

NFIP Proposed “Homeowners”/ Dwelling Form Changes

Industry Comments

May 28, 2024

Docket ID: FEMA-2024-0004

Re: Comments in response to FEMA’s Notice of Proposed Rulemaking (NPR) Regarding National Flood Insurance Program: Standard Flood Insurance Policy, Homeowner Flood Form; Extension of Comment Period

In response to FEMA’s recent publication of a notice of proposed rulemaking directed at National Flood Insurance Program and the Homeowner Flood Insurance Form, we wish to express strong support for the modernization of the policy forms, and we respectfully submit the following comments and concerns for consideration by FEMA.

FEMA is proposing to create a new, fourth SFIP form—the Homeowner Flood Form (hereafter the “new Form”)—which is proposed to supersede the existing Dwelling Form in providing coverage for homeowners of one-to-four family residences. FEMA’s proposal also introduces five new endorsements, specifically tailored for use exclusively with this new Form.

According to the NPR, the new Form and its accompanying endorsements are designed to align more closely with property casualty homeowners insurance policies than the current form, and to provide increased options and coverage through a more user-friendly and comprehensive format. Additionally, these new endorsements are designed to provide policyholders with the flexibility to customize their coverage to align with the individual risks of their property.

As a general matter, there is support for the direction and intent underlying this proposal. In moving forward, we urge FEMA’s support in mitigating potential obstacles and challenges which the proposal may create. To facilitate this goal, we are providing feedback in the form of high-level themes along with specific and technical examples of concern. Additionally, we offer some possible solutions for consideration by FEMA during the rulemaking process. We appreciate the opportunity to comment, and we look forward to working with you during the process of implementing the form changes.

Industry comments follow starting on the next page and are organized into specific areas related to the proposed rules.

Section 1. Overall Points	
Specific Comment	Reference/Additional Comments
<p>1.1 If the goal is to provide this policy as the new form for 1-4 family residences, the current form would need to be amended to remove that wording (1-4 family).</p>	<p>1.1.1 There does not appear to be any documentation from FEMA showing the changes that need to be made to the current dwelling forms to account for the new form. Seeing these changes is important to ensure the changes are accurate and do not impact existing Dwelling policy language.</p>
<p>1.2 The proposed changes are specific to a subset of the population currently insured by the NFIP Dwelling form.</p>	<p>1.2.1 Specifically, the changes are for 1-4 family properties. Stakeholders that fall outside of this grouping, e.g., landlords, renters, manufactured/ mobile homes, travel trailers and condominium unit owners would not be offered these coverage options which may be viewed as discriminatory.</p> <p>1.2.2 As FEMA moves forward, they should offer all these coverages and policy wording changes, where applicable, to the entire population of insureds that currently utilize the NFIP Dwelling form.</p> <p>1.2.3 This presents a unique issue since the rule notes a heavy reliance on agents to communicate these changes. Since the form is not for all the current dwelling form occupancies, that could cause multiple issues for agents (such as coverage confusion, insured confusion, etc.).</p> <p>1.2.4 We would recommend that all the forms be readied and effective at the same time. Removing the building types covered by the Homeowners Form from the Dwelling Form at the same time as the rollout of the Homeowners Form will require that FEMA work with regulators where such changes will impact lender requirements, to facilitate a smoother transition.</p> <p>1.2.5 In developing the rollout plan for the Homeowners Form, regulators should be aware of how any new guidance could impact existing designated loans.</p>

	<p>1.2.6 Stakeholders will need to understand if the proposed changes affect current policyholders or will current policies be rolled to the new form at their policy renewals. If so, this could negatively impact lender operations, depending on the new requirements, as contemplated later in the comments.</p>
<p>1.3 The details and specifics relative to the issuance of these coverages as well as the policy forms and endorsements themselves are not included in the NPR.</p>	<p>1.3.1 Without this information and the full understanding of the endorsement documentation requirements, from an underwriting (including rating) and claims perspective, it would be difficult to ask the correct questions and provide appropriate comments as part of our response. Additionally, claims specific issues are included in the comments below.</p>
<p>1.4 Timing challenges are among the most pressing as you consider finalizing the proposal and review implementation expectations.</p>	<p>1.4.1. The amount of time that will be required to initiate such a change from the WYO perspective, i.e. programing as well as the costs that the WYOs would incur; system programing, formatting new forms, impacts on third party administrators, additional staff/agency partner training and communications about the proposed changes. Additionally, considerations for customer communications are not included in the document.</p> <p>1.4.2 We recommend that specific timeframes for rolling-out changes be communicated as soon as possible to avoid implementation issues when the changes are approved.</p> <p>1.4.3. Providing more specific timeframes to help set expectations up front as well as allow all stakeholders to voice their requests for the information needed in order to meet the planned timeframes should be provided.</p> <p>1.4.4. Once appropriate under the Administrative Procedures Act, convene a cross functional advisory group to aid in developing communications and to discuss implementation questions. A small group, similar to the one used during the Risk Rating 2.0 transition</p>

	<p>period to provide feedback and dialog, may be a beneficial resource to help smooth the transition.</p> <p>1.4.5. Adequate preparation time is essential. The minimum necessary lead time before taking effect should be at least 12 months from the date of publication of the finalized forms; and, at least 6 months from receipt of any communications materials and ready-print documents. This timeframe could be extended if the number of forms are increased as suggested in prior bullets.</p> <p>1.4.6 It is important to note that other stakeholders – insurers, third party administrators, agents, lenders, servicers, and others will also need time to understand and prepare for the changes.</p>
<p>1.5 Concerns relating to timing are not limited to just the WYO partners. Indeed, private flood insurers may have some of the same concerns and may need to think about any potential implications related to their products and market.</p>	<p>1.5.1 This could include potential changes to private forms, (in order to meet with lender acceptance (mandatory or discretionary)) that would trigger additional administrative steps. For example, as an insurer considers these questions in light of the proposed changes, it may be necessary to refile the private flood forms (and associated rates) in each of the states in which it offers this product. See the additional considerations regarding the change in the flood definition below.</p> <p>1.5.2 For background, the state insurance regulatory system often requires insurers to file policy forms. Looking at the statutes alone, states may differ in the timing and type of review by line of business. And as a practical matter, the timing lags behind those official legal timelines.</p> <p>1.5.3 Potential impacts on private flood, including excess flood, extend beyond form filings and should be considered with this change.</p> <p>1.5.4 Finally, a transitional time for policyholders to purchase the product over time (given rolling renewal timing) should be contemplated in any timeframes</p>

<p>1.6 Training and education needs will have to be increased significantly under the proposal. New forms and additional coverage options (through the proposed endorsements) will give consumers more choices, and agents will need to be equipped to help consumers navigate those choices.</p>	<p>1.6.1 WYOs serve as a vital link between FEMA, agents, and consumers. WYO’s agents will be expected to market this product requiring the WYOs to provide supplemental support and training for agents. WYOs and agents will need to contact policyholders to explain the new coverages and thus will need additional support from FEMA.</p> <p>1.6.2 As a point of clarification, the proposal states (on page 32) that “... annual training is one that insurance agents are required to attend each year.” As we understand it, today agents are not required to attend annual NFIP training. Rather, they are required to attend the training once, but are recommended to attend more often. Further clarification is needed on this item.</p> <p>1.6.3 Consumer confusion about the NFIP policy should be expected to increase. This is likely to require more “hand holding” from an agent’s perspective (especially for renewals). The potential for increased consumer confusion and the demand for additional explanations and assistance may be an unintended byproduct of the proposed changes as FEMA works to expand flood coverage choices. In addition, the program could lose more agents actively selling the product due to the complexity and additional exposure created.</p> <p>1.6.4 We suggest that identifying ways to manage and reduce confusion during the transition is essential to navigating these changes successfully and positively.</p> <p>1.6.5 Overall, supporting positive consumer experiences and bolstering their understanding is closely tied to effective agent training and support.</p>
<p>1.7 The implementation costs for additional WYO support and efforts, especially during this transition period, are not</p>	<p>1.7.1. Table 3 “Estimated Costs Over a 10 Year Period.” These are certain to be increased costs at least in the initial implementation and should be documented:</p>

<p>contemplated in the FEMA estimates of costs.</p>	<p>1.7.2 As part of the conversion, existing policies would need to be identified and converted which could be difficult.</p> <p>1.7.3 Manual touch of policies should be expected to increase, not only in the transition phase, but also due to mid-term policy requests given the options being provided in the new form.</p> <p>1.7.4 Systems and IT efforts will increase (for example, programming will be required to include endorsements and the premium on the Declarations Page (and the Dec Page may therefore need to be expanded).</p> <p>1.7.5 Policy distribution costs may be impacted (without knowing more about size, it may be that things like envelopes, etc., may need to be changed); and</p> <p>1.7.6 Training, education, and communications demands are expected to increase significantly during this time, and these efforts should not be expected to be limited only to FEMA because others also would be called upon to supplement training and other education support.</p> <p>1.7.7 While some of the additional costs have been identified, there is no indication of a change in the document to the expense reimbursement for WYOs, or others and there should be some acknowledgement of such costs.</p> <p>1.7.8 We suggest there be a revision to the estimated costs to account for these efforts and provide transitional supplemental compensation during the conversion phase to recognize the increased demands in terms of time, communications, and other support efforts while the new forms are being introduced and mainstreamed.</p> <p>1.7.9 Additional cost considerations should be considered as the wording of the new form will likely be tested in court.</p>
<p>1.8 Compliance may grow more complex going forward.</p>	<p>1.8.1 While the base form would be selected automatically based on building occupancy (similar to today), the existence of</p>

	endorsements, and renewal endorsements may introduce and increase compliance questions and challenges.
1.9 It is critically important that the WYOs be given specific, clear, and complete details on the programming requirements at a minimum of 12 months before the effective “live” date.	1.9.1 24 months prior would be <i>preferable</i> , so that proper testing can be done to avoid the rework that was experienced in implementing Risk Rating 2.0.
1.10 The rates and pricing for the additional coverages, especially contents in basements, appear to be quite high, which may impact take up rates.	1.10.1 We suggest that FEMA discuss how the prices were determined with stakeholders to allow collaboration to identify potential options.
1.11 How would the rules of what qualifies as repetitive loss be applied if the policy includes the new additional coverages?	1.11.1 There are concerns related to flood claims/losses: Would claims associated with the new Coverage B, Other Structures be included? 1.11.2 Would they contribute to the calculation for repetitive loss? There would be a need to verify if damage to other structures is included in the calculation for substantial damage and Increased Cost of Compliance (ICC).
1.12 The comment in the document that states “basements are not typical in areas that experience hurricanes and Cat flooding” is not an accurate statement and it is suggested that the statement be reworded or removed.	1.12.1 If FEMA is looking at the past 10 years and excluding Superstorm Sandy, the statement may be accurate, but times have changed, and we are seeing more and more basement claims. 1.12.2 Also how was the percentage of properties with basements identified? If the data was pulled from PIVOT, is it accurate? We suggest that there be a broader conversation regarding the data noted in the document to ensure accuracy and understanding of the potential impact is clear. 1.12.3 While properties in the Northeast and Midwest often have basements, the same cannot necessarily be said for the rest of the

	<p>country, including highly exposed areas of the gulf coast and southern coastal regions.</p> <p>1.12.4 We suggest that statistics available from Hurricane Ida, Irene, and Lee be reviewed and utilized in this analysis</p>
<p>1.13 Data in Table 1, page 8310 is using data from 2022 and assumes that everyone was under RR2.0</p>	<p>1.13.1 We don’t believe that everyone was brought under RR2.0 at that time, so the Preferred Risk Policies (PRPs) will likely skew the premiums downward. Perhaps using more current data that includes RR 2.0 data instead would work better?</p>
<p>1.14 In a 4-unit building, even if one of the units is a primary residence, the other units will most likely be tenant occupied.</p>	<p>1.14.1 That seems to create an interpretation of use/coverage issue on behalf of the owner and/or the agent regarding landlord eligibility. We ask that FEMA provide an interpretation in order to understand more fully the potential impact of this change.</p>
<p>1.15 The rule relies heavily on agents communicating these changes.</p>	<p>1.15.1 Agents are the front lines of the sales process. Having more policyholders with more coverage is great, but equally important is that these coverages be available and understood by the agents and addressed at the point of sale. While FEMA notes that “agent training” is part of the transition, the details around this will be critically important, and helping agents with disclosures and documentation will need to be a priority.</p>
<p>1.16 In addition to specific comments on the revised policy form, we also encourage NFIP policy authors and program managers to work closely with the prudential banking regulators as the policy form language and structure is finalized.</p>	<p>1.16.1 Given the mandatory purchase obligations outlined in the Flood Disaster Protection Act (FDPA), there is an undeniable overlap between financial institutions and the NFIP. This overlap creates a complex series of compliance obligations for financial institutions. In addition, the prudential regulators have all developed audit criteria (in the form of formal Exam Manuals) and further support industry through publication of guidance in the form of 144 separate Questions and Answers (Q&As) on flood insurance.</p> <p>1.16.2 Before FEMA finalizes its proposal, it is essential that FEMA collaborate with these regulators and issue guidance to ensure that the lending community's implementation and utilization of the new</p>

	<p>Form is consistent with the Flood Disaster Protection Act (FDPA) and its implementing regulations.</p> <p>1.16.3 We urge NFIP officials to engage fully with the prudential regulators to share their intent, definitions, etc. to ensure alignment, lead to smooth implementation of business rules, and understand where regulatory guidance will need to be amended or otherwise updated.</p>
<p>1.17 Aspects of the new Form are unclear, which will present challenges for lenders and servicers charged with complying with the Flood Disaster Protection Act (FDPA).</p>	<p>1.17.1 These include the:</p> <ul style="list-style-type: none"> a) Revised definitions; b) New Coverage B section; c) New provision assigning replacement cost value as the default loss settlement methodology; d) New provision on advanced payments; and e) New endorsements.
<p>1.18 The Governing Law section goes backward in time after the policy was most recently updated to specifically state that “the policy and all disputes arising from the insurer’s policy issuance, policy administration, or the handling of any claim under the policy are governed exclusively by” federal law.</p>	<p>1.18.1 The new Governing Law section removes the clear and unambiguous requirements that federal law shall govern for not just claims, but also policy issuance and policy administration leaving room for interpretation and future litigation. Although it says that “all disputes involving this policy” are governed by federal law, Section VI.L.3. states that your options after a denial including filing suit in federal court for <i>claims</i>.</p> <p>1.18.2 Claims is defined in the policy as “Your assertion that you are entitled to payment for a covered loss under the terms and conditions of this policy. There is only one claim per flood event.” Policy issuance or policy administration may not fall within the scope of a claim and could potentially be interpreted as not being governed by federal law, leaving insurers to defend in state court which could lead to incongruent and inconsistent flood jurisprudence. This is especially important with the potential for E&O issues these changes may bring. Strongly recommend including claims, policy issuance and policy administration specifically consistent with the current version.</p>

Section 2. Important Changes/Questions	
Specific Comment	Reference/Additional Comments
<p>2.1 The change to one deductible makes the policy more like a standard homeowners form since it applies to the structure, other buildings, and contents. However, it also raises several questions.</p>	<p>2.1.1 What is the impact on the program financially? In the past there were different deductibles for each coverage. Are rates/premiums going to change with the application to address a single deductible? Will this create affordability concerns?</p> <p>2.1.2 Will there be deductible options like those available today or will they be different?</p> <p>2.1.3 The impact on the adjusting community will need to be addressed. It may take time to get everyone trained as well as adjusting systems updated.</p> <p>2.1.4 FEMA will need to clarify how deductibles will be applied to jewelry coverage for example. It would be beneficial to have guidance that applies the deductible in excess of coverages that have a sublimit. There is a need for clear direction of how the new deductible is to be applied.</p>
<p>2.2 More information is going to be required to be shown on the DEC page ultimately making it much bigger and potentially more confusing.</p>	<p>2.2.1 This change will also increase printing costs at the WYO and Direct level and will most likely require the addition of an informational page to explain things on the DEC page. Further discussion is needed.</p>
<p>2.3 Flood – Concerns relating to a proposed revised “flood” definition fall into three themes: (1) increased uncertainty; (2) different definitions in different NFIP forms; and (3) issues focused on the</p>	<p>2.3.1 The established definition of flood is better understood because it has been tested in the courts (given caselaw over time) and new wording (untested in the courts and with no caselaw) will not have that historic background to inform the interpretation and may therefore increase both uncertainty as well as litigation.</p>

<p>specific wording of the proposed definition.</p>	<p>2.3.2 The issue of different “flood” definitions in different NFIP forms arises in a few contexts. Both may lead to consumer and agent confusion and frustration. For example, during the initial transition period – when some NFIP policyholders have renewed on the new form and their neighbor’s policy term has not yet come up for renewal and is covered on the old form – different NFIP policyholders may therefore be treated differently (each according to the NFIP insurance contract that they have in place) as different “flood” definitions apply. It could be valuable to consider this fact pattern before finalizing the forms. Consider another context, at least for some period of time, the “flood” definition will remain as is in other existing NFIP forms. This raises questions about FEMA’s plans for the other forms.</p> <p>2.3.3 Third, the specific wording of the proposed new “flood” definition poses a number of questions and concerns. This applies as it relates specifically to the new definition of “Building” which is changing to include “a structure, the construction of which has been completed, that has a fully secured roof and solid, vertical, load-bearing walls and is affixed to a permanent site.” The concern here is that the definition would be different for mobile homes and unit owners.</p> <p>2.3.4 The proposed new definition of “Flood” will create other operational challenges and may increase litigation risk. Under the flood regulations, the definition of “private flood insurance” policy is explicitly tied to the SFIP and generally requires that a private flood policy provide coverage that is “at least as broad as” the coverage provided under the SFIP issued by the NFIP. For example, FEMA states that it is proposing the change to the definition of “Flood” because it finds the current definition “unnecessarily restrictive.” At the same time, the proposal states that FEMA does not intend to</p>
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	<p>broaden or narrow coverage based on this definition change. Once the NFIP policy form definition is finalized, some attorneys or regulators may argue that a private flood policy that did not expand the definition to the new SFIP definition is no longer equivalent to the SFIP issued by the NFIP, as the old definition is “unnecessarily restrictive.”</p>
<p>2.4 FEMA also needs to clarify the proposed definition of “Building” in the new Form</p>	<p>2.4.1 FEMA defines a building as “a structure, the construction of which has been completed...” (emphasis added) However, there is currently no definition of “completed.” In fact, whether a building is substantially completed for construction purposes has long been disputed and is a subject of litigation. Without a definition, individual insurers will be left to decide when a building is complete, which may result in policyholders’ claims being denied on an inconsistent, discretionary basis. If FEMA adopts this definition of “building” in the new Form, FEMA should either revise the definition of building to clarify what it means for a building to be “completed,” or define “completed” in the new Form.</p> <p>2.4.2 Lenders and servicers will need guidance on how the new definition of building will impact compliance with the mandatory purchase requirement. According to the FDPA, if NFIP insurance coverage is unavailable for a property, the mandatory purchase requirement would not apply. With the proposed definition of “building” in the new Form (excluding any endorsements), the NFIP would be unavailable to all incomplete one-to-four family site-built residential buildings. Consequently, construction-to-permanent loans would not be classified as designated loans, exempting them from the mandatory purchase requirement.</p> <p>2.4.3 This proposal would contradict the current Construction Q&As, which state that a loan secured by a building in the course of construction that is located, or to be located, in a special flood hazard area is a</p>

	<p>designated loan and that a lender is required to comply with the mandatory purchase requirement under Act.9. To address this discrepancy, regulators must revise the current Q&As to explain how these changes affect the mandatory purchase requirement for construction loans. Furthermore, guidance is needed on how any change will affect existing construction loans. This topic is discussed further in the comments related to the proposed Builder's Risk Endorsement.</p> <p>2.4.4 It appears that the form may include a change to the definition of "enclosure". The current definition includes: "area that exists below the dwelling and used in accordance with floodplain management, for the parking of vehicles, building access or storage. We feel that they should include a requirement that they have walls as part of the enclosure definition. With the new language, "walls" are not required. If there are no walls, then there should not be an enclosure for rating purposes. If they are looking to define the area below the first floor, then they should define it differently. Perhaps, a designation of "uninhabitable" could be provided and no coverage afforded. Trying to put diagram types together may create conflicting messaging. There is an additional concern that there will be a disconnect between claims and underwriting, complicating business practices.</p> <p>2.4.5 FEMA needs to clarify under what circumstances the limited coverage to enclosures would apply. Based on the definition of "enclosure", only an area used for parking/storage/access and used in accordance with floodplain management ordinances or laws, would be subject to the restrictions. Conversely, areas below the building used for other purposes or in violation of ordinances/laws would not be subject to coverage restrictions.</p>
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<p>2.5 There are some concerns with changing the Proof of Loss deadline from 60 to 90 days.</p>	<p>2.5.1 We suggest that the typical “proof of loss” requirement be removed completely, which is consistent with the property casualty side. If a customer does not agree, they can provide a proof of loss on their own. Extending the deadline can potentially extend the claim closing time frame when it is not always necessary.</p>
<p>2.6 Proposed section titled “Disaster Conditions,” that allows insurers to accept and make payment on the adjuster’s reports, which will allow FEMA to issue special terms for advance payments not currently provided in the Dwelling Form.</p>	<p>2.6.1 The new section would allow an insurer to make an advance payment for up to 5 percent of the Coverage A limit to a policyholder without having to include a mortgagee on the check. By allowing for advance payment, FEMA anticipates that policyholders without contents coverage will be able to hire a contractor without utilizing out-of-pocket funds, without affecting the mortgagee’s ability to file its own claim.</p> <p>2.6.2 We agree with FEMA that this provision would enhance policyholders' capacity to initiate repairs promptly following a flood-related loss. However, we request that FEMA revise this section to mandate that lenders and servicers are informed whenever an advance payment is issued. This change would enable lenders and servicers to accurately monitor the progress and distribution of loss settlement payouts, ensuring a smoother, more transparent process for all parties involved.</p> <p>2.6.3 There is some confusion as to how allowing insurers to pay up to 5 percent of Coverage A, the building coverage limit, without putting the lender on the check would work? What is expected of insurers under these circumstances in regard to the new Coverage B? We suggest that this payment percentage not be triggered by the policy limits as it could be considered discriminatory against someone who has \$100K in coverage vs. \$250K. We recommend that the amount should be based upon the size of the loss. For example: A policy at \$100K will get \$5K, but a policy at \$250K, will get \$12,500, even if the damage amounts are the same.</p>

	<p>2.6.4 Alternative options to consider: a) Apply five (5) percent to initial reserve or when a reserve is changed. b).Put a maximum percentage on the payment, such as 5 percent. c) Put a max amount that can be paid without lender (e.g., \$10K).</p> <p>2.6.5 Other questions: Should this be applied to advance payments only? Could be instances where insured will ask WYO to cut two checks at a final payment, one up to \$10K without lender and balance with lender. Suggest that there be a time of 30 days after loss was paid. A lot to consider on this change.</p>
<p>2.7 What is meant when the document summarizes Coverage B for other buildings as restoring to a “functional level”?</p>	<p>2.7.1 In our review we did not see a definition, however, since the actual language that would be in used in the coverage from was not included. We recommend that FEMA define this during the rule making process</p>
<p>2.8 Are the endorsements and sub-limits additional amounts of insurance or considered within Coverage A and C?</p>	<p>2.8.1 With all of the endorsements and coverage sub-limits, Coverage A and C could be used up quickly. It appears all the endorsements apply for that coverage. If that is the case, greater clarity will be needed.</p>
<p>2.9 Additions and extensions appear to have been omitted from the form, as well as the 10 percent the insured can use for “improvements”.</p>	<p>2.9.1 This may be due to the coverage being moved to the dwelling form for tenants, but this remains unclear.</p>
<p>2.10 How will renewals be held in terms of offering coverage, and will the agent be responsible for offering coverages?</p>	<p>2.9.1 The rule simply states that, “The policy defaults will provide similar coverages to what they currently receive if the homeowner policyholder chooses to do nothing.” With additional coverages, this opens up errors’ and omissions’ issues</p>

Section 3. Increased Cost of Compliance (ICC)	
Specific Comment	Reference/Additional Comments
<p>3.1 Currently ICC is part of the policy and is capped at \$30K. Premium for this coverage is included in the total premium and is not a separate endorsement. The proposed rule would pull this coverage out of the current policy language and have it as a standalone mandatory endorsement.</p>	<p>3.1.1 Calling this an endorsement but making it mandatory may create confusion. It may be better to keep this as a coverage within the policy but provide various limits for an insured to purchase. Most of the complaints that insurers see with ICC coverage is that the policy doesn’t come close to providing the necessary coverage to raise or demolish a home today. If FEMA is trying to track this coverage or the claims associated with this coverage, a separate ICC claims form and applicable coding in the PIVOT system could be a workable solution. Accordingly, we recommend that the policy provides \$30K and allow for buy up What is the impact on the program financially? In the past there were different deductibles for each coverage. Are rates/premiums going to change with the application to address a single deductible? Will this create affordability concerns?</p> <p>3.1.2 There is language in the proposed changes that references “if a policy qualifies” for ICC. The meaning of this change is not immediately clear, and there is some concern that it may create additional efforts on the part of insurers to ensure the policy is properly constructed. We request more information to help understand the potential implications and obligations.</p>

Section 4. Actual Cash Value – Loss Settlement	
Specific Comment	Reference/Additional Comments
<p>4.1 The proposal will make RCV the default but allow insureds to</p>	<p>4.1.1 The Dwelling Form currently defines Actual Cash Value as “The cost to replace an insured item of property at the time of loss, less the</p>

<p>endorse ACV. This will reduce the policy premium. However, if the dwelling is not insured up to 80 percent or the RCV coverage was not added, ACV will be used. This change could possibly create a bigger E&O exposure for agents if they get the RCV wrong, and agents will need to cover themselves via waiver.</p>	<p>value of its physical depreciation.” The newly proposed definition replaces “less the value of its physical depreciation” with “less depreciation based on its age and condition”.</p> <p>4.1.2 There are currently efforts for personal lines and commercial lines to make it clear that ACV includes depreciation for both materials and <u>labor</u> in the states. The proposed FEMA definition change does not specify what is included in depreciation. It therefore may not be intended to include labor, and the new definition is less clear on this point. We feel that FEMA should provide a clear and consistent definition of how depreciation is calculated and what it includes.</p> <p>4.1.3 FEMA should work with the prudential regulators to provide guidance on the use of the ACV endorsement. Specifically, insurers have questions about whether a borrower’s selection of this endorsement could mean that a mortgage loan does not comply with statutory mandates due to the resultant decrease in coverage levels. Although FEMA posits that the majority of policyholders would opt for RCV as the standard method for loss settlement, a significant number might prefer ACV, particularly those facing higher premiums under Risk Rating 2.0. To maintain adherence to flood insurance regulations and ensure uniform practices among all lending institutions, prudential regulators must determine whether regulated lenders and servicers are obligated to prohibit policyholders from selecting this endorsement.</p> <p>4.1.4 When determining required coverage, will ACV be the new “minimum” because it’s the lesser coverage, or is RCV the “minimum”, because it’s the base settlement type in the policy? If a policyholder elects ACV coverage, will the limit take that election into account? There’s currently an RCV on the NFIP Dec. Page, we suggest that an ACV also be added where the endorsement has been selected.</p>
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	<p>4.1.5 If the insured endorses ACV coverage, but the lender doesn't allow them to have ACV coverage only, how will the agent be expected to address the conflict?</p> <p>4.1.6 The Governing Law section could result in this being litigated in state court with inconsistent outcomes for the flood program</p>
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Section 5. Temporary Housing Expense	
Specific Comment	Reference/Additional Comments
<p>5.1 This new coverage would apply in the event an insured is displaced from their property due to a flood event under certain conditions.</p>	<p>5.1.1 Who determines what is uninhabitable and how is this defined? When/how do insurers determine that the house is habitable? This is going to be an issue with the adjusting community as well as expose the program to litigation around how this is or isn't being defined and applied at time of loss. The lack of clarity will likely create confusion for adjusters, as well as expose the program to litigation directed at challenging the definition of 'uninhabitable.'</p> <p>5.1.2 Clarification will be needed in cases where coverage has been applied for a given period (1 month) and it is later determined (after 2 months) that the insured cannot stay in the home or on the property. Additionally, the word “consecutive” is used in the proposal language without a clear explanation of how it would be applied.</p> <p>5.1.3 Required payments for up to 24 months will create significant administrative burdens for insurers. Insurers will need guidelines on how frequently reimbursement can be submitted. WYOs are not set up to handle such a significant change and potential volume increases that come with it. would also need to clearly understand the WYO exposure and audit requirements.</p> <p>5.1.4 The proposal leaves insurers with the impression that reimbursement will only take place after receiving documentation,</p>

	<p>but it remains unclear as to what documentation will be needed. Additionally, there is concern that the requirement to validate information/documentation provided by the insured could open the door for abuse or fraud by insureds and WYOs are not capable of monitoring fraud or abuse at this level. . We recommend that FEMA manage this process.</p> <p>5.1.5 There is concern that the 24-month period is too long in terms of incentivizing prompt and responsible action on the part of homeowners to have the property repaired. Additionally, the proposed changes provide Administrators the authority to extend timelines, which could impact exposure and create substantial uncertainty in administrative processes. If a large event were to occur, WYOs would need to staff up quickly to handle in flow of work which would be difficult.</p> <p>5.1.6 To address the potential fraud implications of these proposals, we suggest a max amount of \$1500 or a similar cap to reduce potential loss.</p> <p>5.1.7 Is this triggered when the location is uninhabitable AND when there is a civil evacuation order or is it when the location is uninhabitable OR when there is a civil evacuation order? Further clarification is needed such as adding an "and" or an "or" between paragraphs (i) and (ii). More importantly, for the civil evacuation, does the evacuation order have to be mandatory or is an optional evacuation order sufficient? This should be clarified as sometimes with fast moving events, officials may "strongly encourage" evacuation orders but not mandate it, and in some cases may not have enough time to mandate.</p>
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Section 6. Basement Coverage	
Specific Comment	Reference/Additional Comments
6.1 FEMA has identified three different options to basically provide this some type of additional coverage.	6.1.1 We recommend an actual sub-limit be documented, as it is not clear if such a sub-limit is included in the proposed changes. Additionally, we recommend that the coverage address the impact of potential fraud and that FEMA has enough trained staff to handle such situations.

Section 7. Builders Risk	
Specific Comment	Reference/Additional Comments
7.1 What constitutes a "completed" structure needs to be clearly defined.	<p>7.1.1 Insurers will need to know how the proposed change will impact compliance with mandatory purchase requirement around construction loans. If the endorsement remains optional, what happens if structure is determined to be incomplete at time of loss, and the endorsement was not elected? Could the claim be denied? If so, regulators will need to be aware of this, and update existing guidance. Under the new Form with endorsement, will a new policy be issued in advance (before the slab is poured) for closings? Regulators will need to know how this works.</p> <p>7.1.2 Do renovation loans fall under the builders risk coverage section of the new endorsement? How much of the house needs to be under repair before the builders risk endorsement would be needed and who is going to define that?</p> <p>7.1.3 As indicated in Section I of this letter, the new Form, excluding any endorsements, would not cover buildings under construction. To extend coverage to these buildings, the Builder's Risk Endorsement must be added to the policy. Therefore, it is imperative that the prudential regulators specify whether this endorsement will be required for designated loans covering buildings in the course of</p>

	<p>construction. Should the endorsement be mandated, further instructions will be needed on the timing for lenders to enforce this requirement.</p> <p>7.1.4 Moreover, considering the regulatory stipulation for lenders and servicers to escrow flood insurance premiums and associated fees upon the purchase of insurance for buildings under construction, there is a need for supplementary guidance on the impact of this endorsement on escrow obligations.</p> <p>7.1.5 This includes when escrow should commence and the methodology for calculating escrow amounts. For example, if lenders incorporate the one-year Builder’s Risk Endorsement during the construction phase, guidance is needed on recalculating the escrow following the conclusion of the endorsement period.</p>
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Summary

The undersigned organizations appreciate the opportunity to comment on FEMA’s proposed changes to the SFIP form. As highlighted in the preceding comments, numerous concerns require resolution by FEMA and others before the new Form is finalized. To guarantee that these matters are comprehensively addressed before the new Form and its endorsements are adopted and implemented, it is crucial for FEMA to engage in a collaborative process with all the entities involved to ensure that the finalized policy accurately reflects the needs and addresses the challenges faced by all stakeholders. The organizations below look forward to working with FEMA and the NFIP to provide a more modern product for flood insurance purchasers, with broader options for coverage, that will provide better protection, and a more positive customer experience.

The organizations and individual contact information appears on the next page.

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