ESA policy.

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