



FEMA

W-13053

September 6, 2013

MEMORANDUM TO: Write Your Own (WYO) Principal Coordinators,  
the National Flood Insurance Program (NFIP) Servicing Agent,  
and Selected Adjusting Firms



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

SUBJECT: Notice of Implementation of Section 100241 of H.R. 4348 – List of  
Preliminary Determination Communities and Containment dates

Pursuant to the attached July 10, 2012, Bulletin W-12045, FEMA is providing a list of those wildfires it has received notice of consultation with the agencies with jurisdiction over the affected Federal lands — see attached Exhibit 1. As a result of these consultations, it is FEMA's preliminary determination that these fires present an elevated risk of flooding as a result of post-wildfire conditions. The list of these wildfires is attached.

This list also includes the communities that have been identified as having a possibility to be affected by flooding caused by or made worse as a result of these post-wildfire conditions.

Again, we ask for your full support in this matter. Any questions or comments regarding this extension should be directed to James A. Sadler, CPCU, AIC, Director of Claims, National Flood Insurance Program. Mr. Sadler may be reached by email at [James.Sadler@dhs.gov](mailto:James.Sadler@dhs.gov).

Attachments

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Claims, Underwriting

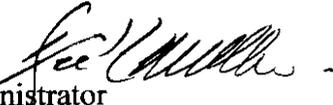


FEMA

W-12045

July 10, 2012

MEMORANDUM TO: Write Your Own (WYO) Principal Coordinators, the National Flood Insurance Program (NFIP) Direct Servicing Agent, IBHS Flood Insurance Committee, FIPNC

FROM: David L. Miller   
Associate Administrator  
Federal Insurance and Mitigation Administration

SUBJECT: Notice of Implementation of Section 100241 of H.R. 4348 –  
Exception to 30-Day Waiting Period for Coverage of Flood Damage  
Due to Flooding on Federal Land Caused, or Exacerbated, by Post-  
Wildfire Conditions

In Bulletin W-12044, Edward Connor, Deputy Associate Administrator for Federal Insurance, informed you that on July 6, 2012, President Obama signed the ***Biggert-Waters Flood Insurance Reform Act of 2012*** reauthorizing the National Flood Insurance Program (NFIP) for five years and implementing a number of programmatic reforms. Section 100241 of that Act created a third exception to the NFIP's 30-day waiting period for flood insurance coverage to become effective. This Section reads in part:

***SEC. 100241. INSURANCE COVERAGE FOR PRIVATE PROPERTIES AFFECTED BY FLOODING FROM FEDERAL LANDS.***

***Section 1306(c)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(2)) is amended by adding at the end the following:***

***(C) The initial purchase of flood insurance coverage for private property if—***

***(i) The Administrator determines that the property is affected by flooding on Federal land that is a result of, or is exacerbated by, post-wildfire conditions, after consultation with an authorized employee of the Federal agency that has jurisdiction of the land on which the wildfire that caused the post-wildfire conditions occurred; and***

Notice of Implementation of Section 100241 of H.R. 4348 –Exception to 30-Day Waiting Period for Coverage of Flood Damage Due to Flooding on Federal Land Caused, or Exacerbated, by Post-Wildfire Conditions

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***(ii) The flood insurance coverage was purchased not later than 60 days after the fire containment date, as determined by the appropriate Federal employee, relating to the wildfire that caused the post-wildfire conditions described in clause (i).***

To implement this new legislation in a timely manner and to address the imminent need for flood insurance coverage in certain areas, FEMA will make a preliminary determination that there is an elevated risk of flooding as a result of post-wildfire conditions. This preliminary determination will be made in consultation with the appropriate federal agency or agencies having jurisdiction over the federal land in question. When appropriate, we will issue bulletins identifying communities that have been determined to be at an elevated risk of flooding and the wildfire containment date.

Section 100241 requires a property-by-property determination for the exclusion to the 30-day waiting period to apply. If a specific property in the area of elevated risk suffers a loss due to flood and the NFIP policyholder submits a claim, the NFIP insurer (either Direct or WYO company) should evaluate whether the conditions warrant application of the exception to the 30-day waiting period, *i.e.*, that the property was affected by flooding on Federal lands that is caused, or is exacerbated by, post-wildfire conditions. To make the required determination, the following conditions must be met:

- The adjuster determines that the flood causing the loss was affected by flooding from Federal land that was caused by or exacerbated by post-wildfire conditions; and
- The policy was purchased not later than 60 days after the fire containment date.

If these conditions are met, the flood damage should be adjusted without the application of the 30-day waiting period. Application of the exception to the 30-day waiting period, however, does not change the NFIP requirements for issuing new policies. The 30-day waiting period exception is applied only if a policy has been issued and a loss occurs before the policy becomes effective. If the insured property meets the eligibility requirements, the appropriate insurer is authorized to reform the policy effective date to eliminate the 30-day waiting period.

Each NFIP flood insurance claim should be individually adjusted on its merits, and all provisions of the NFIP Standard Flood Insurance Policy still apply. For instance, the exception to the waiting period will not apply if:

- A flood is in progress or flood damage occurs before the application is submitted and the full premium is accepted by the insurer;
- The application for insurance and the full premium is accepted by the insurer later than 60 days after the wildfire's containment date;
- The flood damage is caused by floodwaters not affected by flooding on Federal lands; or
- The community in which the property is located was not a participating community on or before 60 days after the wildfire's containment date.

An uncontained wildfire is currently burning in Waldo Canyon in the Pike National Forest in Colorado, and a wildfire in High Park in the Arapaho-Roosevelt National Forest, also in Colorado, was contained on June 30, 2012.

Notice of Implementation of Section 100241 of H.R. 4348 –Exception to 30-Day Waiting Period for Coverage of Flood Damage Due to Flooding on Federal Land Caused, or Exacerbated, by Post-Wildfire Conditions

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Based on our consultation with the U.S. Forest Service, we have determined there is an elevated risk of flooding in the communities in the vicinity of these wildfires. FEMA is making this preliminary determination to provide notice to the WYO insurance companies and other stakeholders that the recently-enacted exception to the 30-day waiting period may be in effect. As noted above, the actual determination on the applicability of the exception must be made on a property-by-property basis.

FEMA is aware that other wildfires on federal land in other States are also uncontained at this time, and we continue to monitor those events to determine eligibility for the exception to the 30-day waiting period.

Again, we ask for your full support in implementing this new legislation. Questions or comments regarding this bulletin should be directed to James A. Sadler, CPCU, AIC, Director of Claims, National Flood Insurance Program. Mr. Sadler may be reached by email at [James.Sadler2@fema.dhs.gov](mailto:James.Sadler2@fema.dhs.gov).

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Claims, Underwriting

## Exhibit 1

**The following post-Wildfires have caused an elevated risk of flooding on federal land**

Designation of Land(s)	Date Wildfire Declared Contained?	Date = + 60 days since Wildfire Contained?	Community(ies)
Jaroso Fire	August 5, 2013	October 4, 2013	Cundiyo and Rio Chiquito, Unincorporated areas of Santa Fe County
Silver Fire	July 19, 2013	September 17, 2013	Kingston, Hillsboro, Animas, and Communities along Percha Creek, Animas Creek, Gallinas Creek, and the Mimbres Creek, These are unincorporated areas of Sierra and Hildago Counties
Thompson Ridge Fire	July 1, 2013	August 30, 2013	Seven Springs, Thompson Ridge, La Cueva, Jemez Spring, and communities along State Highway 4 from VCNP to Jemez Springs, Unincorporated areas of Sandoval Counties
Tres Lagunas Fire	June 15, 2013	August 14, 2013	Holy Ghost, Terrero, Cow Creek, Pecos and Communities along State Highway 63 from Terros to Pecos, Pecos Village.