



FEMA

W-13024

April 24, 2013

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

A handwritten signature in black ink, appearing to read "James A. Sadler".

FROM: James A. Sadler, CPCU, AIC
Director of Claims
National Flood Insurance Program

SUBJECT: **Clarification and Modification of FEMA Bulletin w-13006, Section 2(c), Regarding The Time Frame To Initiate and Complete ICC Claims For Losses Unrelated to Hurricanes Katrina, Rita, and Wilma, and Guidance Regarding Instances Involving Assignment of Increased Cost of Compliance Benefits to Communities**

The purpose of this bulletin is to provide clarification regarding the time frame to initiate and complete Increased Cost of Compliance (ICC) claims and projects under a Standard Flood Insurance Policy (SFIP) not related to the 2005 Hurricanes Katrina, Rita, and Wilma. On February 11, 2013, FEMA issued bulletin w-13006, which clarified the time frames to present ICC claims under SFIPs. Section 2(c) of bulletin w-13006 addressed losses other than those related to Hurricanes Katrina, Rita, and Wilma in 2005, and provided that for losses other than those related to Hurricanes Katrina, Rita, and Wilma, the time to complete qualifying ICC work would be four years from the date of the loss.

Since FEMA issued bulletin w-13006, FEMA has been notified that there are ICC claims and projects related to other events that were in progress but not yet completed at the time FEMA issued bulletin w-13006. FEMA has received inquiries about the ability of insureds to still seek ICC benefits for losses occurring in relation to Hurricanes Gustav and Ike in 2008, as well as other events (including floods within the State of Washington), which were more than four years prior to FEMA's issuance of bulletin w-13006.

In light of those inquiries, FEMA is issuing this bulletin in order to clarify and modify the provisions of bulletin w-13006, section 2(c) as follows:

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For all ICC-approved mitigation activities for which claims have already been presented and the approved work has already started that are not related to Hurricanes Katrina, Rita, and Wilma, FEMA does not intend to preclude the ability of those individuals to seek ICC benefits under the SFIP. At this time, the earliest known flood events with a certain date of loss are claims related to Hurricanes Gustav and Ike occurring in 2008, and four years from the date of loss for Gustav and Ike would have passed in the year 2012.

Therefore, to allow insureds whose losses are more than four years old, and whose ICC claims have been presented and approved for which the qualifying work has already started prior to the issuance of bulletin w-13006, FEMA is granting a universal deadline of February 11, 2015 for the completion of approved qualifying ICC activity. This extension applies to all claims unrelated to Hurricanes Katrina, Rita, and Wilma, and allows an additional two-year period from the date FEMA issued bulletin w-13006 for the completion of work. For the purposes of claims related to Hurricanes Gustav and Ike, it allows for more than six years to complete ICC qualifying work.

For all insureds whose loss is more than four years old and who have not presented an ICC claim under their SFIP, or who have not started the ICC qualifying activities, if there is still a desire to present a claim for ICC benefits, those individuals must seek a waiver of the deadline from FEMA and submit specific information and reasons to justify a waiver to the flood insurer, including an explanation for the inordinate delay, which will have to be presented to FEMA. Each waiver request will be reviewed on a case-by-case basis and may be subject to a denial, including, but not limited to, a denial based upon Section III, Coverage D, subpart 5(e) of the SFIP.

Finally, for all insureds whose loss is more than four years old and who have assigned their ICC claims to their community as part of their non-Federal cost-match in conjunction with a FEMA-funded mitigation program, such as the Flood Mitigation Assistance (FMA) Program or a Hazard Mitigation Grant Program (HMGP) (*see* FEMA bulletin w-07003 (January 16, 2007)), those ICC claims will still be paid. There is no need for a waiver to be submitted to FEMA for approval, even if the ICC funds have not yet been paid. It was not envisioned that bulletin w-13006 would invalidate or interfere with any FEMA mitigation projects. However, if an insured has a loss that is more than four years old and the insured has not already assigned his/her ICC claim to his community, that insured, working through and with their insurer, will have to seek a waiver of the four-year deadline from FEMA to present and complete ICC work as described in the preceding paragraph of this bulletin.

This bulletin in no way guarantees that any insured will be paid any amounts (except with regard to an ICC claim that has already been assigned to the community in conjunction with the FEMA project as set forth above); it merely extends the time frame for seeking ICC benefits. No other provisions of

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bulletin w-13006, the terms of the SFIP, or any of the controlling Federal laws and regulations are modified by this bulletin.

Any questions or comments should be directed to Russell Tinsley, Claims Examiner for the National Flood Insurance Program, who may be reached by email at: Russell.Tinsley@fema.dhs.gov.

Authority: 44 C.F.R. § 61.13(d); 44 C.F.R. §§ 61, Appendices A(1), A(2) and A(3), General Condition (D); 44 C.F.R. § 62.23(k); 44 C.F.R. § 62, Appendix A(1), Articles II(G) and IV(B); 42 U.S.C. § 4019.

cc: Vendors, IBHS, and Government Technical Representative