

**From:** [Shapiro, Adam](#)  
**To:** [Shapiro, Adam](#)  
**Cc:** [Asche, Elizabeth](#); [Spishak, Cynthia](#)  
**Subject:** FW: Guidance on the Effects of a Lapse of Appropriation for the NFIP  
**Date:** Wednesday, December 26, 2018 5:05:41 PM

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Good Evening Stakeholders:

Our WYO companies and the Direct have been provided guidance and we want to keep you in the loop. Please see below Q&A.

Thanks,  
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**From:** Deputy-Associate-Administrator-for-Insurance-and-Mitigation  
**Sent:** Wednesday, December 26, 2018 4:43 PM  
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**Subject:** Guidance on the Effects of a Lapse of Appropriation for the NFIP

Thank you for those who were able to participate in our call on December 26, 2018 at 11am ET. We understand that there is a great deal of uncertainty with the current situation and appreciate your support in resolution during the holiday season. We acknowledge the concerns expressed earlier regarding the issuance of guidance following the lapse. As we committed to on the call this morning, below is the guidance for immediate implementation addressing the lapse of appropriations. We anticipate issuing an associated bulletin tomorrow, December 27, 2018.

## **I. Commencement of Orderly Shutdown of the Issuance and Renewal of Policies**

The Federal Emergency Management Agency's appropriation funding the selling and servicing of flood insurance policies sold through the National Flood Insurance Program (NFIP) expired on December 22, 2018 at 12:00 am. During this lapse in appropriation, all NFIP insurers (Write Your Own companies and NFIP Direct) may not collect premiums for the issuance, renewal, or monetary endorsements of NFIP policies because doing so would cause the government to incur obligations without an appropriation.

FEMA is currently undertaking an orderly shutdown of activities effected by a lapse of appropriation, which includes the sale of new NFIP policies and renewal of existing NFIP policies. Starting immediately, NFIP insurers must take all steps necessary to complete an orderly shutdown of the prohibited activities. Since funding has already lapsed, NFIP insurers should document and justify the minimal activities necessary to execute an orderly suspension of these NFIP activities in order to demonstrate that it was executed as soon as reasonably possible.

NFIP insurers may continue to service new and existing claims on active policies and to examine and pay claims in accordance with the terms and conditions of the Standard Flood Insurance Policy.

## **II. Questions During Lapse**

FEMA understands that NFIP insurers will have questions about the suspension and actions regarding the NFIP occurring since December 22, 2018 at 12:00 a.m. Below this email are several Frequently Asked Questions intended to help you understand the current effects of the shutdown. In the event that you have additional questions, please contact Liz Asche at [elizabeth.asche@fema.dhs.gov](mailto:elizabeth.asche@fema.dhs.gov) and Cynthia Spishak at [cynthia.spishak@fema.dhs.gov](mailto:cynthia.spishak@fema.dhs.gov).

David

David I. Maurstad

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## **Frequently Asked Questions**

**Why can't agents and NFIP Insurers sell NFIP policies during a lapse in appropriations (i.e., "suspension")?** As a general principle, during a suspension, the government and its fiscal agents cannot expend funds or incur new obligations. During a lapse in appropriations, FEMA is unable to use the National Flood Insurance Fund for any purpose other than to pay the costs incurred in the adjustment and payment of any claims for losses on existing policies in force prior to the lapse of appropriations. Therefore, even though Congress reauthorized the NFIP prior to the suspension, FEMA is not authorized to sell or renew policies without an appropriation.

**Why can NFIP Insurers continue to adjust and pay claims?** The National Flood Insurance

Act specifically provides that the payment of claims out of the National Flood Insurance Fund can continue in the absence of an appropriation.

**Why is this different than in 2013? There was a significant shutdown then.** In 2013, the NFIP had an appropriation that did not lapse. This time, the appropriation for the NFIP has lapsed.

**When can we resume the sale of policies?** If the government passes a budget that includes an appropriation for the NFIP, we will be able to resume the sale and renewal of policies immediately. For the duration of the lapse, FEMA will continue to work with insurers to determine whether conditions exist (e.g. a significant impact to the national economy) which might justify the resumption of activities in advance of the appropriation.

**What if an agent or WYO sold or renewed a policy on or after 12:00am Saturday, December 22, 2018?** FEMA will need to adjudicate the status of the renewals or sales of new policies that occurred during this lapse in appropriations. FEMA will not be able to undertake this analysis or make a determination until the NFIP receives an appropriation. FEMA cannot speculate as to what requirements or conditions Congress may include in its appropriation action.