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Here's Something You Might Find Interesting . . .

This month I'm writing about nonresidential buildings. I expect we can all explain the regulatory requirements that apply when new nonresidential buildings are proposed in flood hazard areas: in A zones, they must be elevated or dry floodproofed, and in V zones they must be elevated. Existing nonresidential buildings that are to be substantially improved – or repaired if substantially damaged – must be brought into compliance with those same requirements.

Now, while someday I expect to write a column about regulating and retrofitting nonresidential construction, today I want to talk about some other aspects.

I understand that most communities that seek mitigation grant funds do so to help homeowners – homeowners typically have few resources to cope with repetitive or severe flooding. I suggest that some communities may wish to broaden their perspective and consider that helping nonresidential property owners is not only good for communities (keep jobs and tax base), it is good for the NFIP. And that means it is good for all current and future NFIP flood insurance policyholders. Here's why.

Floodplain managers have long known that NFIP-insured buildings that receive multiple claims, called “repetitive loss” or RL properties, have been one of the most significant factors driving rate increases. Indeed, ASFPM testified many times before Congress during the six years that preceded passage of the 1994 Reform Act that the NFIP needed a grant program to help mitigate flood-prone properties – chiefly RL properties. The result was the creation of the Flood Mitigation Assistance program that, to date, has used over \$300 million in policy fee income collected from policy holders (not taxpayers) to mitigate thousands of properties.

Another long-standing concern of floodplain managers is how difficult it is for communities to administer the NFIP's substantial damage requirements. To recognize the importance of reducing the vulnerability of older buildings and to help ease the financial burden on owners, the 1994 Reform Act authorized Increased Cost of Compliance (ICC) coverage. ICC has been part of standard flood insurance policies since 1997 – its purpose is to provide additional claim payments when buildings have been substantially damaged by flooding (or, under certain circumstances, when repetitively damaged).

Use of the ICC claim is limited to certain costs that are required to bring buildings into compliance with the community's floodplain management requirements, including elevation-in-place and floodproofing (nonresidential only). ICC payments may also be assigned to communities as part of the nonfederal cost share of acquisition projects (primarily for demolition expenses). Over time, FEMA has increased the maximum ICC payment from \$10,000 to \$30,000. (The average ICC payment is considerably less than \$30,000, but that's a topic for another column.) While some may complain that \$30,000 isn't enough to elevate many buildings, they should keep in mind that just 10 years ago owners of substantially-damaged buildings got nothing to pay for compliance.

Now, back to nonresidential buildings – a few months ago, FEMA told me that more than 70 ICC claims for nonresidential properties had been paid or were being processed in Alabama, Louisiana, and

Mississippi as a result of Hurricane Katrina. I don't know how many claims were actually paid, but the data suggest that payments were running between \$12,000 to more than \$20,000. This is good news, indeed, if compliance can be achieved with those investments.

Let's bring these pieces together.

How many of us know that more than 10% of the properties on FEMA's RL list are nonresidential properties – and they've collectively received nearly 25% of the dollars paid to all RL properties? The majority of RL properties that have received more than \$1 million in total claims are nonresidential properties. (Note that the data I'm using are several years old and a lot of floods have happened in the mean time; while the exact numbers may have changed, the relative impact of nonresidential properties probably hasn't changed much.)

The high dollar amounts paid to nonresidential properties are, in part, because the NFIP coverage limits for nonresidential buildings are higher than for homes: \$500,000 for structure and \$500,000 for contents (versus \$250,000 structure and \$100,000 contents for homes). Admittedly, many nonresidential RL properties receive more claims for contents damage than for structural damage. That's understandable because many of these buildings are more robust, engineered buildings that are less likely to be damaged.

It seems to me that mitigating nonresidential RL properties is a classic example of 'low hanging fruit' – easy opportunities to make significant and beneficial impacts. Think of this – mitigating some of the nonresidential RL properties would help the program as a whole to more quickly stem the number and size of claims.

I don't want to diminish the efforts of some states and communities that have worked with business owners to implement mitigation projects. Some have demonstrated considerable success. For example, Delaware used Flood Mitigation Assistance program funds to retrofit floodproof several commercial buildings. The photo illustrates the approach: the work entailed adding reinforced walls outside of the original walls and providing specially designed panels to be installed when flooding is predicted. In just a few short years the owner of this building has implemented the emergency action plan 2 or 3 times – each time avoiding a potential claim against his NFIP flood insurance policy. Delaware has also used Pre-Disaster Mitigation grant funds to floodproof portions of a hospital.



You should know that some limitations on use of FEMA's various grant programs can be traced to the authorizing statutes. For example, Congress limited the NFIP-funded Severe Repetitive Loss pilot program to only single-family properties that have received a specific number and value of claims (and multi-family properties as defined by FEMA). Therefore, SRL may not be used for nonresidential properties – no matter how many or how big the claims have been. But look closely at the NFIP-funded Repetitive Flood Claims program – while it was initially limited to buyouts, this year FEMA has expanded the eligible activities to include floodproofing of nonresidential buildings. Of course, all grant

programs require projects to be cost-effective and meet other criteria. Check with your State Hazard Mitigation Officer to learn more.

Here are a few more thoughts about mitigating nonresidential RL properties that might move these initiatives higher on your list:

- Nonresidential building owners should be keen to mitigate –businesses lose money every time it floods, even if the building damage or lost inventory are insured for flood losses (NFIP policies cover only physical damage, not business interruption).
- Owners should readily see that providing the nonfederal match is a good investment (even if they have to provide more than the required minimum 25%).
- Contrary to the concerns of some, facilitating access by profit-making entities to grant funds can be good for the community as a whole – and good for the NFIP if fewer repetitive claim payments have to be paid.

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Washington Legislative Report

Meredith R. Inderfurth, Washington Liaison
Rebecca C. Quinn, Legislative Officer



Back to Work for Three Weeks

As Insider goes to press, the Congress will be returning from its more than month-long August recess and the Republican and Democratic Presidential Nominating Conventions. The short three week session is expected to be frenetic because of so many bills that are ready or almost ready for House and Senate floor action, much of it is “must-do” legislation. Perhaps most importantly, some form of action to fund the federal government is essential because no appropriations bills for the fiscal year beginning October 1st have been finalized.

While there are rumors about a Lame Duck session following the elections in November, those close to the Democratic leadership insist they do not want to have such a post-election session. The assumption is that most spending bills will be pulled together into a Continuing Resolution (CR), but it remains to be seen if the CR will extend only until November or until February when the new President will be in office. February is also the month when new budget requests for Fiscal Year 2010 will be released and the hearing process for FY '10 appropriations will begin.

Among the many pending, urgent bills are the flood insurance reform and reauthorization measures and reauthorization of the Pre-Disaster Mitigation program. Both the NFIP and PDM will expire on September 30th without some form of legislative extension of authority. Action on both is dependent, first, on successful resolution of some significant differences between House and Senate passed versions and, second, on successfully competing for Floor time with appropriations, supplemental appropriations (including disaster relief), offshore drilling and energy legislation, tax cut extensions, second stimulus package and a number of other urgent matters.

Flood Insurance Reform and Reauthorization

Some action to extend the authorization for the NFIP will be necessary in September. If agreement cannot be reached on differences between the House and Senate passed versions of the major reform bills,