

Association of State FloodPlain Managers
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Resolution in Support of Improving Increased Cost of Compliance (ICC)

WHEREAS, a 1998 study by the National Wildlife Federation indicated that repetitive loss properties represent only 2 percent of all insured properties yet claim 40 percent of all NFIP payments; and that almost 11,000 repetitive loss properties had sustained substantial damage; and

WHEREAS, the National Flood Insurance Program was amended in 1994 to include additional flood insurance coverage, also known as Increased Cost of Compliance (ICC) coverage, for assisting property owners to comply with land use and control measures for properties that are repetitive loss structures, have been substantially damaged, and that have sustained damage on multiple occasions, if it is determined that it is cost-effective and in the best interests of the National Flood Insurance Fund to cost share the compliance with the land use and control measures; and

WHEREAS, to date, ICC coverage has been under-utilized – ICC surcharges currently generate over \$80 million annually, yet since the inception of the program, only \$12 million in claims have been paid; and

WHEREAS, the ICC remains little known and largely misunderstood by most community officials, insurance agents and adjusters, and flood insurance policy holders; and

WHEREAS, the ASFPM has been concerned with and involved in substantial damage and repetitive loss issues for many years – ASFPM members confront these issues on a daily basis and the ASFPM was heavily involved in the National Flood Insurance Reform Act of 1994; and

WHEREAS, the ASFPM commends FEMA for making the repetitive loss issue a priority and creating a repetitive loss strategy to address this continuing problem; and

WHEREAS, the introduction of two bills in the House of Representatives to address repetitive losses indicates that there also is Congressional interest in reducing repetitive losses;

THEREFORE, the Board of Directors of the Association of State Floodplain Managers (ASFPM) does hereby resolve to support efforts by FEMA to make a meaningful impact on the repetitive loss problem through changes in the existing ICC insurance mechanism. To enable ICC to reach its full potential as a mechanism for addressing repetitive losses and substantial damage, the ASFPM recommends FEMA undertake the following:

1. FEMA should convene a work group representing the state NFIP coordinating agencies, local government, and the insurance industry to explore repetitive loss issues (listed in recommendations 2-9 of this resolution) and make recommendations for improvement.
2. Implement the ICC authority provided in Section 1304(b)(3) to target mitigation offers for repetitive loss properties that, based on FEMA's own analyses, will yield cost effective benefits to the NFIP.

3. Communicate to insurance adjusters that their responsibility, with respect to ICC, is to encourage property owners to work with communities for substantial damage determinations. In other forms of claim payment, adjusters typically try to minimize the amount of payments made. Under the conditions, which trigger ICC, it is in the best interests of the NFIP to have adjusters actively encourage mitigation through the ICC mechanism.
4. Continue careful oversight of claims to ensure that owners who may have sustained substantial damage are required to obtain determinations from community officials. ASFPM notes that adjusters use the “replacement value” as recorded in the NFIP database, which is not necessarily equivalent to “market value.” In addition, adjusters look solely at the value of paid claims, which does not include costs that a community must include when determining the cost of repair for the purposes of the substantial damage determination. Therefore, it is incumbent on the adjuster to pursue use of ICC and substantial damage determinations even when damage appears to be close to 50%, and to rely on the community’s determination rather than second guessing the community’s determination. ASFPM has anecdotal evidence that some adjusters continue to oppose a community official’s substantial damage determination. We submit that doing so not only conflicts with the community’s legal responsibility to make such determinations, but it is contrary to the Write Your Own contract with the NFIP.
5. Examine why elevation-in-place projects that are supported by FEMA funds are considerably more expensive than similar projects undertaken by the U.S. Army Corps of Engineers or by individual homeowners.
6. Actively encourage the use of ICC to support “demolition and rebuild” projects. It may be more cost-effective to demolish and rebuild a new building that is fully code compliant (flood, wind, seismic, fire resistance) than to attempt to elevate an old or a severely damaged building. ASFPM contends that in these cases, FEMA should not insert itself into the private finances of the owner, regarding whether the owner will have sufficient funds to complete the building. The full ICC benefit should be available because a flood-compliant building is the end result.
7. Ensure that Regional staff involved in post-disaster work equally communicate the merits of acquisition and elevation-in-place, and ensure that all FEMA staff understand that choosing the most suitable mitigation activity is a decision that must be made by the community and property owners. Despite the multiple benefits of acquisition (realized when contiguous areas are acquired or when the floodway is cleared), elevation-in-place is a reasonable measure in many communities, especially if new construction in flood hazard areas is continuing and if buyouts would result in non-contiguous (patchwork) ownership.
8. Carefully investigate the extraordinary level of involvement of FEMA staff in developing specifications for elevation-in-place projects, and in “nit-picking” which cost elements are or are not be eligible. This level of involvement often continues into the project implementation phase, creating an unacceptable level of uncertainty that strains the NFIP/state/local/home-owner relationship. When ICC is used (because it is cost effective), the full amount should be made available without question. When grant funds are used, in the vast majority of elevation-in-place projects the amount funded by the grant is insufficient to cover 75% of costs and thus the homeowner’s share is greater than the originally anticipated 25%.
9. Re-examine the time limitation on use of ICC payments. States have expressed concerns about the 2-year time limit on use of ICC payments when part of a community-based project. Because of the time necessary to develop a project, prepare a grant application, and receive award of a grant, the 2-year limitation is unreasonable, especially a property eligible for ICC is part of a large project.

10. Continue to work with the NFIP State Coordinating Offices to conduct workshops for local officials to explain the requirement for proper enforcement of substantial damage and the financial benefits that citizens will realize through both flood insurance and ICC.
11. Continue to train insurance agents in the area of selling the product and to train adjusters about ICC and how to explain the merits to owners. While ICC is a mandatory coverage it is helpful in the overall functioning of the NFIP when those who deal directly with property owners to have a solid understanding of ICC.

Approved by the Board of Directors May 10, 2003

Attested _____, Secretary