

A Guide to Increased Cost of Compliance

The Mitigation Section of Washington State Emergency Management (EMD) is providing this Information Bulletin to assist local governments, state agencies, and tribes in understanding the Increased Cost of Compliance (ICC) benefit and its role in hazard mitigation grant-funded projects. This synopsis is based on information published in FEMA's *Increased Cost of Compliance Coverage FEMA 301*, September 2003; FEMA's *Hazard Mitigation Assistance Unified Guidance*, June 1, 2010; and other official documents referenced at the end of this bulletin. You are encouraged to review these publications for further information.

What is Increased Cost of Compliance (ICC) Coverage?

Increased Cost of Compliance (ICC) is flood insurance coverage that provides up to \$30,000 to help pay the costs of elevating, demolishing, relocating, or flood-proofing a substantially or repetitively damaged building after a flood under the following conditions:

- The building is located in a Special Flood Hazard Area, and is
- Insured under the National Flood Insurance Program, and is
- Determined by a local building official to be substantially damaged

ICC coverage is designed to help policyholders bring their insured structure(s) into compliance with local floodplain management regulations. This coverage is in addition to the coverage for the repair of actual physical damages from a flood.

What are the different types of mitigation activities ICC coverage can help pay for?

Property Acquisition with Structure Demolition: A flood mitigation activity in which the local jurisdiction purchases property located in a Special Flood Hazard Area (SFHA), demolishes the structure(s), and permanently maintains the land as open space. Only structure demolition and site stabilization are ICC eligible.

Property Acquisition with Structure Relocation: A flood mitigation activity in which the local jurisdiction purchases property located in a Special Flood Hazard Area (SFHA), relocates the insured structure to another property outside of the SFHA, and permanently maintains the vacated land as open space. The relocation portion of this activity—which includes preparing the old and new sites, moving the structure and lowering it onto the new foundation, and restoring the old site—is ICC eligible.

Structure Elevation: A flood mitigation activity in which a building is raised so that the level of its first floor is at or above the Base Flood Elevation (BFE). This activity is ICC eligible.

Flood-proofing: A combination of adjustments and/or additions to buildings that eliminate or reduce the potential for flood damage by keeping floodwater out of the building. Examples include: installing watertight shields, applying membranes or sealants, reinforcing walls to withstand floodwater

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pressures, and installing drainage collection systems. Flood-proofing is only ICC-eligible for historic homes and non-residential structures.

Mitigation Reconstruction: A flood mitigation activity in which a damaged structure is demolished and rebuilt according to existing floodplain management codes. This mitigation option is available only under the Severe Repetitive Loss grant program and only the demolition and (if applicable) elevation portions are ICC eligible.

For lists of specific actions that ICC pays for by mitigation activity, see tables on pages 7-10.

What is Substantial Damage?

A structure is substantially damaged when the cost of restoring it to its pre-damage condition would equal or exceed 50 percent of its pre-damage value. This percentage, however, may vary from subgrantee to subgrantee, so property owners should consult with their local floodplain managers to confirm this definition. In most cases, ICC claims are only available to those buildings determined by a local official to be substantially damaged as a direct result of flooding.

How are ICC funds accessed by a policyholder?

ICC funds are an insurance payment, paid directly to the policyholder after a flood-damage event. Policyholders access it by coordinating with their insurer and local floodplain manager to establish the eligibility of their structure and their chosen mitigation work plan (elevation, demolition, relocation, or flood-proofing). Before an insurer makes an initial ICC payment, a policyholder must complete a Proof of Loss form, obtain a substantial damage determination, and collect contractor estimates for eligible mitigation work, and submit this documentation to the insurance company. The second and final ICC payment is made once the mitigation work is completed.

How are ICC funds applied in a grant-funded mitigation project?

When ICC benefits are available to grant-funded mitigation project participants, they are always applied directly to the local cost share as long as the claim is made within the timeframes allowed by the NFIP. When the ICC payment is larger than the local cost share, the remainder is then applied to the grant-funded share of the project cost. Below are two examples of applying ICC funds to a mitigation project.

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	Example 1		Example 2	
TOTAL PROJECT COSTS	\$ 60,500.00		\$ 40,000.00	
75% Federal	\$ 45,375.00		\$ 30,000.00	
12.5% State	\$ 7,562.50		\$ 5,000.00	
12.5% Local	\$ 7,562.50		\$ 5,000.00	
ICC Eligible Expenses	\$ 28,000.00		\$ 4,000.00	
Apply to Local Match	\$ - 7,562.50		\$ 5,000.00	
ICC \$ After Local Match	\$ 20,437.50		\$ (1,000.00)	Owner owes \$1,000 towards 12.5% match
Apply to State Match	\$ - 7,562.50			
ICC \$ After State Match	\$ 12,875.00	Apply to Federal Portion		

Note: The above examples are for Hazard Mitigation Grant Program-funded projects in which the state contributes a portion of the non-federal share. In other grant programs, the applicant is responsible for the entire non-federal share.

How is ICC money assigned to a subgrantee?

When a policyholder is eligible for ICC benefits and decides to participate in a mitigation grant-funded project, he/she must assign the benefit to the subgrantee by completing an Assignment of Coverage D form. This authorizes the insurer to pay the benefit directly to the subgrantee and makes the subgrantee responsible for submitting all the required claim documents (see below).

Whether the benefit is assigned to a subgrantee or stays with the policyholder, it can only be used to cover ICC eligible work and it is always applied to the project's non-Federal cost share.

Assigning ICC benefits to a subgrantee avoids the potential for duplication of Federal benefits and the resulting recoupment of grant money.

Steps For the Assignment of Coverage D – Increased Cost of Compliance

(from HMA Unified Guidance, June 1, 2010, Part III B.2, and <http://www.fema.gov/business/nfip/iccdmw.shtm>)

1. Policyholder consents to the assignment of the ICC claim payment.
2. The community official will provide the policyholder with an Assignment of Coverage D Form.
3. The policyholder signs the form and provides the signed form to the community official.
4. The community official sends a copy of the completed form, along with the community's signed declaration of substantial damage to the NFIP Bureau & Statistical Agent at the following address:

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NFIP Bureau & Statistical Agent
8400 Corporate Drive, Suite 350
Landover, MD 20785

5. NFIP Bureau & Statistical Agent maintains a database of the ICC information submitted by the community. The Bureau then sends the documents to the appropriate WYO (Write Your Own) company, with instructions. The company will then assign an adjuster.
6. The assigned adjuster contacts the policyholder to advise s/he has the claim and contacts the local community official to coordinate and help complete the claim.
7. The adjuster receives/reviews the contract for demolition, elevation, relocation or floodproofing to determine the cost.
8. The adjuster has the community official sign the proof of loss once the claim value has been determined.
9. The adjuster sends the final report, along with the Proof of Loss to the insurance company for payment.
10. The insurance company issues the check to the community and advises the NFIP Bureau & Statistical Agent of the amount of the claim payment.

What happens if ICC benefits are paid to a policyholder but not assigned to a subgrantee in a grant-funded project?

Policyholders who handle the ICC claim themselves must work with the subgrantee to include the ICC-covered work in the mitigation grant project and apply the ICC money to the non-Federal cost share. If any portion of an ICC payment duplicates what has been paid in state and Federal grant funds, the state and FEMA will audit the project and recover the full amount of overlapping grant money.

What happens if ICC benefits are available to a participant in a grant-funded program but not reported or otherwise applied to the cost share calculations?

Grant program participants cannot receive Federal or state grant money for work that also is covered by available ICC benefits— *even if the ICC benefits were neither sought nor received*. This is considered a duplication of benefits, and FEMA and / or the state will recover grant money in these cases.

When is payment for an ICC claim paid to the policyholder? To the assigned subgrantee?

ICC benefits are paid by the insurer in two installments. The first installment is typically half the benefit amount, and is issued when eligibility of the policyholder, the structure, and the chosen mitigation activity have been established. The second and final installment pays the remainder of the benefit and is issued when the mitigation work has been satisfactorily completed (as demonstrated by a final inspection and / or a Certificate of Occupancy, and an Elevation Certificate, for example).

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When the policyholder assigns ICC benefits to the subgrantee, the subgrantee becomes responsible for providing the necessary claim documentation and the insurer pays the subgrantee directly. The two-installment payment schedule remains the same.

How long after a flood event can ICC coverage be accessed by the policyholder?

ICC claims process can begin immediately after the flood-damage event. The timing of the first ICC payment depends upon how well the policyholder, the local floodplain official, and the insurance provider work together to document the flood loss, establish eligibility, and choose a work plan. For this reason, ICC payments are issued separately from the policyholder's other flood insurance payments.

When must an ICC-funded mitigation measure be completed?

The insured building must be elevated, demolished, relocated, or flood-proofed no later than four years from the date of the substantial damage (or repetitive loss) declaration. If the work does not pass final inspection before this deadline, then the final ICC payment will be withheld and the initial payment will be recouped. While *Increased Cost of Compliance Coverage*, FEMA Publication 301, page 3-10, states work must be completed within two years, this requirement was waived and extended to four years by FEMA as of June 1, 2005.

Severe Repetitive Loss and Increased Cost of Compliance

What is a Severe Repetitive Loss property?

A severe repetitive loss property is a residential property that meets at least one of the two following conditions:

1. It has received at least four NFIP claim payments of more than \$5,000 each, with two of the claims occurring within a 10-year period and totaling over \$20,000 (combined) OR
2. It has received at least two claim payments within a 10-year period and their combined total exceeds the property value.

Are there different ICC eligibility requirements for properties included in a Severe Repetitive Loss (SRL) grant-funded project?

Yes. Properties participating in the Severe Repetitive Loss grant program have less restrictive ICC eligibility requirements due a SRL-ICC Pilot Project. For example, they need not be substantially damaged and they need not be located in a Special Flood Hazard Area for owners to receive ICC benefits. Insured property owners are required to assign their ICC benefits to the participating subgrantee as part of the non-federal cost share for the project. The ICC benefit pays the amount of the non-federal share up to \$30,000.

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Assignment of ICC benefits to the subgrantee are as described above.

For more information on the SRL-ICC Pilot Project, refer to the January 29, 2010 FEMA Memorandum titled *Severe Repetitive Loss – Increased Cost of Compliance (ICC) Pilot Program Policy Issuance 1-2010*.

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ICC GRANT-ELIGIBLE ACTIVITIES

Project Activities	Additional Detail	ICC
Building Elevation/ Mitigation Reconstruction		
Architectural and engineering fees associated with a design for elevating an eligible insured building		Eligible
Permitting		Eligible
Clear necessary vegetation and prepare path for installation of lifting supports		Eligible
Excavation around the dwelling		Eligible
Lifting or jacking building	ICC only covers that portion necessary to elevate the risk to the required height (BFE or Freeboard)	Eligible
The additional cost of elevating the risk above the minimum required height (BFE or Freeboard)		Ineligible
Temporary support (cribbing)		Eligible
Disconnect utility connections		Eligible
Extend/modify utility connections		Eligible
Re-connect utility connections		Eligible
Construction of compliant foundation		Eligible
Improvements	(remodeling and/or construction of an addition) that an insured chooses to make while meeting requirements	Ineligible
Code upgrade requirements not related to State or local floodplain management ordinance		Ineligible
Cost associated with elevating the insured building located outside of a SFHA		Ineligible
Restoring lawn		Ineligible
Walks, walkways, driveways, and other surfaces outside the perimeter exterior walls of the insured		Ineligible
Fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, and docks		Ineligible

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Project Activities	Additional Detail	ICC
Building Relocation associated with Property Acquisition		
Architectural and engineering fees associated with a design for relocating an eligible insured building		Eligible
Permits		Eligible
Prepare the moving route		Eligible
Clear necessary vegetation and prepare path for the installation of lifting support		Eligible
Excavation around the dwelling needed to facilitate relocation		Eligible
Disconnect and discontinue utility service to the existing site to ensure proper abandonment of on-site utilities in accordance with State and local regulations		Eligible
Clear the existing building site of any remaining insured building materials (including the foundation)		Eligible
Grade and stabilize the existing building site in accordance with any State or local regulations		Eligible
Construction of compliant foundation at new site (not at a greater height than required at the original location)		Eligible
Transport of the insured building to the new site		Eligible
Lower insured building and anchor to new foundation		Eligible
Connect utilities at new site		Eligible
Relocation of any structure other than the insured building		Ineligible
Code upgrade requirements not related to State or local floodplain management ordinance		Ineligible
Cost associated with relocating an insured building already located outside of a Special Flood Hazard Area (SFHA)		Ineligible
Restoring lawn	Referring to items necessary to return to green space	Ineligible
Demolition of all improvements left on existing property necessary to return to green space.	Including walks, walkways, driveways, patios, fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, docks and other surfaces outside the perimeter exterior walls of insured building	Ineligible

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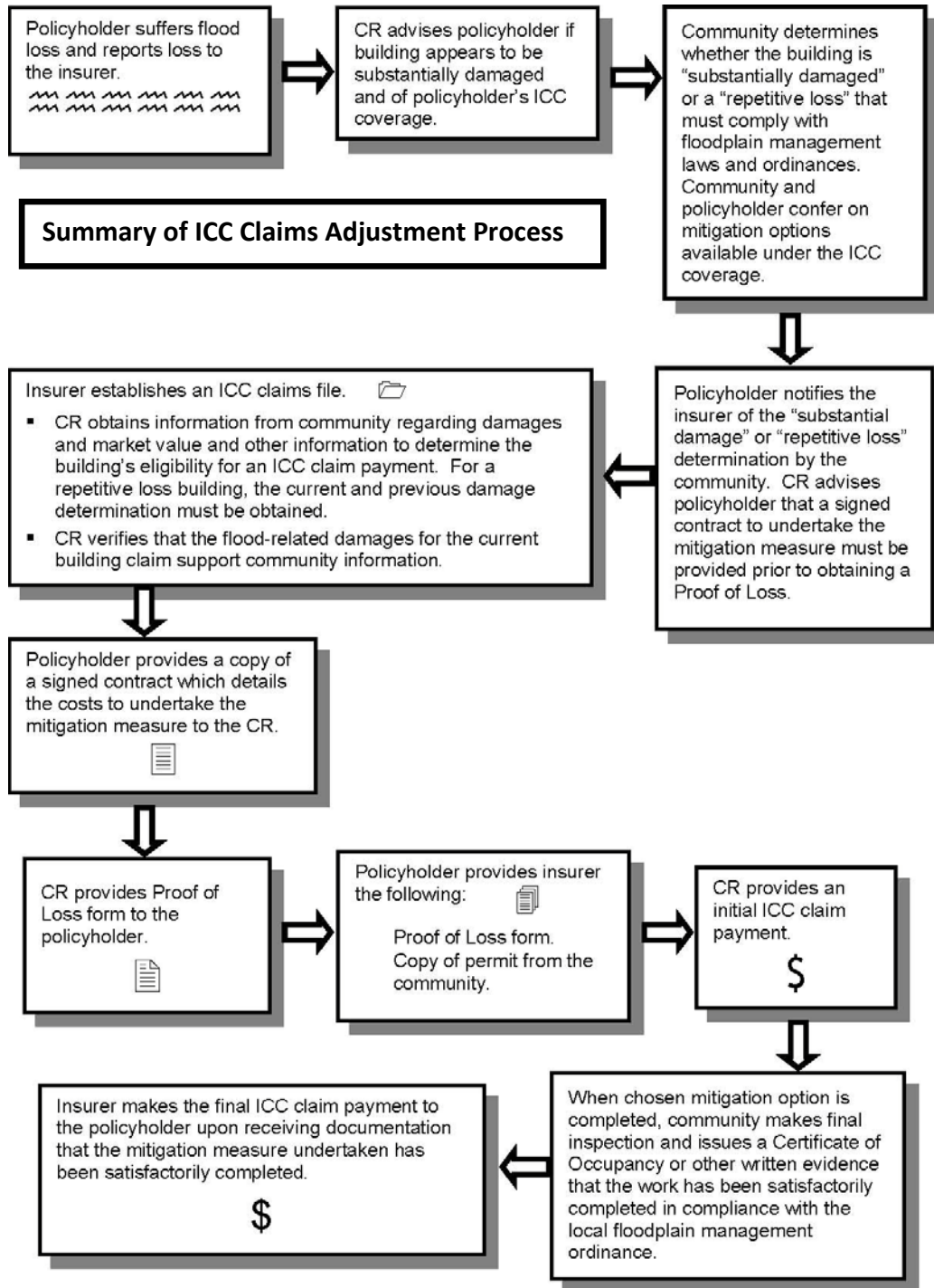
Project Activities	Additional Detail	ICC
Building Demolition associated with Property Acquisition		
Demolition of insured building		Eligible
Clear site of the demolished building materials (including foundation)		Eligible
Discontinue utility service/proper abandonment of on-site utilities in accordance with State or local regulations		Eligible
Grade and stabilize the building site in accordance with State or local regulations		Eligible
Demolition of a covered building already elevated to the minimum required height (BFE or Subgrantee Freeboard)		Ineligible
Demolition of any structure other than the insured building	Referring to items necessary to return to green space	Ineligible
Restoring lawn	Referring to items necessary to return to green space	Ineligible
Demolition of all improvements left on existing property necessary to return to green space.	Walks, walkways, driveways, patios, fences, retaining walls, seawalls, bulkheads, wharves, piers, bridges, docks and other surfaces outside the perimeter exterior walls of insured building	Ineligible

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Project Activities	Additional Detail	ICC
Flood-proofing of Historic homes and non-residential Buildings		
Architectural and engineering fees associated with a design for floodproofing an eligible structure		Eligible
Floodproofing certification completed by a design professional for non-residential buildings		Eligible
Installation of watertight shield for doors and windows		Eligible
Reinforcement of walls to withstand floodwater pressures and impact forces		Eligible
Membranes and other sealants to reduce seepage of floodwater		Eligible
Installation of drainage collection systems, sump pumps, and check valves to prevent backup through utilities		Eligible
Anchoring the building to resist flotation, collapse, and lateral movement		Eligible
Floodproofing of any structure other than the insured building		Ineligible
Code upgrade requirements not related to State or local floodplain management ordinance		Ineligible

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Summary of ICC Claims Adjustment Process



From FEMA Pub 301 Increased Cost of Compliance Coverage p 3-4

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Further Resources

FEMA: Hazard Mitigation Assistance Unified Guidance (June 1, 2010).

<http://www.fema.gov/library/viewRecord.do?id=4225>

FEMA 301 / NFIP: Increased Cost of Compliance Coverage, Guidance for State and Local Officials (September 2003). <http://www.fema.gov/library/viewRecord.do?id=1532>

FEMA / NFIP Clearinghouse Memorandum: Severe Repetitive Loss – Increased Cost of Compliance (ICC) Pilot Program Policy Issuance 1-2010 (January 29, 2010).