



FEMA

DISASTER ASSISTANCE POLICY

DAP9530.1

I. TITLE: Retroactive Application of a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) to Public Assistance Grants

II. DATE: JAN 02 2009

III. PURPOSE:

This policy reiterates the Federal Emergency Management Agency policy on the application of flood insurance reductions for underinsured or uninsured properties located in a Special Flood Hazard Area (SFHA) at the time of a disaster when a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) is requested and obtained after the declaration date.

IV. SCOPE AND AUDIENCE:

This policy is applicable to all major disasters declared on or after the publication date of this policy. It is intended for FEMA personnel involved in making public assistance eligibility determinations.

V. AUTHORITY:

Section 406(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. §5172; 44 CFR §206.252; and 44 CFR Parts 63, 65-70, and 72.

VI. BACKGROUND:

A. FEMA provides Federal disaster assistance for the repair, restoration, reconstruction, or replacement of certain public and Private Nonprofit (PNP) facilities that are damaged by a major disaster as defined in the Stafford Act. In the event that such a facility is damaged by flooding, FEMA is required to reduce the amount of Federal assistance in accordance with the Stafford Act and implementing regulations. Specifically, Section 406(d) of the Stafford Act states that if an eligible insurable facility is damaged by flooding and is located in a SFHA identified for more than one year by the Administrator, and is not covered by flood insurance on the date of such flooding, FEMA shall reduce Federal disaster assistance by the maximum insurance proceeds which would have been received had the buildings and contents been fully covered by a standard flood insurance policy. Effective March 1, 1995, the maximum flood insurance coverage available for a nonresidential building is \$500,000 and the maximum available for contents is \$500,000.



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B. There is an exception to this requirement which is specifically noted in the Stafford Act and in FEMA regulation 44 CFR §206.252, *Insurance requirements for facilities damaged by flood*. A PNP facility which cannot be insured because it is located in a community which is not participating in the National Flood Insurance Program (NFIP) may be exempt from the reduction in Federal assistance, pursuant to Section 406(d)(3) of the Stafford Act. If the community enters into the NFIP, the PNP may receive Federal disaster assistance provided it purchases the required flood insurance. If the community does not enter into the NFIP within six months of the declaration, the PNP may not receive any Federal disaster assistance (44 CFR §206.252(b)).

C. Section 406(d) of the Stafford Act requires that the amount of the Public Assistance grant be reduced if a facility is located within a SFHA. A SFHA is any land area subject to a one percent or greater chance of flooding in any given year. Flood Insurance Rate Maps (FIRMs) are the official maps used to delineate the SFHAs of a community. SFHAs are designated on these maps as Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, or V (44 CFR §59.1).

D. FEMA regulations provide a mechanism by which a community may request changes to the FIRMs (44 CFR Parts 65-70). It is, in fact, the responsibility of a community to assist FEMA in keeping a current and accurate record of floodplain boundaries, whether it is based on information that is more current physical changes to the floodplain or floodways. A change to an effective FIRM is reflected in a LOMA, LOMR, or a republication of the FIRM.

1. A LOMA removes from the SFHA a specific structure or property that was inadvertently included in the SFHA on a community's FIRM. The LOMA states that the structure or property is not located within the current SFHA. An individual property owner usually submits a request for a LOMA. The LOMA request must include, among other items, a certification by a Registered Professional Engineer or Licensed Land Surveyor that the lowest adjacent grade of the structure or the lowest lot elevation, for the case of land removal, is at or above the base flood elevation shown on the community's effective FIRM (44 CFR Part 70).

2. A LOMR is an annotated copy of the FIRM that officially revises the floodplain boundaries along certain waterways in the community. A LOMR may be based solely on more accurate and detailed scientific or technical information or on actual physical changes to the floodplain that affect flooding conditions. A community must submit new scientific or technical data that confirm physical changes within six months after the date that such information becomes available. Submission of such information is necessary to ensure that risk premium rates and floodplain management requirements will be based upon current data (44 CFR §§65.3 and 72.2).



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3. FEMA may choose to convert a LOMR request to a Physical Map Revision (PMR) and republish a community's FIRM panel(s) when changes are too extensive to show on a LOMR. Once issued by FEMA, PMRs, LOMAs and LOMRs officially revise the FIRM used in determinations concerning local floodplain development and flood insurance requirements.

E. The intent of FEMA regulations governing insurance coverage and disaster assistance funding is to encourage individuals, States, and local governments to obtain insurance coverage and thereby reduce their dependence on governmental assistance. FEMA meets this intent by limiting otherwise available assistance to flood-damaged structures located in a SFHA; requiring recipients of Federal disaster assistance to obtain and maintain insurance for the future; and prohibiting all future assistance for that facility if an applicant fails to meet the previous requirement (44 CFR §206.252).

F. FEMA recognizes that more detailed and accurate scientific and technical information may remove a structure or land from an identified SFHA. FEMA has developed an administrative procedure for amending and revising the SFHA shown on the current FIRMs (44 CFR Part 65). Although a FIRM may identify a structure or land as being located in a SFHA, an applicant, through a LOMA or LOMR, may confirm that the structure or land is actually outside the limits of the current SFHA. It is not the intent of FEMA to unduly penalize an applicant in a major disaster situation whose facility is determined after-the-fact to have been outside the limits of the currently identified SFHA.

G. This policy addresses how and when FEMA should consider a LOMA or LOMR obtained after a declared disaster when determining the amount of Public Assistance Grants.

VII. POLICY:

A. FEMA will reduce the amount of Federal assistance until such a time as the applicant has informed FEMA in writing that a LOMA or LOMR has been obtained. Upon receipt of an approved LOMA or LOMR, FEMA may reinstate funding, provided the parameters in Section VII.B. have been met.

B. The applicant may submit a request for a LOMA or LOMR to FEMA up to six months after the disaster.

1. The technical data supporting the LOMA or LOMR request reflects actual conditions that existed at the site prior to the flood event. The LOMA and LOMR applications provide the types of acceptable scientific and technical data. The applications (referred to as MT-1 and MT-2) can be found on the FEMA website: <http://www.fema.gov/library/searchTitle.do>, enter MT-1 or MT-2 in the Search Criteria.



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2. In the case of a LOMR, the request does not seek to have Base Flood Elevations (BFEs) modified based on new hydrology or man-made changes.

a. Applicants may submit a LOMR to FEMA for flood reduction projects resulting in reduced BFEs which were permitted and completed prior to the disaster date, and for which the applicant submits the data to FEMA within six months of the completion of the project.

b. Local governments may submit LOMRs based on federally funded flood control projects.

C. It is the sole responsibility of a Public Assistance applicant to request a LOMA or LOMR if the applicant believes that a structure is not actually located in the identified SFHA as indicated on the current FIRM (44 CFR §§65.4 and 70.3).

D. Costs incurred in pursuit of a LOMA or LOMR are not eligible for reimbursement (44 CFR §206.223).

VIII. RESPONSIBLE OFFICE: Disaster Assistance Directorate (Public Assistance Division).

IX. SUPERSESSION: This policy supersedes Recovery Policy RP9530.1, *Retroactive Application of a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) to Infrastructure Grants* dated August 8, 2000, and any other previous guidance on this subject.

X. REVIEW DATE: This policy does not automatically expire, but will be reviewed 3 years from the date of publication.

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