

General Information: The National Flood Insurance Program (NFIP)

“Today’s Floodplain Is Not Necessarily Tomorrow’s Floodplain.”

No Adverse Impact (NAI), a managing principle developed by the Association of State Floodplain Managers (ASFPM) intended to address the shortcomings of the typical floodplain management program

A. National Flood Insurance Program (NFIP)

The National Flood Insurance Program (NFIP) constantly adapts to program changes stemming from the information and costs associated with the numerous flood events of the past forty years. Flood damage claims and repair costs have continued to increase to over six billion dollars annually in the United States. “There is no possibility of a sustainable economy without safe housing and safe locations for business and industry to occupy (No Adverse Impact (NAI)).” The information in these modules reflects 2014 regulations. Users should be aware of continued changes to the official state and federal regulations.

The NFIP is a federal program that provides flood insurance to owners and renters with assets located in participating communities. The program is contingent on an agreement between local communities and the Federal Government which requires a community to adopt, administer, and enforce a floodplain management ordinance to reduce flood risks in Special Flood Hazard Areas. After a community reaches an agreement with FEMA and adopts the required floodplain management ordinance, FEMA will make flood insurance available within the community. Anyone within the community is eligible to buy flood insurance, regardless of whether their structures are located within the floodplain boundary.

Participation by the local government is voluntary and the benefits are considerable. Property owners in participating communities are able to insure against flood losses through the NFIP. This insurance is designed to provide another financial tool to help offset the emotional and economic hardships wrought by flood damages. Disaster assistance also helps to meet the

escalating costs of repairing damage to buildings and their contents caused by floods. By employing wise floodplain management, a participating community can significantly assist in protecting its citizens against much of the devastating financial loss resulting from flood disasters. Careful local management of development in the floodplains results in construction practices that reduce flood losses, insurance premiums, and the high costs associated with flood disasters to all levels of government. It also directs the cost and responsibility to those who choose to reside in and establish businesses in these vulnerable areas.

Conversely, if a community has been mapped and has decided not to join or withdraws from the program and becomes sanctioned, NFIP flood insurance is not available to any property owner in the community. This penalty is the most severe when a property with a federally backed mortgage located in a FEMA identified Special Flood Hazard Area (SFHA) is for sale, or is going through a refinance. Loans can be called. Financing is difficult because a potential purchaser or property owner is unable to secure a loan that has any federal backing without flood insurance. Since flood insurance is not available, the processes of maintaining, re-financing, or selling the property could be very difficult.

Enrollment should be strongly considered for fiscally responsible communities. Disaster assistance is a poor alternative to flood insurance – it never comes close to covering all the costs of repairing homes and businesses and can take a year or more to collect if it becomes available at all. Only the most severe disaster typically receives a Presidential Declaration, which is applied in less than 50% of flooding incidents. The most common form of disaster assistance is a loan through the Small Business Administration (SBA) that must be repaid with interest, and would further burden existing mortgages or home loans.

This module gives some background about why the NFIP was created and how the program is structured. Information retrieved from FEMA publication F-084: *Answers to Questions About the NFIP*.

B. Meeting the Need for Flood Insurance

For decades the national response to flood disasters generally involved constructing flood control works such as dams, levees, channelizations, or sea walls. Destruction from major floods resulted in the federal government intervening and providing disaster assistance to flood victims. This approach did not effectively reduce flood-related losses, nor did it discourage unwise development in high-risk areas. The message that nature sent with every flood about how and where to build was often overlooked. In some parts of the country this approach may have actually encouraged additional hazard-prone development. To compound the problem, private insurance companies did not offer insurance against flood damage because the risk on return was too high.

Nearly every county in the U.S. has experienced at least one major disaster declaration. In the face of mounting flood losses and rising disaster relief costs, the U.S. Congress created the National Flood Insurance Program in 1968. The intent was to *“reduce future flood damage through local floodplain management ordinances, and to have people that live at risk help pay for their recovery through an insurance mechanism.”*

Another important objective of the NFIP was to break the cycle of flood damage. By encouraging communities to guide development to lower risk areas, and by requiring specific building standards in the SFHA, one of the long-term goals of the NFIP can be achieved: create disaster resistant communities.

Older buildings may be removed, replaced, upgraded or modified with techniques that help to reduce flood damage. Community planners can use wise construction practices and locate development away from high risk areas within the community.

New developments that meet or exceed the minimum standards generally achieve significant risk reduction to flood damage. Following and enforcing community ordinances and standards can reduce the overall economic toll.

Communities that have experienced flood events have found that avoiding flood prone areas is more effective than trying to protect those areas from floods.



2008 Gallatin County Flooding –
East Gallatin River
Photo by Scott Gililan

C. Brief History of the National Flood Insurance Program

In 1968, Congress passed the National Flood Insurance Act based on findings that: “(1) a program of flood insurance can promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses; and (2) the objectives of a flood insurance program should be integrally related to a unified national program for floodplain management...”



In the late 1960s, Federal officials estimated that only 5,000 communities had flood hazards. As they looked more carefully at the problem, they determined that more than 20,000 counties, cities, and towns had some degree of risk. Today flood insurance is available in over 21,610 communities and U.S. territories. This includes Indian tribes, authorized tribal organizations, and Alaska Native villages that have voluntarily adopted the NFIP requirements. Montana has over 6100 policies in effect as of January 2015. There are 134 Montana communities that participate in the NFIP. In order for these communities to also adhere to state law, they have adopted standards that exceed FEMA’s minimum NFIP standards.

Major flood disasters have always had an impact on the NFIP. Hurricane Agnes struck the East Coast in 1972. At the time there were fewer than 1,200 communities in the NFIP, and only 95,000 homeowners had insurance policies. Hurricane Agnes caused a total of \$3–\$4 billion in damage and affected states from the Gulf Coast all the way to Canada. Less than 1% of the damaged buildings were insured and only \$5 million was paid in insurance claims.

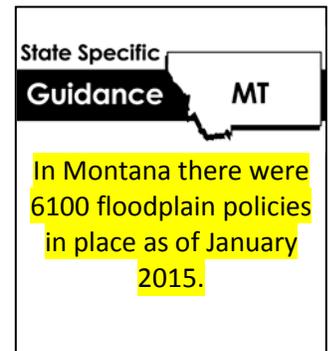
The Flood Disaster Protection Act of 1973 was passed as a result of low numbers in flood insurance policies and coverage. The most significant impact of the Act was the *mandatory purchase requirement*. Since then, mortgage lenders and banks are required to make borrowers obtain flood insurance on homes located in mapped floodplains.

In 1981 the Reagan Administration set a goal to make the NFIP self-supporting by 1988. That would mean that no taxpayer support would be needed to pay claims and operating expenses. One step towards that goal was a decrease in the amount of subsidy for older buildings. Insurance premiums were also increased and coverage of certain items in basements was sharply limited. These measures, combined with a number of years without major floods, allowed the NFIP to achieve self-supporting status in 1985, three years before the target date.

In 1989 Hurricane Hugo hit South Carolina. Flood insurance payments totaled nearly \$376 million, about 35% of the \$1.1 billion in federal disaster support. Other major floods have prompted significant payments for flood insurance claims, helping thousands of home and business owners recover without burdening the federal government and taxpayers.

Some notable events include:

- the Midwest Floods of 1993 with \$271 million in claims
- Hurricane Andrew in 1992 with \$15.5 billion in claims
- Hurricane Georges in 1998 with \$149 million in claims
- Hurricane Allison in 2001 with \$1.1 billion in claims
- Hurricane Isabel in 2003 with \$493million in claims



- Hurricanes Katrina, Rita, and Wilma in 2005 with \$17.7 billion in claims
- Hurricane Sandy 2013

In this same vein, Montana events of note include major floods in 1948, 1964, 1996 (\$3.3 million), 1997 (\$5.8 million), 2011 (\$60 million and counting), and 2013 (how much?).

Through partnerships with communities, the NFIP supports both damage reduction and preservation of natural and beneficial floodplain functions. The most important reason the NFIP works is flood risk reduction. In general, buildings constructed in compliance with NFIP floodplain standards sustain significantly less damage during flood events.

D. The Mandatory Purchase Requirement

From 1968 until the adoption of the Flood Disaster Protection Act of 1973, the purchase of flood insurance was voluntary. For the first time regulated lending institutions were not supposed to make, increase, extend, or renew any loan secured by improved real estate located in a special flood hazard area, unless the secured property and any personal property securing the loan was covered by flood insurance. In 1988 Congress began to consider more changes to the NFIP. Flooding along the Mississippi in 1993 prompted further evaluation, and the National Flood Insurance Reform Act was passed in September, 1994. It included a more rigorous focus on the improvement of compliance with the mandatory purchase requirements of the NFIP. Lenders, servicers, and secondary market purchasers were made accountable to require flood insurance for risky ventures in floodplains. Increasing compliance and participation in the NFIP is designed to decrease the financial impact of flooding on the federal government, taxpayers, and citizens.

The Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 mandate the purchase of flood insurance as a condition of Federal or Federally related financial assistance for acquisition and/or construction of buildings in Special Flood Hazard Areas (SFHAs) of any community. The purchase of flood insurance on a voluntary basis is frequently

State Specific	
Guidance	MT
Montana's Communities	
Total in the NFIP	134
Regular Program	
No SHFA.....	14
Minimally Flood-prone.....	38
Emergency Program	
	5
Non-Participating.....	
Suspended.....	1
Withdrawn	1
<i>as of 2015</i>	

prudent even outside of SFHAs. Some lenders may still require flood insurance in these areas.

The Acts prohibit Federal agency lenders from making, guaranteeing, or purchasing a loan secured by improved real estate or mobile home(s) in a SFHA, unless flood insurance has been purchased, and is maintained during the term of the loan. Examples of federally backed lenders include the Small Business Administration (SBA) and the United States Department of Agriculture's (USDA) Rural Housing Service, and Government Sponsored Enterprises (GSEs) for housing (Freddie Mac and Fannie Mae).

The Acts apply to lenders under the jurisdiction of Federal entities for lending institutions, such as the Board of Governors of the Federal Reserve System and the Farm Credit Administration. The Acts also require Freddie Mac and Fannie Mae to implement procedures designed to ensure compliance with the mandatory purchase requirements of the Acts.

Some materials may be accessible on FEMA's website at www.fema.gov - search "Mandatory Purchase."

E. Administrative Structure of the NFIP

The Community Status Book for Montana is updated regularly on FEMA's Community Information System (CIS). In addition to listing each participating community in the NFIP, it specifies the communities that have identified Special Flood Hazard Areas (SFHAs), but do not participate in the program. Also listed is the date of entry into the National Flood Insurance Program (NFIP) for each community, number of insurance policies currently in place, as well as the date of the current effective maps.

Emergency Phase. The Emergency Phase of the NFIP was the initial phase of community participation. It was designed to provide a limited amount of insurance at less than actuarial rates. A community in the Emergency Phase either does not have an identified and mapped flood hazard or has been provided with a Flood Hazard Boundary Map (FHBM). Adoption of a limited floodplain management ordinance is required. About one percent of the nearly **21,610** communities participating in the NFIP remain in the



Important Information

Many insurance agents who sell home-owner's coverage also sell NFIP flood insurance. Find an agent online at www.floodsmart.gov.

Emergency Phase, including five of Montana's 134 participating communities.

Regular Phase. Usually a community participating in the Regular Phase of the NFIP is provided with a Flood Insurance Rate Map (FIRM) and a detailed engineering study, or a Flood Insurance Study (FIS). Under the Regular Phase, more comprehensive floodplain management requirements are required in exchange for higher amounts of flood insurance coverage.

Maximum amounts of coverage are established by law. As of 2014, residential structures are eligible for \$250,000 building coverage and \$100,000 contents coverage. Non-residential structures are eligible for \$500,000 building coverage and \$500,000 contents coverage.

F. What Does it Mean to Not Participate in the NFIP?

Communities with SFHAs that choose not to participate – or that withdraw or have been suspended – most likely do not regulate flood hazards to the NFIP minimum requirements. The following apply to non-participating communities:

- Federal flood insurance is not available to anyone in a community.
- Federal agencies shall not make grants or loans for buildings in identified flood hazard areas, including agencies such as the Farmers Home Administration (FHA), Housing and Urban Development (HUD), the Environmental Protection Agency (EPA), the Small Business Administration (SBA), and Health and Human Services. This rule applies to federal grants and loans for any reconstruction, repair, construction, rehabilitation, or additions to structures in SFHAs.
- Federal disaster assistance will be extremely limited in identified flood hazard areas for permanent restorative construction and grants. This means that public buildings damaged by flood may not be eligible for federal disaster assistance.
- Federally backed mortgages may not be available for structures in identified flood hazard areas, including loans or grants guaranteed by FHA, Veterans' Administration, SBA, and federal instrumentalities such as the Federal Deposit Insurance Corporation and the National Credit Union Administration.

- The National Flood Insurance Reform Act of 1994 places restrictions on conventional loans, and lenders must notify the buyer or lessee if a property is in a flood hazard area.
- The Flood Insurance Rate Map (FIRM), Digital Flood Insurance Rate Maps (DFIRM), and appropriate actuarial rates go into effect regardless of whether the community participates. Structures in SFHAs will be actuarially rated if the community later decides to join the NFIP. This could lead to extremely expensive insurance premiums.
- Communities choosing to re-join may be required to mitigate or rectify out-of-compliance development in the SFHA. Flood insurance premiums may be expensive for structures in these communities.

G. NFIP Sanctions for Violations of Community Agreement

When a local community agrees to participate in the NFIP, it adopts an ordinance with minimum criteria and agrees to enforce it to reduce future flood damage. In return, flood insurance and other forms of federal assistance are made available. If a community fails to uphold and enforce its ordinance FEMA may impose sanctions.

Examples of deficiencies and violations that could place or lead a community to probation include:

- Failure to require permits for all construction, subdivisions, and other development in flood hazard areas,
- Failure to obtain and reasonably utilize flood hazard data,
- Adoption of ordinance provisions that are inconsistent with the minimum requirements of the NFIP and State of Montana or that do not contain adequate enforcement provisions,
- Application of procedures that do not reasonably ensure compliance,
- Poor permit reviews that allow non-compliant activities,
- Failure to correct violations to the extent practicable,
- A pattern and practice of issuing variances that are inconsistent with the NFIP variance criteria, and
- Allowing enclosures below elevated buildings to be converted in ways that are not in compliance with the ordinance.

Probation. FEMA looks for “substantive and multiple” deficiencies and/or violations before undertaking probationary action. Probation entails a \$50

surcharge on all new and renewed flood insurance policies. Consequently, FEMA is required to notify all policyholders that non-compliance by the community is the reason for the additional charge. FEMA and the State NFIP/CAP Coordinator will closely monitor the correction progress, which lasts for a minimum of one full year. It may be continued beyond that, if necessary. Probation is the precursor to suspension.

Suspension. Communities may be suspended from the NFIP for failure to correct any of the problems that lead to probation.

A community may be suspended without probation if its ordinance is not updated when required. Ordinance revisions may be prompted by a map revision. FEMA and the State NFIP/CAP Coordinator will work with communities to revise their ordinances.

New flood insurance policies may not be written and existing policies may not be renewed in suspended communities. This will severely restrict the availability of mortgages and other loans, federal grants, and disaster assistance. If an insurance agent mistakenly writes a policy in a suspended community, FEMA is not required to pay a subsequent claim, and will reimburse premiums paid after suspension took effect. This has caused a great deal of distress after floods, when homeowners discover their insurance policies are not valid. Insurance agents who continue to write policies in suspended communities may be held liable for uninsured losses.