



FEMA

W-04083

October 20, 2004

MEMORANDUM FOR: Write Your Own Principal Coordinators and the NFIP Servicing Agent

FROM: David I. Maurstad *David I. Maurstad*
Acting Federal Insurance Administrator
Federal Emergency Management Agency
U.S. Department of Homeland Security

SUBJECT: Emergency Mediation Rule – State of Florida

The State of Florida has created by emergency rule a mediation process for citizens who need help with resolving hurricane claims prior to pursuing other options such as going to court. It applies to all property and casualty insurers writing business in the State.

Question has arisen as to whether the rule applies to flood insurance policies written by WYO companies under the National Flood Insurance Program (NFIP). **This is to inform you that the rule does not apply to NFIP claims.** Federal law authorizes the Director of FEMA (delegated to the Federal Insurance Administrator) to administer the NFIP and specifically to settle all claims. There is no authorization given to any state entity to engage in this process. Through regulation and the WYO Arrangement, this authority applies to WYO companies. Numerous court cases have upheld the exclusive Federal jurisdiction over the NFIP, and participation in the mediation program would subject FEMA to state regulation, which the law does not permit.

I expect all WYO companies and their adjusters to settle NFIP claims as equitably and expeditiously as possible, in accordance with the provisions of the Standard Flood Insurance Policy (SFIP). Disputes over coverage or settlement amounts will be resolved through the normal claims review process, and further recourse is available to claimants in the Appraisal provisions of the policy.

If you have questions regarding this issue, please call Ed Connor at 202-646-3429.

cc: Vendors, IBHS, FIPNC, WYO Marketing Committee, Government Technical Representative

Suggested Routing: Claims, Legal, Marketing