



FEMA

W-10010

February 16, 2010

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

FROM: NFIP Clearinghouse

SUBJECT: Policy Interpretation 2010-1 – Buildings Over Water That Were Originally Constructed Over Land

Please see the attached Policy Interpretation concerning flood insurance coverage for NFIP-insured buildings that were constructed over land or partially over water on or after October 1, 1982, but are now completely over water because of erosion.

Attachment

cc: Vendors, IBHS, FIPNC, and Government Technical Representative

Required Routing: Underwriting and Claims

Suggested Routing: Marketing and Training

Policy Interpretation 2010-1

Subject: Buildings Over Water That Were Originally Constructed Over Land

Background: This Policy Interpretation addresses the Property Not Covered Clause in the Standard Flood Insurance Policy (SFIP), Section IV, Paragraph 2. This paragraph specifically excludes flood insurance coverage if a building is located entirely in, on, or over water or seaward of mean high tide if it was constructed over water or substantially improved after September 30, 1982.

However, FEMA has become aware of situations where NFIP-insured buildings constructed over land or partially over water on or after October 1, 1982, are now completely over water because of erosion. A strict interpretation of the policy language would result in denial of coverage for these buildings, even though they may have had NFIP policies prior to being located entirely over water.

Policy Interpretation: If a building was originally constructed on land or partially over water, and later becomes entirely over water because of erosion, it is eligible for coverage only if the building has had continuous coverage:

- (1) from the period beginning at least 1 year prior to the building being located entirely over water, regardless of any changes in the ownership of the building, or
- (2) from the date of construction if less than 1 year.

Acceptable documentation of a building's continued eligibility for coverage includes the following:

- A letter from the community official stating that the building originally was constructed on land or only partially over water
- Photographs of the building over land, if available
- The approximate date when the building became located entirely over water
- Proof of continuous flood insurance coverage from the period beginning 1 year prior to the building being located entirely over water, or from the date of construction if less than 1 year.

In accordance with the SFIP provisions, the policy will pay only for direct physical loss by or from flood.

February 4, 2010

(Date)



Edward L. Connor
Acting Federal Insurance Administrator
National Flood Insurance Program
Mitigation Directorate