



FEMA

W-10063

May 28, 2010

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and the National Flood Insurance Program (NFIP) Servicing Agent

FROM: 
Dennis Kuhns
Division Director
Risk Insurance

SUBJECT: Lapse in NFIP Authority

The NFIP will not be reauthorized by Congress by midnight of May 31, 2010. Therefore, the Program will experience a hiatus – a period without authority to:

- issue new policies for which application and premium payment dates are on or after June 1, 2010, or
- issue increased coverage on existing policies for which endorsement and premium payment dates are on or after June 1, 2010, or
- issue renewal policies for which the renewal premium is received by the company on or after June 1, 2010, and after the end of the 30-day renewal grace period, until Congress reauthorizes the Program.

While awaiting Congressional reauthorization, FEMA is issuing the guidance contained herein. A set of Frequently Asked Questions concerning NFIP authorization is attached to help you in communicating with your insurance agents and policyholders.

The hiatus period is expected to end soon. We will inform you when the NFIP is again authorized to sell new policies, issue increase coverage on existing policies, or issue renewal policies.

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: All Departments

**NFIP Reauthorization
Information for WYO Companies and Agents
June 1, 2010**

New Policies

Applications and premium payments made on or before May 31, 2010, the last day of effective Program authorization

- New policies for which the application was completed on or before May 31, 2010, and the application and premium payment were received within 10 days of the application date, will be issued for coverage and will become effective on the requested effective date, in accordance with the applicable waiting period rules.
- For loans closing prior to the first day of hiatus, when the application is dated on or before closing and the premium payment is from the escrow account (lender's check), title company, or settlement attorney, and is received within 30 days from the closing date, the policy can be issued effective the date of the closing.
- For loans closing prior to the first day of hiatus, when the application is dated on or before closing and the premium payment is not part of the closing (i.e., the applicant or applicant's representative check or credit card) and the application and premium were received within 10 days of the application date, the policy can be issued effective the date of the closing only if the presentment of premium was on or before the closing date. If the presentment of premium (check or credit card date) was on or after June 1, 2010, the policy cannot be issued, even though the application and closing occurred prior to the hiatus.
- For loans closing on or after the first day of hiatus, when the application is dated prior to the hiatus and the presentment of premium is prior to the hiatus, the policy may be issued effective at closing so long as premium is received within 10 days of the closing date.
- As always, the starting dates of NFIP coverage depend on the applicable flood insurance waiting period.

Claims

- Policies that are in force before midnight of the last day of effective Program authorization will remain in force, and claims under those policies are to be processed and paid as usual afterwards (once hiatus begins).
- Claims for covered losses occurring during a hiatus, on existing policies and on policies issued effective after the last day of effective authorization, are to be processed and paid as usual.

- WYO Companies may investigate claims under a reservation-of-rights letter or a non-waiver agreement, up to the point of payment. Under either, WYO Companies would reserve the right not to pay the claim if Congress does not reauthorize the NFIP while continuing the investigation of the claim.
- If reauthorization is granted retroactively, WYO Companies can issue policies effective as of the date they receive payments (subject to applicable waiting periods), and claims for covered losses can be processed.

Determining Payment Receipt Dates

New Policy Premiums, Renewal Policy Premiums, Added Coverage Endorsements

- The controlling factor in determining payment receipt dates for new policy premiums, renewal policy premiums, or added coverage endorsements is when the insurance company receives payment, not the standard mail postmark.
 - However, proof of mailing receipts or third-party receipts that WYO Companies receive through certified mail or from entities such as Federal Express (FedEx), United Parcel Service (UPS), and courier services do serve as payment receipt dates.
 - There will be no interruption in coverage if a customer mails the premium and the WYO Company receives it on or prior to midnight of the last day of effective Program authorization. See the exception listed below under Hiatus Scenarios, where the WYO Company is allowed to issue or renew policies even if the premium is received after a hiatus begins.

Financials

- During the NFIP hiatus, the NFIP recommends that WYO Companies hold in abeyance the following: (1) any premiums for new applications dated on or after the first day of the hiatus, (2) renewal premiums received on or after the first day of the hiatus and after the end of the 30-day renewal grace period, and (3) added coverage endorsements dated on or after the first day of the hiatus.
- NFIP Letter of Credit is available during the hiatus.

Hiatus Scenarios

Policies without a 30-Day Waiting Period

- If the reauthorization is not retroactive to the first day of the hiatus, policies without a 30-day waiting period would become effective on the date the reauthorization is effective. This rule applies to loan closings occurring on or after the first day of the hiatus.

Policies with a 30-Day Waiting Period

- If the reauthorization is not retroactive to the first day of the hiatus, policies with a 30-day waiting period would become effective 30 days after Congress has reauthorized the NFIP.

Renewals

- If the renewal offer was issued prior to authorization expiration, and the renewal premium is received before or within the 30-day grace period, the policy can be renewed even if the renewal premium was received after authorization expiration. The same rule applies on an underpayment notice issued before authorization expiration.
- WYO Companies are no longer authorized to renew policies if the premium is received on or after the first day of the hiatus and after the end of the 30-day renewal grace period.

Cancellations

Existing policies can be canceled during the hiatus in accordance with valid NFIP cancellation reason codes.

Group Flood Insurance Policies, Mortgage Portfolio Protection Program Policies

Follow the guidelines provided above.

Assignment of Flood Policies

An existing policy can be assigned provided the insured signs and dates the endorsement request.

Action Required by WYO Companies during an NFIP Hiatus

- WYO Companies are to communicate the status of the program to their agents ASAP.
- WYO Companies are no longer authorized to issue renewal offers after the last day of effective authorization.
- New business applications, renewals, and endorsements adding coverage that do not meet the criteria listed above cannot be issued.

Frequently Asked Questions (FAQs) Concerning NFIP Reauthorization

1. How does the “hiatus” in authority for the NFIP affect me and how long will it last?

Most of the 5.6 million flood insurance policyholders nationwide will not be affected. Policies that are in force will remain in force, and claims under those policies can continue to be paid after May 31, 2010. However, during the hiatus there are limits on our ability to issue new policies, issue increased coverage on existing policies, or issue renewal policies. The limited interruption is of concern to property owners who need to renew policies that were not renewed prior to the end of the 30-day grace period, homebuyers who must purchase flood insurance as a condition for obtaining mortgages from federally regulated lenders, and property owners refinancing existing mortgages who must purchase or renew coverage.

The hiatus is expected to be brief. We are doing everything we can to communicate with our insurance and lending industry partners to see that this issue is resolved with as little disruption of insurance operations as possible.

2. Has this lapse in Congressional authority for the NFIP ever happened before? Did Congress make the reauthorization retroactive before?

Yes, there have been several lapses in authority for the NFIP in the past. In most of those cases, Congress reauthorized the NFIP retroactively.

3. If I purchased flood insurance coverage, as required by my federally regulated lender, for a loan closing on or before May 31, 2010, will my policy be issued?

If the premium payment was part of the loan closing and made from the escrow account (lender's check), title company, or settlement attorney, and is received by the insurance company within 30 days from the closing, the policy will be issued.

If the premium was not part of the closing, meaning the borrower wrote his/her check at or before closing, both the application and premium must be received within 10 days of the closing date, in order for the policy to be issued.

4. If I purchased flood insurance coverage on or before May 31, 2010, but was not required to do so by my lender, will my policy be issued?

If the application and premium payment were made prior to June 1, 2010, and are received within 10 days from the application date, the policy will be issued.

5. My flood insurance policy is set to expire on June 2, 2010. I received my renewal notice on May 2, 2010, but did not send my payment to my insurance company until May 31, 2010. Will my insurance policy be renewed?

Yes. As long as the renewal notice was issued prior to June 1, 2010, and the payment is received before the end of the 30-day renewal grace period, the company is authorized to renew the policy.

NOTE: Effective June 1, 2010, insurance companies are no longer authorized to issue renewal notices until Congress reauthorizes the program.

6. I have a loan closing on June 2, 2010, and have been told by my lender to purchase flood insurance before settlement. Will I be able to purchase a new flood insurance policy?

Insurance companies cannot issue new flood insurance policies for loans closing on or after June 1, 2010, until the NFIP is reauthorized, unless the application and presentment of premium were made on or before May 31, 2010, and the application and premium payment were received within 10 days of the closing date. In this case, the new policy may be issued with a requested effective date on or after June 1, 2010.

For applications and premium payments made on or after June 1, 2010, it is recommended that the companies hold new applications and premium payments for processing until the reauthorization is received. If Congress retroactively reauthorizes the program, then these policies may be issued with effective dates as early as June 1, 2010. If Congress does not retroactively reauthorize the program, the earliest effective date for these policies will be the date the NFIP is reauthorized.

7. If I suffer a loss during this hiatus, will my claim be paid?

Claims for existing policies and for new policies issued based on applications and premium payments made prior to the hiatus are not affected, and the claims will be processed. Claims for new policies where the premiums were received and held by the company during the hiatus will not be paid until Congress reauthorizes the NFIP. However, your insurance company can proceed with investigating your claim under a “non-waiver” agreement, up to the point of payment. Under the “non-waiver” agreement, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP.

8. What happens if my premium for a new policy or an endorsement for added coverage is received by the company after May 31, 2010, and I suffer a flood loss before Congress reauthorizes the Program?

If the application or added-coverage endorsement and premium payment were made on or before May 31, 2010, and were received by the company within 10 days of the date of application or

endorsement and premium payment, the policy or coverage increase will be effective on the applicable date, based on the NFIP waiting-period rules. Claim payments can be made for these policies for losses occurring during the period that the coverage is in force.

For applications or endorsements and premium payments made on or after June 1, 2010, the NFIP has suggested that the insurance companies hold premium payments for new or increased policies received during the hiatus. Claim payments for losses suffered during that time cannot be made until Congress retroactively extends the NFIP authority. However, your insurance company can proceed with investigating your claim under a “non-waiver” agreement, up to the point of payment. Under the “non-waiver” agreement, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP.

9. I have a mortgage loan closing early June, and the lender has told me I have to have flood insurance at closing. What will happen if my premium and application were not received by my insurance company by May 31, 2010?

If the application and premium payment are dated on or before May 31, 2010, and are received by the company within 10 days of the date of application and premium payment, the policy will be issued.

If the application and premium payment are dated on or after June 1, 2010, it is expected that your premium will be held by your insurance company in order that your policy can go into effect at the earliest possible date. If reauthorization to issue flood insurance policies under the NFIP is granted retroactively, your policy will be issued effective as of the date of the closing of your loan.

10. If my premium was in the mail, with a postmark before May 31, 2010, did I meet the deadline?

The controlling factor is receipt of the premium by the insurance company, not the postmark. However, if your premium payment is mailed by certified mail or third-party delivery services such as Federal Express (FedEx), United Parcel Service (UPS), and courier services and the like that provide proof of mailing, the premium receipt date is the postmark date or the third-party receipt date.

11. If I suffer a loss during the hiatus, and I met the May 31, 2010, deadline, will I be covered for the loss?

If, based on the waiting period rules of the NFIP, your coverage was in effect at the time of the date of loss, you would be covered. See Question 16 for details about the 30-day waiting period.

12. What happens if my premium payment for a policy renewal was received by the company after May 31, 2010, and I suffer a flood loss before Congress reauthorizes the NFIP? Will I be covered?

If the renewal premium was received prior to the end of the 30-day renewal grace period, the policy will be renewed without a lapse in coverage and coverage will be in effect at the time of the loss. (Note: A 30-day waiting period applies to policies for which premium payments were received after the 30-day renewal grace period.)

For renewal premiums received after the end of the 30-day renewal grace period, the NFIP has suggested that the insurance companies hold in abeyance renewal premium payments received during the hiatus. Claim payments for losses suffered during that time cannot be made until Congress retroactively extends the NFIP authority. However, your insurance company can proceed with investigating your claim under a “non-waiver” agreement, up to the point of payment. Under the “non-waiver” agreement, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP.

13. My policy was up for renewal in late May. Was my policy renewed?

If your renewal premium payment was received by your insurance company on or before May 31, 2010, or received prior to or within the 30-day renewal grace period, your policy was renewed. You should check with your insurance agent to make certain your policy was renewed.

If your renewal premium payment was received by your insurance company on or after June 1, 2010, and after the end of the 30-day renewal grace period, your policy will not be renewed until Congress extends the NFIP authority. The effective date of the renewal will depend on the date of the extension of NFIP authority, whether or not the reauthorization is retroactive, and the application of the 30-day waiting period.

14. What happens if Congress does not make reauthorization retroactive to May 31, 2010?

Policies unable to be issued or renewed under the above provisions that are without a 30-day waiting period would become effective on the date the reauthorization is effective. Policies with a 30-day waiting period would become effective 30 days after Congress has reauthorized the NFIP.

15. What happens if the hiatus is lengthy?

If authorization is not granted within a reasonable period of time, premium payments will have to be refunded and the NFIP will not be able to issue the policies paid by premiums held in abeyance.

16. Is there a waiting period for flood insurance to become effective?

There is normally a 30-day waiting period before flood insurance goes into effect. There are two exceptions:

1. If the initial purchase of flood insurance is in connection with the making, increasing, extending, or renewing of a loan, there is no waiting period. The coverage becomes effective at the time of the loan, provided the application and presentment of premium are made at or prior to loan closing.
2. If the initial purchase of flood insurance is made during the 13-month period following the revision or update of a Flood Insurance Rate Map for the community, there is a 1-day waiting period.

In addition to the two basic exceptions, the FEMA Mitigation Directorate has issued a policy decision specifying the following four exceptions:

1. The 30-day waiting period will not apply when there is an existing insurance policy and an additional amount of flood insurance is required in connection with the making, increasing, extending, or renewing of a loan, such as a second mortgage, home equity loan, or refinancing. The increased amount of flood coverage will be effective as of the time of the loan closing, provided the increased amount of coverage is applied for and the presentment of additional premium is made at or prior to the loan closing.
2. The 30-day waiting period will not apply when an additional amount of insurance is required as a result of a map revision. The increased amount of coverage will be effective at 12:01 a.m. on the first calendar day after the date the increased amount of coverage is applied for and the presentment of additional premium is made.
3. The 30-day waiting period will not apply when flood insurance is required as a result of a lender's determining a loan that does not have flood insurance coverage should be protected by flood insurance. The coverage will be effective upon the completion of an application and the presentment of payment of premium.
4. The 30-day waiting period will not apply when an additional amount of insurance offered in the renewal bill is being obtained in connection with the renewal of a policy.

17. How will I know when the NFIP has been reauthorized?

FEMA will notify NFIP stakeholders so they can pass the information on to their customers.