



*National Flood Insurance Program (NFIP)*

# Community Enrollment and Eligibility Handbook

FEMA 553

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The cover photo was taken by Amol Daxikar, CDM. Employees of CDM, a FEMA contractor, met with community representatives and stakeholders in Nantucket, Massachusetts, on October 11, 2006, to discuss FEMA's Map Mod mapping initiatives. The stakeholders included FEMA's project manager, the State NFIP Coordinator, the Nantucket Conservation Commission, the zoning enforcement officer, the Harbor Master, and a local survey firm.

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# ACRONYMS

<b>ANI</b>	Area Not Included
<b>ASFPM</b>	Association of State Floodplain Managers
<b>BFE</b>	Base (1-percent-annual-chance) Flood Elevation
<b>BSA</b>	Bureau and Statistical Agent
<b>CAC</b>	Community Assistance Contact
<b>CAP-SSSE</b>	Community Assistance Program-State Support Services Element
<b>CAV</b>	Community Assistance Visit
<b>CEO</b>	Chief Executive Officer
<b>CDS</b>	Customer and Data Services
<b>CFR</b>	Code of Federal Regulations
<b>CID</b>	Community Identification (Number)
<b>CIS</b>	Community Information System
<b>CNMS</b>	Coordinated Needs Management Strategy
<b>CRS</b>	Community Rating System
<b>CSB</b>	Community Status Book
<b>CTP</b>	Cooperating Technical Partner
<b>DFIRM</b>	Digital Flood Insurance Rate Map
<b>ETJ</b>	Extraterritorial Jurisdiction
<b>FBFM</b>	Flood Boundary and Floodway Map
<b>FEMA</b>	Federal Emergency Management Agency
<b>FHBM</b>	Flood Hazard Boundary Map
<b>FIA</b>	Federal Insurance Administration
<b>FMIX</b>	FEMA Map Information eXchange
<b>FIRM</b>	Flood Insurance Rate Map

<b>FIS</b>	Flood Insurance Study
<b>FMSIS</b>	Flood Map Status Inventory System
<b>IBC</b>	<i>International Building Code</i> ®
<b>I-Codes</b>	<i>International Code Series</i> ™
<b>IRC</b>	<i>International Residential Code</i> ™
<b>LFD</b>	Letter of Final Determination
<b>LOMC</b>	Letter of Map Change
<b>LOMR</b>	Letter of Map Revision
<b>MIP</b>	Mapping Information Platform
<b>MSC</b>	Map Service Center
<b>NAI</b>	No Adverse Impact
<b>NFIP</b>	National Flood Insurance Program
<b>NFPA™ 5000</b>	<i>National Fire Protection Association</i> ™
<b>NSFHA</b>	No Special Flood Hazard Area
<b>OCC</b>	Office of Chief Counsel
<b>PMR</b>	Physical Map Revision
<b>PTS</b>	Production and Technical Services
<b>Risk MAP</b>	Risk Mapping, Assessment, and Planning
<b>RSC</b>	Regional Support Center
<b>SCRR</b>	Special Conversion Recommendation Report
<b>SFHA</b>	Special Flood Hazard Area
<b>USACE</b>	United States Army Corps of Engineers
<b>USGS</b>	United States Geological Survey
<b>WYO</b>	Write Your Own

# FREQUENTLY REFERENCED NFIP REGULATIONS

For the complete text of these regulations, refer to 44 CFR Parts 59, 60, 64, 67, and 206.

## **44 CFR §59.1                      Definitions**

## **44 CFR §59.3                      Emergency Program**

The 1968 Act required a risk study to be undertaken for each community before it could become eligible for the sale of flood insurance. Since this requirement resulted in a delay in providing insurance, the Congress established the Emergency Flood Insurance Program.

## **44 CFR §59.21                    Eligibility requirements**

This subpart lists actions that must be taken by a community to become eligible and to remain eligible for the program.

## **44 CFR §59.22                    Prerequisites for the sale of flood insurance**

To qualify for flood insurance availability a community shall apply for the entire area within its jurisdiction, and shall submit:

- Copies of legislative and executive actions indicating a local need for flood insurance and an explicit desire to participate in the National Flood Insurance Program (NFIP);
- Citations to State and local statutes and ordinances authorizing actions regulating land use, and copies of the local laws and regulations cited;
- A copy of the floodplain management regulations the community has adopted to meet the requirements of §§60.3, 60.4 and/or 60.5 of this subchapter;
- A list of the incorporated communities within the applicant's boundaries;
- Estimates relating to the community as a whole and to the flood, mudslide (i.e., mudflow), and flood-related erosion-prone areas;
- Address of a local repository, such as a municipal building, where the Flood Hazard Boundary Maps (FHBMs) and Flood Insurance Rate Maps (FIRMs) will be made available for public inspection;
- A summary of any State or Federal activities with respect to floodplain, mudslide (i.e., mudflow), or flood-related erosion area management within the community, such as federally funded flood-control projects and State-administered floodplain management regulations;
- A commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow), and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow), and/or flood-related erosion hazards, and to take such other official action reasonably necessary to carry out the objectives of the program; and
- A commitment to carry out various eligibility requirements for the NFIP, as follows.

**44 CFR §59.24(a)      Suspension of community eligibility [Failure to Adopt]**

A community shall be subject to suspension for failure to submit copies of adequate floodplain management regulations within 6 months from the date the Administrator provides the data upon which the floodplain regulations shall be based. Where there has not been any submission by the community, the Administrator shall notify the community that 90 days remain in the 6-month period to submit adequate floodplain management regulations. If, subsequently, copies of adequate floodplain management regulations are not received by the Administrator, no later than 30 days before the expiration of the original 6-month period, the Administrator shall provide written notice to the community and to the State and assure publication in the Final Rule, *Suspension of Community Eligibility* of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective upon the expiration of the 6-month period.

**44 CFR §59.24(b)(2)    Suspension of community eligibility [Probation Procedures]**

Outlines the procedures for placing a community on probation for failure to enforce its floodplain management ordinance.

**44 CFR §59.24(c)      Suspension of community eligibility [Suspension Procedures]**

Outlines the procedures for suspending a community for failure to enforce its floodplain management ordinance.

**44 CFR §59.24(d)      Suspension of community eligibility [Suspension for Non-Compliant Ordinance]**

A community eligible for the sale of flood insurance which repeals its floodplain management regulations, allows its regulations to lapse, or amends its regulations so that they no longer meet the minimum requirements set forth in §§60.3, 60.4, and/or 60.5 shall be suspended from the program.

**44 CFR §59.24(e)      Suspension of community eligibility [Withdrawal]**

A community eligible for flood insurance may withdraw from the program by submitting to the Administrator a copy of a legislative action that explicitly states its desire to withdraw from the NFIP.

**44 CFR §59.24(f)      Suspension of community eligibility [Reinstatement Criteria]**

If, during a period of ineligibility under paragraphs (a), (d), or (e) of this section, a community has permitted actions to take place that have aggravated existing floodplain, mudslide (i.e., mudflow), and/or flood-related erosion hazards, the Administrator may withhold reinstatement until the community submits evidence that it has taken action to remedy, to the maximum extent possible, the increased hazards. The Administrator may also place the reinstated community on probation, as provided for in paragraph (b) of this section.

**44 CFR §60.1(b)      Legally enforceable**

These regulations must be legally enforceable and applied uniformly throughout the community to all privately and publicly owned land within floodprone, mudslide (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over any less-restrictive conflicting local laws, ordinances, or codes.

**44 CFR §60.1(d)      Precedence clause**

The criteria set forth are minimum standards for adoption of floodplain management regulations by floodprone communities. Any community may exceed the minimum criteria by adopting more restrictive floodplain management regulations, and any floodplain management regulations adopted by a State or a community which are more restrictive than the criteria set forth in this part are encouraged and shall take precedence.

**44 CFR §60.2(a)      Minimum compliance with floodplain management criteria**

A community applying for flood insurance eligibility shall meet the standards of §60.3(a) in order to become eligible if a Flood Hazard Boundary Map has not been issued for the community at the time of application. Thereafter, the community will be given a period of 6 months from the date the Administrator provides the data set forth in §60.3(b), (c), (d), (e), or (f) in which to meet the requirements of the applicable paragraph.

**44 CFR §60.2(h)      Minimum compliance with floodplain management criteria**

The community shall adopt and enforce floodplain management regulations based on data provided by the Administrator. Without prior approval of the Administrator, the community shall not adopt and enforce floodplain management regulations based upon modified data reflecting natural or man-made physical changes.

**44 CFR §60.3(a)      Floodplain management criteria for floodprone areas**

Criteria for when the Administrator has not defined the Special Flood Hazard Areas (SFHAs) within a community, has not provided water-surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the program.

**44 CFR §60.3(b)      Floodplain management criteria for floodprone areas**

Criteria for when the Administrator has designated SFHAs (A zones) by the publication of a community's FHBM or FIRM, but has neither produced water-surface elevation data nor identified a floodway or coastal high hazard area.

**44 CFR §60.3(c)      Floodplain management criteria for floodprone areas**

Criteria for when the Administrator has provided a notice of final flood elevations for one or more SFHA on the community's FIRM and, if appropriate, has designated other SFHAs without Base Flood Elevations (BFEs) on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area.

**44 CFR §60.3(c)(10) Floodplain management criteria for floodprone areas**

Requires that, until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water-surface elevation of the base flood more than 1 foot at any point within the community.

**44 CFR §60.3(d) Floodplain management criteria for floodprone areas**

Criteria for when the Administrator has provided a notice of final BFEs within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway.

**44 CFR §60.3(e) Floodplain management criteria for floodprone areas**

When the Administrator has provided a notice of final BFEs within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified on the community's FIRM coastal high hazard areas by designating Zones V1-30, VE, and/or V.

**44 CFR §60.3(f) Floodplain management criteria for flood prone areas**

Criteria for when the Administrator has provided a notice of final BFEs within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and has identified flood protection restoration areas by designating Zones AR, AR/A1-30, AR-AE, AR/AH, AR/AO, or AR/A.

**44 CFR §60.6(a) Variances and exceptions**

The Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§60.3, 60.4, and 60.5. The issuance of a variance is for floodplain management purposes only.

**44 CFR §60.22 Planning considerations for flood-prone areas**

(a) The floodplain management regulations adopted by a community for flood prone areas should: (1) Permit only that development of flood prone areas which (i) is appropriate in light of the probability of flood damage and the need to reduce flood losses, (ii) is an acceptable social and economic use of the land in relation to the hazards involved, and (iii) does not increase the danger to human life; (2) Prohibit nonessential or improper installation of public utilities and public facilities in flood prone areas.

(b) and (c) Actions communities should consider when formulating community development goals that will further reduce flood damages.

**44 CFR §60.25                      Designation, duties, and responsibilities of State Coordinating Agencies**

(a) States are encouraged to demonstrate a commitment to the minimum floodplain management criteria set forth in §§60.3, 60.4, and 60.5 as evidenced by the designation of an agency of State government to be responsible for coordinating the program aspects of floodplain management in the State.

(b) State participation in furthering the objectives of this part shall include maintaining the capability to perform appropriate duties and responsibilities (with a list of activities that FEMA recommends States undertake).

**44 CFR §64.4(a)                      Effects of community eligibility resulting from boundary changes and governmental reorganization**

When a community not participating in the Program acquires by annexation, incorporation or otherwise, an area within another community participating in the Program, no new flood insurance shall be made available as of the effective date of annexation until the newly acquiring community participates in the Program.

**44 CFR §64.4(b)                      Effects of community eligibility resulting from changes and governmental reorganization on community eligibility**

When a community participating in the program acquires by means of annexation, incorporation, or otherwise, an area that was previously located in another community, either participating or not participating in the program, the community shall have 6 months from the date of acquisition to formally amend its floodplain management regulations in order to include all flood prone areas within the newly acquired area.

**44 CFR §64.4(c)                      Effects of boundary changes, governmental reorganization, etc. on community eligibility**

When a participating community becomes autonomous or becomes a portion of a newly autonomous community resulting from boundary changes, governmental reorganization, changes in State statutes or constitution, or otherwise, it shall be given 6 months from the date of its independence to adopt floodplain management regulations within the SFHAs subject to its jurisdiction and to submit its application for participation as a separate community in order to retain eligibility for the sale of flood insurance. The provisions of this section shall only apply if the community, upon the date of its independence, certifies that, pending formal adoption of floodplain management regulations, the floodplain management regulations previously applicable to the area shall remain in effect.

**44 CFR §64.6                          List of eligible communities**

The sale of flood insurance pursuant to the NFIP (42 U.S.C. 4001-4128) is authorized for the communities set forth under this section. Previous listings under this part continue in effect until revised.

**44 CFR §67.4                      Proposed flood elevation determination.**

The Administrator shall propose flood elevation determinations in the following manner:

- (a) Publication of the proposed flood elevation determination for comment in the Proposed Rule, *Proposed Flood Elevation Determinations*; (b) Notification of the proposed flood elevation determination by certified mail, return receipt requested, to the Chief Executive Officer (CEO); and
- (c) Publication of the proposed flood elevation determination in a prominent local newspaper at least twice during the 10-day period immediately following the notification of the CEO.

**44 CFR §206.110(k) (2) Federal assistance to individuals and households.**

Individuals or households in an SFHA may not receive Federal Assistance for NFIP-insurable real and/or personal property damaged by a flood, unless the community in which the property is located is participating in the NFIP (See 44 CFR §59.1) or the exception in 42 U.S.C. 4105(d) applies. However, if the community in which the damaged property is located qualifies for and enters the NFIP during the 6-month period following the declaration, the Governor's Authorized Representative may request a time extension for FEMA (See §206.112) to accept registrations and to process assistance applications in that community.

# INTRODUCTION

The National Flood Insurance Program (NFIP) can provide flood insurance coverage only in States and communities that adopt and enforce floodplain management measures that meet the minimum NFIP criteria established by regulation. The NFIP is a voluntary program, and communities must apply to participate by submitting compliant floodplain management regulations and meeting other requirements. The Federal Emergency Management Agency (FEMA) has established processes to enroll communities into the NFIP and to ensure that eligible communities continue to meet program requirements. The purpose of this handbook is to provide policy and guidance on these procedures and to address some of the challenges that face those involved in the enrollment and eligibility of communities in the NFIP.

The NFIP is unique as a Federal program in that the authority to implement its floodplain management regulations is held by communities and not by the Federal government. The NFIP must allow the flexibility for the local jurisdiction to implement land-use measures that are consistent with the community's specific State enabling legislation. Because local jurisdictions derive this power from State constitutions and statutes, the program encounters countless variations of land-use measures designed to reduce flood losses. However, the program must ensure consistency throughout the Nation.

The authority for NFIP procedures is derived from the National Flood Insurance Act of 1968, as amended (P.L. 90-448), and the Flood Disaster Act of 1973, as amended (P.L. 93-234). The procedures are developed from Title 44 of the Code of Federal Regulations (CFR), Parts 59 and 60.

**General.** After providing an overview and stating the purpose of the handbook, this chapter outlines the roles and responsibilities of the key players involved in enrolling and maintaining/determining eligibility of communities in the NFIP. It also discusses the Community Information System (CIS), FEMA's authoritative database for tracking the information on NFIP communities, and companion data systems. Finally, it describes the documents that are used to record due process activities and their associated procedures. This handbook is organized into seven chapters which correspond with the major activities associated with community participation and flood map adoption.

**Eligibility and Community Land Use Regulations: Ordinances, Building Code, and Other Measures.** This chapter first provides an overview of land use regulations under Section 1315 of the National Flood Insurance Act of 1968, as amended. It discusses the statutory authority for the community's floodplain management regulations, which typically derives from the State, and State preemption of local ordinances. The chapter then discusses the floodplain management criteria that must be met to be in compliance with 44 CFR §60.3 and the types of zoning and land use ordinances. An NFIP Community Floodplain Manage-

ment Regulations Review Checklist to assist Regions and States in reviewing community floodplain management regulations is provided. Finally, the chapter discusses the relationship between the NFIP regulations and building codes.

**Community Enrollment.** Community enrollment in the NFIP enables residents to purchase flood insurance. It also has implications for disaster relief. After providing an overview of these issues and the general eligibility requirements, the chapter discusses the eligibility requirements and procedures for the emergency and regular phases of community participation. Finally, the chapter discusses the procedures for incorporations, annexations, community consolidations, and dissolved communities.

**Adoption of Initial FIRMs and Map Revisions.** After presenting a brief history of FEMA mapping initiatives, this chapter provides an overview of the study process and post-preliminary process for the adoption of initial and revised Flood Insurance Rate Maps (FIRMs). It includes unique community and jurisdictional situations that arise during FIRM revisions as well as the process for converting communities from the Emergency to the Regular Phase of the NFIP.

**Suspensions, Withdrawals, and Reinstatements.** The procedures for suspending a community from the program for failure to adopt, maintain, or enforce floodplain management regulations that meet or exceed the minimum requirements of the NFIP are established in the NFIP regulations at 44 CFR §59.24(a) and (d). This chapter discusses the four types of suspensions: failure to adopt, failure to enforce, repeal or amendment of previously compliant regulations, and deficient ordinance. Finally, it discusses the procedures for withdrawing a community from the NFIP and for reinstating a suspended or withdrawn community.

**Adoption of Higher Standards.** This chapter covers the importance of a community's adopting and enforcing more restrictive floodplain management requirements than those established under the NFIP or by the State in which the community is located. The chapter provides more restrictive standards for: 1) establishing a floodway, 2) requiring setbacks from river channels and coastal shorelines, 3) requiring buildings to be elevated an additional height above the Base (1-percent-annual-chance) Flood Elevation (BFE) (freeboard), 4) adopting greater foundation performance standards in A zones, and 5) requiring development of BFE data in A zones for development less than 50 lots or 5 acres. The chapter then discusses more restrictive standards for specific locations and building types: highly hazardous areas, critical facilities, low-density zoning, natural areas, and wetland protection. Many of these more restrictive requirements are eligible for credit under the Community Rating System (CRS), as discussed in the chapter. Finally, the chapter includes discussion of the No Adverse Impact concept, a managing principle developed by the Association of State Floodplain Managers.

**Tribal Nations.** Procedures for enrolling Tribal Nations are under development.

# GENERAL

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# GENERAL

## A. OVERVIEW

The National Flood Insurance Program (NFIP) provides flood insurance coverage only in States and communities that adopt and enforce floodplain management measures that meet the minimum NFIP criteria established by regulation. The NFIP is a voluntary program, and communities must apply to participate, submit compliant floodplain management regulations, and meet other requirements. The Federal Emergency Management Agency (FEMA) has established processes to enroll communities in the NFIP and to ensure that eligible communities continue to meet program requirements as required by the legislation establishing the program.

The Regional Offices have designated one or more staff members as the liaison to coordinate all community eligibility, enrollment, adoption, and conversion actions with the NFIP State Coordinators and the Headquarters Floodplain Management Branch. Procedures for coordinating and documenting community actions, and eligibility requirements for participation in the Emergency and Regular Phases, are found in 44 CFR Parts 59 and 60.

## B. ROLES AND RESPONSIBILITIES

Although the NFIP is a federal program, its successful implementation and management depend on the involvement of a variety of partners, including local communities, NFIP State Coordinators, and FEMA Headquarters and Regional Offices. Table GEN-1 below provides a brief description of the roles and responsibilities of the key offices involved in community enrollment, map adoption, and community technical assistance and monitoring activities discussed in this handbook.

**Table GEN-1. Roles and Responsibilities of Key Partners for Community Eligibility and Enrollment in the National Flood Insurance Program**

Key Partners	Roles and Responsibilities
FEMA Headquarters Floodplain Management Branch	The FEMA Headquarters Floodplain Management Branch sets policies relating to floodplain management and oversees and administers processes for enrolling communities in the NFIP and maintaining their eligibility once they are enrolled. It also provides funding through the FEMA Regional Offices to support State floodplain management programs, through the Community Assistance Program-State Support Services Element (CAP-SSSE) program, and resolves technical and policy issues.
FEMA Regional Offices	The 10 Regional Offices are the point of contact for all matters relating to State and community participation in the NFIP. Regional office staff members assist communities in enrolling in the NFIP, conducting Community Assistance Contacts (CACs) or Community Assistance Visits (CAVs) and follow-up assistance and if necessary enforcement actions, review and approve community regulations, conducting training, and providing technical assistance to communities. Regions negotiate agreements with States through the CAP-SSSE program to help communities meet NFIP requirements.
States	NFIP State Coordinating Agency is designated by the Governor to coordinate implementation of the NFIP throughout the State. Most States are funded by FEMA through the CAP-SSSE program to support the Regional Office in various floodplain management activities that provide assistance to NFIP communities. Many States also have floodplain management laws, regulations, or programs of their own that they implement using State funding.
Local Communities	Communities voluntarily apply to participate in the NFIP by adopting floodplain management requirements. Communities also undertake floodplain management activities on their own and can adopt regulations that are more restrictive than NFIP minimum requirements.
Tribal Nations	Tribal nations can participate in the NFIP in the same way States and communities do. FEMA recognizes that an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a) holds a unique status in the United States, with the rights and benefits of a sovereign nation. Federally recognized Tribal nations are present in every FEMA Region except Region III. Approximately 33 Tribes currently participate in the NFIP.
Production and Technical Services	The Production and Technical Services (PTS) contractor provides support to FEMA in administering its flood hazard mapping program and in meeting Map Modernization and Risk MAP mapping initiatives and goals. The PTS contractors also assist FEMA in floodplain management activities and NFIP community enrollment and eligibility.
Regional Support Centers	The PTS contractors have 10 offices called Regional Support Centers (RSC), located close to the 10 Regional Offices. The RSCs directly support the Regional Offices in achieving Map Mod and Risk MAP mapping and outreach objectives and may play an integral part in maintaining community eligibility in the NFIP.

The sections that follow provide a detailed discussion of the roles and responsibilities of each of the offices that support community enrollment, map adoption, and community monitoring.

## **1. Floodplain Management Branch**

The FEMA Headquarters Floodplain Management Branch (hereafter referred to as the Floodplain Management Branch) is responsible for establishing floodplain management policy and guidance for the overall administration and coordination of the processes to enroll communities in the NFIP and ensure that they adopt and enforce floodplain management regulations that meet minimum NFIP criteria. The Floodplain Management Branch coordinates closely with the Regional Offices on these activities. The Floodplain Management Branch has the authority to enroll communities in the NFIP and to suspend or withdraw communities from the program based on recommendations from the Regional Offices. Specific Floodplain Management Branch activities include:

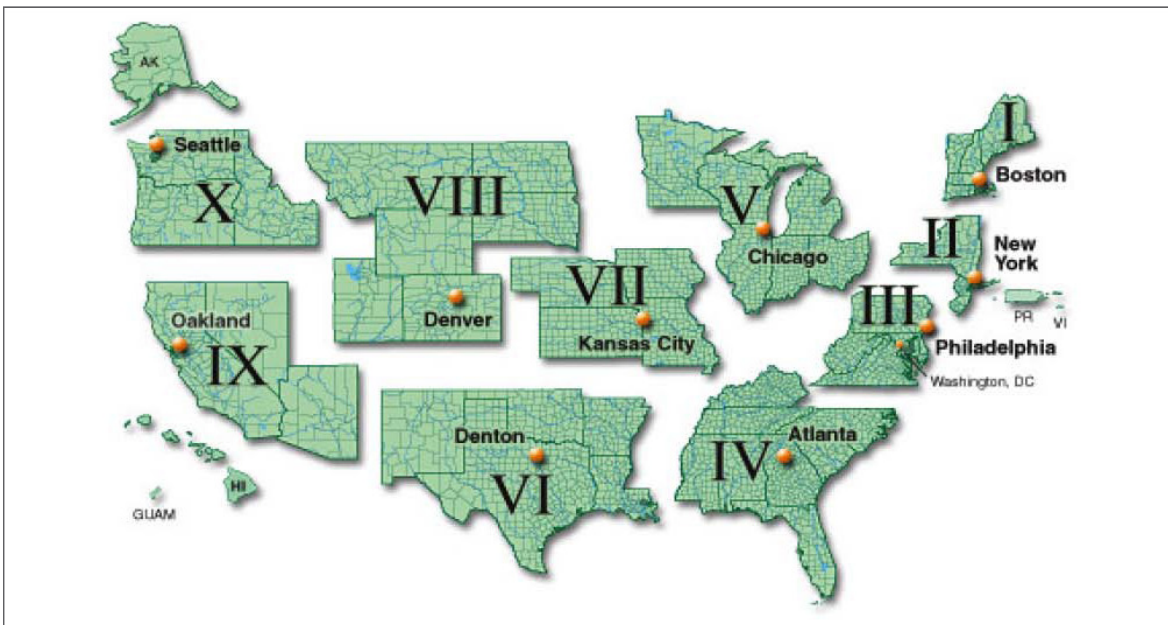
- Processing Regional Office community enrollment recommendations; suspending, withdrawing, and reinstating communities in the NFIP;
- Preparing and mailing required 90-day and 30-day notification letters;
- Preparing and distributing the Final Rule, *Suspension of Community Eligibility* notices;
- Processing special conversions;
- Preparing Community Rating System (CRS) class change letters;
- Updating the Community Information System (CIS) for community status changes;
- Issuing annual CAP-SSSE guidance; and
- Providing floodplain management policy support to the Regional Offices.

## **2. Regional Offices**

The Regional Offices, shown in Figure GEN-1, have the primary responsibility for ensuring that their communities adopt and enforce compliant floodplain management regulations that meet or exceed the minimum NFIP requirements. The Regional Office staff work closely with NFIP State coordinating agency staff and with the Floodplain Management Branch on the enrollment and eligibility of communities. Specific roles of the Regional Office related to community enrollment and eligibility include, but are not limited to, the following:

- Assisting communities in enrolling in the NFIP;
- Reviewing NFIP application packages and making recommendations to the Floodplain Management Branch that a community be enrolled in the NFIP;
- Working with States to develop model floodplain management ordinances that meet NFIP minimum requirements;

- Providing technical assistance to NFIP communities and monitoring their implementation of NFIP minimum requirements through CAVs, CACs, and other means;
- Assisting NFIP communities in adopting compliant floodplain management regulations and reviewing and approving those regulations
- Conducting enforcement actions for non-compliant communities, coordinating with the Floodplain Management Branch on community probation, and recommending to the Floodplain Management Branch that communities be suspended for failure to enforce their regulations;
- Ensuring that all information on ordinance adoption is entered into the CIS Community Information and Ordinance screens, by either the Region or the NFIP State Coordinator; and
- Negotiating agreements with States through CAP-SSSE to support the Region in undertaking the above activities



**Figure GEN-1. Map of the 10 FEMA Regions and the Location of the Regional Offices.**

### **3. NFIP State Coordinator**

Each Governor has selected a State coordinating agency for the NFIP. While the role of this agency varies among States, common activities include the following:

- Ensuring that communities have the legal authorities necessary to adopt and enforce floodplain management regulations;
- Establishing minimum State regulatory requirements consistent with the NFIP;
- Providing technical and specialized assistance to local governments and the general public;

- Coordinating the activities of various State agencies that affect the NFIP; and
- Encouraging and assisting communities to qualify for NFIP participation.

In addition to having an NFIP State Coordinator, all States currently participate in the CAP-SSSE, which funds States to provide assistance to NFIP communities in support of the Regional Office. Regional Offices and the designated State agency negotiate a CAP-SSSE Agreement (Agreement) that specifies activities and products to be completed by a State in return for CAP-SSSE funds. The Agreement enables the State coordinating agency to meet FEMA's requirements by providing technical assistance and monitoring and evaluating their work. Where possible, the Agreement should integrate the expertise of the State on how best to build and maintain community floodplain management capability. The Agreement is not intended to fund all floodplain management activities undertaken by the NFIP State coordinating agency, only those activities that the Region and State identify.

All States, the Commonwealth of Puerto Rico, and the District of Columbia participate in CAP-SSSE. Under CAP-SSSE, NFIP funds are available on a 75-percent/25-percent cost-share basis to help the State coordinating agency provide technical assistance to communities and to monitor and evaluate their work.

The duties and responsibilities of the NFIP State Coordinator's office are set forth in 44 CFR §60.25 of the NFIP regulations. State responsibilities generally include:

- Monitoring legislation to allow local units of government to adopt ordinances that ensure continued eligibility;
- Encouraging and assisting communities to qualify for participation;
- Ordinance assistance;
- Community assistance;
- Coordination of local floodplain activities;
- Flood Insurance Study (FIS) and mapping assistance;
- Conducting CACs/CAVs;
- Establishing minimum State standards;
- Mitigation; and
- Training.

States also participate in the NFIP by establishing and enforcing floodplain management regulations for State-owned properties and, for the purposes of the NFIP, are defined as communities. States can meet NFIP floodplain management requirements through legislation or regulation, but more often do so through a Governor's executive order. A number of States

have their own floodplain management statutes and regulations and operate floodplain management programs of their own in addition to supporting implementation of the NFIP.

#### **4. Communities**

The community is the basic unit of participation in the NFIP. A community is formally defined for NFIP purposes as “any State or area or political subdivision thereof, or any Indian Tribe or authorized tribal organization, or Alaska Native Village or authorized native organization, which has the authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.” The NFIP is a voluntary program, and communities in most States can choose not to participate if they are willing to forego flood insurance and Federal assistance for the construction or acquisition of buildings in their designated flood hazard areas. Communities must adopt and enforce floodplain management regulations that meet or exceed NFIP minimum criteria in order to participate and must amend their regulations each time FEMA provides the community with additional flood data or revises its NFIP Regulations that require adoption. Communities typically work through their NFIP State Coordinator or FEMA Regional Office on enrollment, floodplain management ordinance assistance, and other NFIP-related issues. More than 20,000 communities participate in the NFIP, including nearly all communities that have significant flood problems.

#### **5. Tribal Nations**

Tribal nations that meet the NFIP eligibility criteria can participate in the NFIP just like a State or community. To avoid further complicating NFIP regulations, FEMA includes Tribal nations in its definition of a community. However, FEMA recognizes that, as a sovereign government, each Tribal government has the right to set its own priorities and goals for the welfare of its membership, which include the considerations Tribal governments make to fulfill their responsibilities to their non-Tribal residents, relatives, employees, and neighbors. FEMA seeks the input of Tribal governments in consultations on policies, programs, and issues, so that they may evaluate the potential impacts for themselves.

Indian Tribes have unique governmental organizations that present challenges to enrollment into the NFIP. Tribal governments often do not manage development, planning, and permitting in the same manner as city and county governments. As a result, many Tribes have been unwilling or unable to take on the daily responsibilities required for floodplain management under the NFIP. Other Tribal nations have adopted and are enforcing floodplain management regulations that meet NFIP minimum requirements and participate in the NFIP. As of May 2010, thirty-three Tribes participate in the NFIP.

## 6. Production and Technical Services Contractors

FEMA has contracted PTS contractors to assist the Floodplain Management Branch and Regions in meeting the goals of its Risk Mapping, Assessment and Planning Program, also referred to as Risk MAP. Specifically, the mission of the PTS contractors is to support FEMA in:

- Developing an enhanced digital platform that improves management of Risk MAP, stewards information produced by Risk MAP, and improves communication and sharing of risk data and related products to all levels of government and the public;
- Ensuring that a measurable increase of the public's awareness and understanding of risk results in a measurable reduction of current and future vulnerability.
- Leading and supporting States, local, and Tribal communities to effectively engage in risk-based mitigation planning resulting in sustainable actions that reduce or eliminate risks to life and property from natural hazards.
- Aligning Risk Analysis programs and developing synergies to enhance decision-making capabilities through effective risk communication and management.

In further support of Map Modernization and Risk MAP, the PTS contractors provide technical and administrative assistance in support of community enrollment, eligibility, and compliance. This support includes correspondence preparation and mailing, as well as compliance tracking and reporting.

The PTS contractors have 10 RSC offices. These are located near each Regional Office to provide onsite coordination and assistance. The level and type of support varies among the FEMA Regions. A few of the RSCs provide support to the Regional Offices in coordinating community actions with outreach and training. Below are a few of the other tasks RSCs may perform in support of FEMA:

- Assisting with compliance activities, such as making telephone calls, sending letters, and performing ordinance reviews;
- Tracking flood map studies;
- Updating the CIS database;
- Encouraging communities to participate in the NFIP; and
- Attending community meetings on behalf of the Region.

## **C. COMMUNITY INFORMATION SYSTEM**

CIS is the authoritative database for tracking floodplain management information on NFIP communities and is the official record of community participation status. CIS provides a centralized source for information on all three elements of the program, such as the community's floodplain management status, insurance data, and current flood map information. The purpose of CIS is provide a complete look at a community's NFIP status in order to address daily floodplain management issues and identify relevant flood map information.

CIS serves the following functions:

- Provides access to community floodplain management, insurance, mapping, and other community data at a single location;
- Acts as the official record of NFIP community status, so that users can maintain data for all identified communities;
- Allows users to access community information such as flood study status, ordinance adoption history, enforcement actions, etc.;
- Generates the Community Status Book (CSB), a report used by all lending institutions and insurance companies to determine a community's status in the NFIP (Exhibit GEN-1);
- Helps users develop statistics on communities for Congress, the Government Accountability Office, and other organizations in support of the NFIP on an ad-hoc basis;
- Allows users to analyze data for CAP-SSSE and other priority-setting and planning activities of the program;
- Allows users to create customizable reports to meet commonly required reporting or informational needs; and generates the Community Activity Report to provide users a list of all community status changes (i.e., new enrollments, reinstatements, suspensions, etc.) within a selected reporting period.

As the official record of how the Nation's communities participate in the NFIP, CIS has been an effective management tool. CIS helps States and Regions track and maintain information on community specific floodplain management programs. CIS is the only database that consolidates information on all elements of the NFIP, including community participation, mapping, and flood insurance, and provides each participating community with a comprehensive floodplain management profile.

The Regional Office is responsible for entering all ordinance adoption information into the CIS Community Ordinance screens (See Figure GEN-2) and validating information entered by the NFIP State Coordinator or the RSC Office. States are responsible for updating and entering information into CIS on activities they carry out as part of the reporting requirements under their CAP-SSSE agreement. This includes entering information on ordinance adoption, CACs, and CAVs, and updating other fields. If a State or an RSC Office reviews an ordinance

and enters the data into the CIS Community Ordinance screens, the Regional Office still needs to indicate that it has formally approved the ordinance and the information entered by the State. This information includes verification of whether or not the community has the automatic adoption clause and whether the community has adopted individual panels or the FIRM Index. Only the Regional Office can give final approval to the ordinance.

The Floodplain Management Branch uses CIS as a source, to determine compliance and subsequently which communities will be sent 90-day and 30-day notification letters, which communities will be listed in the “Suspension of Community Eligibility” notice for suspension, and which communities will need to be suspended if they have not yet adopted a compliant ordinance by the FIRM effective date. If the Regional Office does not report in CIS that the community’s floodplain management ordinances are approved prior to the date the FIRM becomes effective, the community will be suspended. The Floodplain Management Branch can reinstate a suspended community in the NFIP when the community’s ordinances are approved by the Region. By entering this information on the ordinance screen, the need to contact the Region for this determination can be avoided.

The screenshot displays the FEMA Community Information System (CIS) interface for the "Community Ordinance View" screen. The header includes the FEMA logo and the text "Community Information System" with a release date of 4.5.03, June 5th, 2009. The left sidebar contains navigation links such as "CIS Home", "Search", "Previous Search", "Community", "CRS", "CAC/CAV", "Maps", "SOS", "Insurance", "CAP-SSSE", "CIS New Reports", "CIS Reports", "Links", "Request/Feedback", "FAMS", and "Log Out". The main content area is titled "Community Ordinance View" and features a tabbed interface with "General Information", "Compliance", "Characteristic", "Ordinance", "Contacts", "County/Cong. District", and "Notes". The "Ordinance Adoption Status" tab is active, showing a form for "Community Ordinance Summary". The form includes fields for "Community" (MIAMI BEACH, CITY OF), "County" (MIAMI-DADE COUNTY), "State" (FLORIDA), and "CID" (120651). It also contains sections for "FIRM Effective Date" (09/11/2009), "Letter of Final Determination Date" (03/11/2009), "Reason for Ordinance Review", "Review By", "Review Date", "Ordinance Adoption Status" (Completed/No Suspension), "Level of Regs Required" (E), "Level of Regs Adopted" (E), "Zones on Panel" (AO/AH Zones, Zone A, Zone V, 60.3(c)(10)), "Approved by FEMA" (H.W.), and "Date of FEMA Approval" (09/08/2009). At the bottom, there are buttons for "Save", "Ordinance Report", and "Change History".

**Figure GEN-2. CIS Community Ordinance View Screen**

FEMA relies on CIS to ensure the smooth operation of the ordinance adoption process. An important component of this process is the interface between CIS and the Mapping Information Platform (MIP), which share mapping and community status information. Because CIS is the authoritative database for community status information, update and maintenance of the system is critical to NFIP administration.

## **1. Community Identification Numbers**

A Community Identification Number (CID), sometimes referred to as a “Community Number,” is the method used by FEMA to establish a uniform means to identify each jurisdiction that meets the NFIP definition of a community, similar to a Social Security Number for an individual. CIS is the repository for and only source of the unique identification system used by FEMA. While most communities in the Nation have a CID, some have not been formally identified or have only recently incorporated and do not have a CID. Several events can trigger the need for assigning a CID:

- A community enrolls in the NFIP;
- A community newly incorporates;
- A community is identified for the first time as a non-participating NFIP community by the State, RSC Office, or Regional Office; or
- The mapping process identifies a community not previously identified through other means.

When any of these events occur, the Floodplain Management Branch is notified and requested to provide a unique six-digit identifier for the community. The CID comprises a two-digit State code followed by four digits assigned by the database. The Floodplain Management Branch creates the CID in CIS. If a newly incorporated community is shown on an effective Flood Hazard Boundary Map (FHBM) or FIRM and has not applied to participate in the NFIP, its status is entered into CIS as mapped but not participating. This information is sent to the Map Service Center (MSC) to be entered into the Flood Map Status Inventory System (FM-SIS). The community’s participation status appears in the CSB as “sanctioned” if the map has been in effect for 1 year. If the non-participating community is unmapped, the community is entered in CIS as “not participating without a map.” However, these communities do not appear in the CSB.

## **2. Maintenance of Records**

In 2004 FEMA released a Web-based version of CIS, which provides States and Regional Offices with up-to-date data and a tool to effectively assess community floodplain management needs. In order to maintain the accuracy of CIS, data must be correctly updated by the States, Regions, and FEMA. The following is a list of data that must be updated on a regular basis:

- Information on ordinance adoption;
- CAC and CAV information;
- Technical assistance – floodplain management issues regarding the NFIP or joining CRS that the NFIP State coordinating agency resolves with communities and/or individuals;
- Chief Executive Officer (CEO) and floodplain administrator contact information; and
- Demographic data (Bcensus) – community data (such as population and the number of one-to four-family structures, as well as other structures located inside and outside the floodplain) taken from the Application Form.

### 3. Information on Ordinance Adoption

Regional Offices are to ensure that all information on ordinance adoption is entered into CIS Community Information and Ordinance screens by the NFIP State Coordinator, the RSC Office, or the Regional Offices. This includes information on whether the community has an automatic adoption clause and whether a community has adopted individual map panels or the Index. Each time an ordinance is reviewed for any reason, this information must be updated. If the State or the RSC Office enters the information on the ordinance screen, the Region must also formally approve the ordinance. States need to update and enter information into CIS ordinances that they review as part of their reporting requirements under their CAP-SSSE agreement. States must also enter information on CACs, CAVs, community contacts, and other fields. State personnel are authorized to update CIS in order to document actions they take as part of their CAP-SSSE agreements.

### 4. Community Status Book

The CSB, a listing of all participating and mapped non-participating communities in the NFIP, is generated from data within CIS (See Exhibit GEN-1). The CSB can be accessed through the FEMA web site.

Section I of the CSB lists the communities participating in the NFIP. Flood insurance policies may be purchased for residential and commercial properties (and their contents) located in these communities, from any insurance agent or broker who is licensed to sell property or casualty insurance and is in good standing in all the States in which the agent is licensed.

Section I also provides the date of the community's entry into the Emergency or Regular Phase, the date of the initial FIRM or FHBM, and the date the current map became effective.

Section II of the CSB lists communities that are not participating in the NFIP but have an effective FIRM or FHBM delineating the SFHAs in the community. It also lists communities that have been suspended or have withdrawn from the NFIP. This section lists the date of the current effective map and the dates on which sanctions apply.

#### The Users and Purpose of the CSB

- Property owners and insurance agents use it to determine whether or not flood insurance is available in a particular community, and if a map showing flood zones is available;
- Federal agencies, to meet their responsibilities under Executive Order 11988, Floodplain Management, to evaluate whether a proposed action will occur in a flood hazard area;
- State and local agencies, to provide information for floodplain management;
- Members of the general public who are interested in the information contained in this book; and
- Lenders, to determine whether or not flood insurance must be required as a condition of Federal or federally related financial assistance.

Once a new enrollee is assigned a CID (See section C-1, entitled “Community Identification Numbers,” in the **General** chapter of this handbook), the CSB is automatically updated, provided the community has been mapped. The CSB does not list unmapped, non-participating communities. The Web version of the CSB is updated daily and may be viewed on FEMA’s web site.

## **D. OTHER DATA SYSTEMS**

CIS is the primary NFIP record for community-based information; companion systems exist for specific insurance and mapping purposes. These systems include the NFIP Legacy Systems, BureauNet, the MSC’s Flood Map Status Information System (FMSIS), and the MIP maintained by the Customer and Data Services (CDS) Contractor and updated by FEMA’s Mapping Partners. Each system is independent, but they share data, and each system is a source of information for the other data systems. (See Exhibit GEN-2)

- CIS provides community status information;
- MIP provides information on study status;
- FMSIS provides information on effective maps; and
- BureauNet provides flood insurance information.

### **1. The NFIP Legacy System Contractor and BureauNet**

The NFIP Legacy System Contractor serves as a liaison between the Federal Government and more than 90 independent property and casualty insurance companies that issue federally guaranteed NFIP policies. BureauNet is an NFIP Legacy System Contractor maintained database that stores records of all NFIP claims and policies, as well as information on NFIP communities that has been obtained from CIS. The database includes historical policy data since 1978 and is updated by various sources, including the Write Your Own (WYO) companies. WYO companies generally obtain their community status and mapping information from BureauNet. There are currently 5.6 million active policies and BureauNet includes information on the properties they cover, such as the date of construction, lowest adjacent grade, highest adjacent grade, lowest floor elevation, georeferenced coordinates (e.g., latitude and longitude), and policyholder information. The BureauNet data also includes the address of a structure, insured and claimant information, data on claims paid, and information on mitigation measures taken. BureauNet also contains a database of all structures that have received Section 1316 declarations or rescissions.

## 2. Flood Map Status Information System

FMSIS is a Windows-based desktop application that allows users to view NFIP community and product information (public maps and studies) through FEMA's MSC. FMSIS consists of an application program and program data that are generated each month from an extraction of the system-managing inventory at the MSC. This application provides information about effective flood maps and the NFIP status of all FEMA communities in digital form, including the community name and number, county name(s), panels printed for a community, effective date and suffix for each panel, initial FHBM data, and first and current FIRM dates. FMSIS is the source of the mapping information in CIS. (See Figure GEN-3. Sample FMSIS Community Information Screen below.)

The information provided by FMSIS is obtained through FEMA's Community Map Action Lists and other means. It is critical that these sources of information are provided to the MSC in a timely manner to ensure that FMSIS is current and accurate. (There is a 45-day update period for special conversions, because this is the longest amount of time it would take to update FMSIS and provide the information to CIS for use in the CSB). Once a month, the MSC provides the Floodplain Management Branch with an updated copy of FMSIS, so mapping data can be added to CIS. Some of this information is published on a daily basis in the CSB, which is made available to all FEMA stakeholders. The CSB is often used for floodplain management and insurance activities and by lenders. If the mapping information listed in the CSB is incorrect or out-of-date as a result of FMSIS not being updated, the potential exists for incorrectly written insurance policies or unnecessary flood insurance purchase requirements, based on the use of an incorrect map. Such actions would cause FEMA and the Regional Offices unnecessary work to correct the information, advise communities of the errors, and work with insurance companies to rewrite policies.

Typical FMSIS users may include:

- Insurance professionals and lenders;
- Flood hazard determination companies;
- Surveyors and engineers;
- Floodplain managers;
- Regional Offices;
- Cooperating Technical Partners (CTPs); and
- FEMA contractors

**FMSIS 3.0 - [Community Information]**

File View Window Help

Filter Off Details

Community Information

State: 06 CALIFORNIA

Community: 060353 SANTA CRUZ CO\*

No. of Maps: 26 No. of Studies: 2 No. of FBFMs: 20

Comments:

Program Status: REGULAR Program Status Date: 4/15/1986

FHBM Status: SUPERCEDED BY FIRM FHBM Date: 8/16/1974

FIRM Status: ORIGINAL FIRM Initial Date: 4/15/1986

**Counties**

SANTA CRUZ COUNTY

**Maps** Studies/ FBFMs

Panel	Date	N	F	D	L	C
06035302758	4/15/1986	N	N	Y	N	N
06035303358	4/15/1986	N	N	Y	N	N
06035303508	4/15/1986	N	N	Y	N	N
06035303558	4/15/1986	N	N	Y	Y	N
06035303608	4/15/1986	N	N	Y	Y	N
06035303808	4/15/1986	N	N	Y	N	N

Record 2 of 5

F1 - Help CAPS NUM INS

Figure GEN-3. Sample FMSIS Community Information Screen

### 3. Mapping Information Platform

In 2004, FEMA established a state-of-the-art web-based database application called the MIP. The purpose of the MIP is to enable the management, production, and sharing of flood hazard data and maps in a digital environment. The MIP is available at <http://hazards.FEMA.gov>. The MIP is a tool for producing FIRMs efficiently, storing flood data to reduce future update costs, and managing and tracking the production of flood maps. The MIP includes:

- Dashboards showing project performance indicated by Cost Performance Index and Schedule Performance Index;
- Digital FIRM mapping tools
- Automated Letter of Map Revision and Letter of Map Amendment processing tools;
- Content storage—ability to store digital data (e.g., data capture standards based engineering data) for flood map studies and Letters of Map Change (LOMCs);

- Map viewer; and
- Tracking/reporting (workflow) for flood map studies and LOMCs.

The MIP plays a minimal role in the tracking and coordination of NFIP eligibility and enrollment activities. It is, however, used to track the preparation, quality control, and distribution of the 90-day and 30-day notification letters during the ordinance adoption period. New community enrollments, reinstatements, suspension activities, and changes in participation status are entered into CIS (See section C, entitled “Community Information System,” in the **General** chapter of this handbook). CIS in turn provides the community status information to the MIP.

## E. DOCUMENTING COMMUNITY ACTIONS

A community’s participation in the NFIP can have a significant impact on the community and on individual property owners. Property owners in designated flood hazard areas of a nonparticipating or suspended community may not be able to obtain flood insurance, which may affect their ability to obtain mortgage loans, if flood insurance is required by the lender, or to sell their properties. For this reason, due process requirements have been established by regulation to ensure that communities and other stakeholders are properly notified of changes in their NFIP status and that communities have sufficient opportunity to take action to avoid consequences, such as suspension from the program. Actions that affect a community’s NFIP status are recorded in CIS and closely monitored using standard reports such as the “Community Activity Report” produced in CIS. This report identifies all community actions including enrollments, reinstatements, withdrawals and suspensions. Community actions are documented through official correspondence and two *Federal Register* publications. This section describes these documents and the procedures for distribution.

### 1. Correspondence

Communities are notified by official letter of all actions that affect their status in the NFIP. The correspondence generated includes Letters of Final Determination (LFDs), 90-day notification letters, 30-day notification letters, enrollment letters, and reinstatement letters. LFDs and 90- and 30-day notification letters are sent to all communities prior to suspension from the NFIP for failure to adopt a compliant ordinance (See section B-3, entitled “Post-Preliminary Process,” in the **Adoption of Initial FIRMs and Map Revisions** chapter of this handbook). Enrollment and reinstatement letters are sent to all communities joining the NFIP and are processed twice per month. All letters concerning community eligibility originated by the Floodplain Management Branch are sent to the community CEO by Certified Mail. The following entities also receive a copy:

- The local Floodplain Administrator, when identified in CIS;
- Regional Office;

- NFIP State Coordinator;
- PTS contractor and/or RSC Office; and
- The Community File.

## **2. Federal Register Publications**

FEMA is required by regulation to publish two separate notices in the *Federal Register* regarding changes to community status in the NFIP. The first notice, “Suspension of Community Eligibility,” is a list of all communities that have not yet adopted a compliant ordinance. Adoption of a legally enforceable ordinance must occur on or before the FIRM effective date in order to avoid suspension. FEMA is also required to publish the “Suspension of Community Eligibility” notice in the *Federal Register* before a community can be suspended from the NFIP, for failure to adopt the revised FIRM, as mandated in 44 CFR §59.24(a), or for failure to enforce its ordinances under 44 CFR §59.24(c). For more information, see the **Suspension, Withdrawals, and Reinstatements** chapter of this handbook.

The second notice, “List of Communities Eligible for the Sale of Flood Insurance,” maintains the status of community eligibility, as mandated in 44 CFR §64.6. This notice is published on a quarterly basis in the *Federal Register* and includes all community actions.

The “List of Communities Eligible for the Sale of Flood Insurance” also includes “Suspension Rescission,” which refers to those communities listed on the “Suspension of Community Eligibility” notice that were not suspended because the community adopted a compliant ordinance prior to the suspension date published in the notice. The suspension rescission section acknowledges that FEMA received documentation that the community adopted the required floodplain management measures prior to the effective suspension date given in the “Suspension of Community Eligibility” notice and the suspension will not occur.

**Federal Emergency Management Agency  
Community Status Book Report  
NEW YORK  
Communities Participating in the National Flood Program**

CID	Community Name	County	Init FHBM Identified	Init FIRM Identified	Curr Eff Map Date	Reg-Emer Date	Tribal
361342#	BRIGHTWATERS, VILLAGE OF	SUFFOLK COUNTY	10/18/74	09/02/82	09/25/09	09/02/82	No
361414	BRISTOL, TOWN OF	ONTARIO COUNTY	01/31/75	01/20/84	01/20/84(M)	01/20/84	No
361128	BROADALBIN, TOWN OF	FULTON COUNTY	09/20/74	01/03/85	01/03/85(M)	01/03/85	No
361482	BROADALBIN, VILLAGE OF	FULTON COUNTY	01/03/75	04/15/86	04/15/86(M)	04/15/86	No
360411#	BROCKPORT, VILLAGE OF	MONROE COUNTY	05/31/74	04/23/82	08/28/08(M)	04/23/82	No
360134	BROCTON, VILLAGE OF	CHAUTAUQUA COUNTY	08/27/76		(NSFHA)	10/29/82	No
360905#	BRONXVILLE, VILLAGE OF	WESTCHESTER COUNTY	07/13/73	03/01/79	09/28/07	03/01/79	No
360392	BROOKFIELD, TOWN OF	MADISON COUNTY	08/02/74	04/17/85	04/17/85(M)	04/17/85	No
365334#	BROOKHAVEN, TOWN OF	SUFFOLK COUNTY		08/31/72	09/25/09	08/31/72	No
361431#	BROOME, TOWN OF	SCHOHARIE COUNTY	01/03/75	10/15/85	04/02/04	10/15/85	No
361063	BROWNVILLE, TOWN OF	JEFFERSON COUNTY	12/06/74	06/05/85	06/02/92	06/05/85	No
361576	BROWNVILLE, VILLAGE OF	JEFFERSON COUNTY	04/23/76	03/18/86	03/18/86(M)	03/18/86	No
361130#	BRUNSWICK, TOWN OF	RENSSELAER COUNTY	11/12/76	06/04/80	12/06/00	06/04/80	No
361480	BRUSHTON, VILLAGE OF	FRANKLIN COUNTY	11/15/74	02/19/86	02/19/86(M)	02/19/86	No
360104#	BRUTUS, TOWN OF	CAYUGA COUNTY	09/06/74	04/16/79	08/02/07	04/16/79	No
361534#	BUCHANAN, VILLAGE OF	WESTCHESTER COUNTY	10/29/76	07/27/79	09/28/07(M)	07/27/79	No
360230#	BUFFALO, CITY OF	ERIE COUNTY	06/28/74	11/18/81	09/26/08	11/18/81	No
361531	BURDETT, VILLAGE OF	SCHUYLER COUNTY	07/30/76	06/01/88	06/01/88(L)	06/01/88	No
361394#	BURKE, TOWN OF	FRANKLIN COUNTY	01/03/75	02/19/86	02/19/86(M)	02/19/86	No
361479	BURKE, VILLAGE OF	FRANKLIN COUNTY	01/03/75		(NSFHA)	02/14/85	No
361416	BURLINGTON, TOWN OF	OTSEGO COUNTY	11/22/74	10/21/83	10/21/83(M)	10/21/83	No
361098	BURNS, TOWN OF	ALLEGANY COUNTY	11/08/74	07/16/82	07/16/82(M)	07/16/82	No
361106#	BUSTI, TOWN OF	CHAUTAUQUA COUNTY	10/18/74	03/18/80	01/20/93	03/18/80	No
361445	BUTLER, TOWN OF	WAYNE COUNTY	11/29/74	07/09/82	07/09/82(M)	07/09/82	No
361247	BUTTERNUTS, TOWN OF	OTSEGO COUNTY	12/13/74	12/23/83	12/23/83(M)	12/23/83	No
361139	BYRON, TOWN OF	GENESEE COUNTY	12/06/74	02/01/88	02/01/88(L)	02/01/88	No
360286#	CAIRO, TOWN OF	GREENE COUNTY	12/20/74	09/06/89	05/16/08	09/06/89	No
361411#	CALEDONIA, TOWN OF	LIVINGSTON COUNTY	01/10/75	06/01/81	06/01/81	06/01/81	No
360381#	CALEDONIA, VILLAGE OF	LIVINGSTON COUNTY	02/07/75	06/01/81	06/01/81	06/01/81	No
360816A	CALLICOON, TOWN OF	SULLIVAN COUNTY	06/14/74	03/23/84	02/18/11(-)	03/23/84	No
360499#	CAMBRIA, TOWN OF	NIAGARA COUNTY	04/12/74	09/30/83	09/17/10	09/30/83	No
361223	CAMBRIDGE, TOWN OF	WASHINGTON COUNTY	10/25/74	09/04/85	09/04/85(M)	09/04/85	No
360883#	CAMBRIDGE, VILLAGE OF	WASHINGTON COUNTY	05/03/74	04/17/85	01/02/08	04/17/85	No
360523#	CAMDEN, TOWN OF	ONEIDA COUNTY	09/06/74	05/01/85	09/07/98	05/01/85	No
360993#	CAMDEN, VILLAGE OF	ONEIDA COUNTY	06/21/74	08/16/88	08/16/88	08/16/88	No
361208#	CAMERON, TOWN OF	STEUBEN COUNTY	01/10/75	12/18/84	05/15/91	12/18/84	No
360570#	CAMILLUS, TOWN OF	ONONDAGA COUNTY	09/06/74	06/15/81	05/18/99	06/15/81	No
360571#	CAMILLUS, VILLAGE OF	ONONDAGA COUNTY	07/30/76	08/03/81	05/18/99	08/03/81	No
360768#	CAMPBELL, TOWN OF	STEUBEN COUNTY	05/31/74	09/17/80	06/11/82	09/17/80	No
361313#	CANAAN, TOWN OF	COLUMBIA COUNTY	11/01/74	07/03/85	07/03/85(M)	07/03/85	No
361297#	CANADICE, TOWN OF	ONTARIO COUNTY	11/08/74	05/15/84	05/15/84	05/15/84	No
360442#	CANAJOHARIE, TOWN OF	MONTGOMERY COUNTY	05/03/74	01/06/83	01/06/83	01/06/83	No
360443#	CANAJOHARIE, VILLAGE OF	MONTGOMERY COUNTY	02/22/74	11/03/82	11/03/82	11/03/82	No
360597#	CANANDAIGUA, CITY OF	ONTARIO COUNTY	03/08/74	04/01/81	09/24/82	04/01/81	No
360598#	CANANDAIGUA, TOWN OF	ONTARIO COUNTY	06/28/74	04/17/78	03/03/97	04/17/78	No
360027	CANASERAGA, VILLAGE OF	ALLEGANY COUNTY	05/10/74	03/26/76	12/02/83(M)	12/02/83	No
360393#	CANASTOTA, VILLAGE OF	MADISON COUNTY	03/29/74	05/01/85	04/15/88	05/01/85	No
360833#	CANDOR, TOWN OF	TIOGA COUNTY	08/02/74	08/19/86	08/19/86	08/19/86	No
360834	CANDOR, VILLAGE OF	TIOGA COUNTY	05/31/74	10/01/91	10/01/91(L)	10/01/91	No
360028#	CANEADEA, TOWN OF	ALLEGANY COUNTY	05/31/74	08/20/82	08/20/82(M)	08/20/82	No
360769#	CANISTEO, TOWN OF	STEUBEN COUNTY	12/20/74	12/18/84	12/18/84	12/18/84	No
360770	CANISTEO, VILLAGE OF	STEUBEN COUNTY	12/20/74	05/18/79	05/18/79(M)	05/18/79	No

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**Legend:**

- (E) Indicates Entry In Emergency Program
- NSFHA No Special Flood Hazard Area - All Zone C
- (>) Date of Current Effective Map is after the Date of This Report
- N/A Not Applicable At This Time
- (S) Suspended Community
- (W) Withdrawn Community
- (M) No Elevation Determined - All Zone A, C and X
- (L) Original FIRM by Letter - All Zone A, C and X

Exhibit GEN-1. Community Status Book

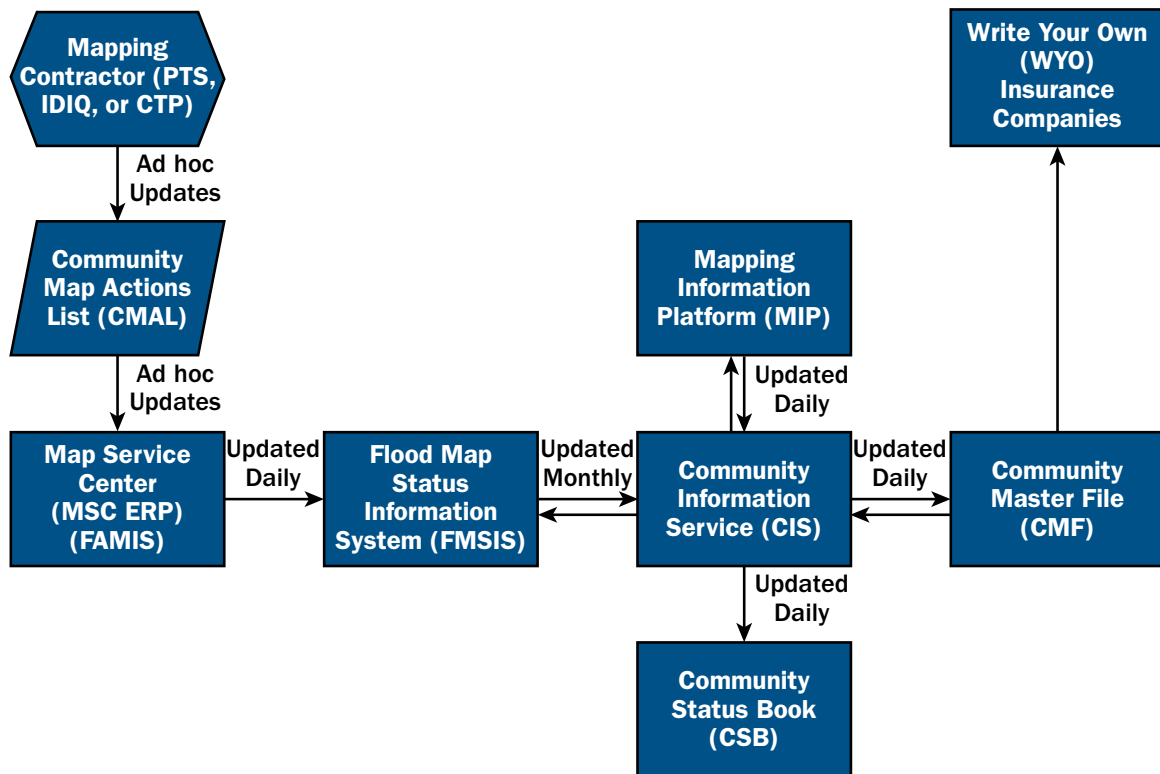


Exhibit GEN-2. Data Systems for Tracking Community-Based and Mapping Actions

# **ELIGIBILITY AND COMMUNITY LAND USE REGULATIONS: ORDINANCES, BUILDING CODE, AND OTHER MEASURES**

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# **ELIGIBILITY AND COMMUNITY LAND USE REGULATIONS: ORDINANCES, BUILDING CODE, AND OTHER MEASURES**

## **A. OVERVIEW**

Under Section 1315 of the National Flood Insurance Act of 1968, as amended, participating communities are required to have “adopted adequate land use and control measures (with effective enforcement provisions) which the Director finds are consistent with the comprehensive criteria for land management and use under Section 1361.” These criteria are contained in Title 44 of the Code of Federal Regulations (CFR), Parts 59 and 60. The National Flood Insurance Program (NFIP) regulations further require that the ordinance be “legally enforceable.” In reviewing a community’s floodplain management ordinance, a determination must be made that the ordinance meets or exceeds all of the applicable requirements of 44 CFR §60.3 and §60.6(a) and also that it meets applicable provisions of State enabling legislation and has been legally adopted through a process that meets all community and State due process requirements.

Section 1315 of the Act clearly states that the regulations must meet NFIP criteria. The Regional Office must verify this each time the community is required to amend its ordinance to incorporate new data. It is not sufficient only to verify that the map date reference has been changed to that of the current map or that the community’s floodplain management ordinance has a valid provision adopting all future map revisions where allowed by State law.

In addition, the community must include adequate administrative procedures (such as a framework for administering the floodplain management ordinance, adequate enforcement provisions, and a variance section) in the floodplain regulations, or the procedures must be included in other community ordinances or formal procedures. The Federal Emergency Management Agency (FEMA) does not specify the type of procedures required, because some are controlled by State enabling legislation. FEMA also wants to provide communities with the flexibility to use the same procedures it uses to administer other ordinances. However, it is important to ensure these procedures are addressed in the community’s regulations or other formal procedural process. An ordinance without administrative procedures cannot be enforced and, therefore, is not a compliant ordinance.

Furthermore, NFIP regulations require that the participating community floodplain management regulations apply “uniformly throughout the community to all privately- and publicly-owned land” and “the regulations must take precedence over any less restrictive conflicting local laws, ordinances, or codes.” Communities may not be able to regulate some actions taken by State agencies or the actions of Federal agencies. However, these actions should be

subject to State floodplain management regulations or executive orders or, for Federal actions, to Executive Order 11988, entitled *Floodplain Management*.

## **B. STATUTORY AUTHORITY**

An ordinance is a generic term for a law passed by a local government. In some States, it is called by another name, such as “by-law.”

In most States, a community’s authority to enact an ordinance comes from State law. Communities are created by the State, and their powers are granted and limited by State law or statutory authority, which is also known as enabling legislation. Each State has a specific law or set of laws authorizing the community to enact and enforce floodplain regulations. This authority can be general, such as the authority to plan and adopt zoning ordinances, or the specific authority to adopt and enforce floodplain management regulations, or a combination of both. That law generally includes the following:

- The purpose and limits of the regulatory authority (for example, the community may not be able to regulate development projects undertaken by State agencies or public utilities)
- Minimum regulatory standards (many States mandate a certain building code or floodway encroachment standard)
- Prerequisites for enacting or amending the ordinance (a zoning ordinance may have to be based on a comprehensive plan or be adopted only after a public hearing)
- Requirements for issuing variances or allowing special uses
- Prerequisites for the administering official (the community may need to have a certified building official enforce its building code)

Some State laws provide for State oversight of local regulations. In some cases, developers must apply directly to the State for a permit for some activities. In other cases, they may appeal to the State if they feel the community has not interpreted the regulations correctly.

In most States, local laws are subject to “Dillon’s rule,” named after Judge Dillon, who ruled in the 19th Century that because local governments are created by State government, they can only do what State laws specifically authorize. If an action is not authorized by statute, a community cannot perform the action in a “Dillon’s rule” State.

## **C. STATE APPROVAL OF COMMUNITIES’ FLOODPLAIN MANAGEMENT REGULATIONS**

The NFIP State Coordinator’s Office acts as a link between FEMA and communities and can advise communities on how to comply with both NFIP requirements and any applicable State laws and regulations. States often review floodplain management ordinances as a task under

the Community Assistance Program-State Support Services Element (CAP-SSSE) or to ensure compliance with State laws or regulations.

In some States, approval by the State may be required for any new or revised floodplain regulation adopted by a community. These States have floodplain management laws or regulations that establish requirements beyond the minimum criteria of the NFIP. In several of these States, State law requires that the floodplain management regulation must be formally approved by the State in order to be valid. In these States, the Regional Office must ensure that the State has approved the floodplain ordinance prior to approving it as meeting the NFIP minimum requirements. In States that have their own required floodplain management standards but do not require formal State approval, the Regional Office should still coordinate with the State to ensure that State requirements have been met. An ordinance or other regulation that is not approved by the State, when required, or does not meet the minimum State floodplain management requirements established by law or regulation is not compliant with NFIP minimum requirements, because it may not be legally enforceable. Note that having a provision in the State model ordinance does not constitute a more restrictive State requirement unless that provision is backed up by a law or regulation and is mandatory for all communities in that State. A community will not be suspended for not adopting a provision of a model ordinance, provided that it otherwise meets NFIP minimum requirements.

For States that have demonstrated a commitment to, and experience in, the application of NFIP minimum floodplain management criteria, 44 CFR §60.25(d) allows FEMA to consider State approval or certification of community floodplain management ordinances as meeting NFIP requirements. This provision provides Regional Offices with the latitude to approve floodplain management regulations based on their review and approval by the State. However, the Regional Office must still formally approve the regulations in the Community Information System (CIS).

#### **D. STATE PREEMPTION OF LOCAL ORDINANCES**

If a State law or regulation preempts a community from regulating certain types of activities or actions by State agencies, NFIP policy has been that this is acceptable, provided that the State agency overseeing the activity applies floodplain requirements equivalent to NFIP minimum criteria. Examples of development that some States preempt from local regulation include: development on State-owned property, schools, hospitals, railroads, mining (e.g., ore, coal, gravel, sand, and clay), oil, gas explorations and operations, and manufactured home parks. There should be no gaps in regulation. If any gaps in regulation are identified, they need to be resolved at the State level by the NFIP State Coordinating Agency and the Regional Office. If these issues cannot be resolved at the State level, the Regional Office should seek assistance from the Floodplain Management Branch.

## E. DETERMINING COMPLIANCE WITH 44 CFR §60.3

States and communities participating in the NFIP must adopt and enforce floodplain management regulations that meet or exceed minimum NFIP criteria. NFIP regulations identify minimum requirements that communities must meet to join and stay in the program. The requirements that apply to a particular community depend on its flood hazard and the level of detail of the data FEMA provides to the community. The specific requirements are found in 44 CFR §60.3 and apply to communities as follows:

### Requirements of 44 CFR §60.3

- 60.3(a) FEMA has not provided any maps or data to the community (also Zone D)
- 60.3(b) FEMA has provided a map with approximate A zones
- 60.3(c) FEMA has provided a Flood Insurance Rate Map (FIRM) with Base Flood Elevations (BFEs)
- 60.3(d) FEMA has provided a FIRM with BFEs and a floodway
- 60.3(e) FEMA has provided a FIRM that shows coastal high hazard areas (V zones)
- 60.3(f) FEMA has provided a FIRM that shows flood protection restoration areas (AR zones)

The requirements that apply to a community are referred to by the NFIP and appear in CIS as the community's "Level of Regulations." The Level of Regulations, determined by the most detailed data that FEMA has provided the community, is designated as (a), (b), (c), (d), (e), or (f), or (d) and (e) for communities with both floodways and V zones.

Two important notes:

The NFIP requirements are minimums. As noted in earlier sections of this handbook and in 44 CFR §60.1(d), "Any floodplain management regulations adopted by a State or a community which are more restrictive than the criteria set forth in this part are encouraged and shall take precedence." For example, a community may only be required to adopt 44 CFR §60.3(b), because the FIRM only includes approximate A zones; however, the community may require permit applicants to provide a BFE and meet the requirements of §60.3(c) or apply other more stringent requirements.

### Note

- The NFIP floodplain management requirements are minimums.
- The requirements in 44 CFR §60.3(a) through (e) are cumulative.

The above requirements are cumulative. A 44 CFR §60.3(c) community must comply with all appropriate requirements of 44 CFR §60.3(a) and (b). For example, 44 CFR §60.3(a) includes basic requirements for subdivisions and utilities that are not repeated in later sections, but these requirements must still be met for the community to be compliant. In addition, a community may be required to meet the requirements of 44 CFR §60.3(d), because it has one or more streams with floodways; the community could also have flooding sources that have (c) level data (BFEs and no floodway), (b) level data (approximate A zones), or even (a) level data (areas designated as Zone D). Since the requirements are cumulative, the community's ordinance must include the provisions that apply to all of these types of data.

The following table can be used when determining the minimum NFIP requirements for a community.

<b>60.3 Requirement</b>	<b>SFHAs</b>	<b>BFEs</b>	<b>Regulatory Floodway</b>	<b>V Zone</b>
60.3(a)	No	No	No	No
60.3(b)	Yes	No	No	No
60.3(c)	Yes	Yes	No	No
60.3(d)	Yes	Yes	Yes	No
60.3(e)	Yes	Yes	No	Yes
60.3(d) & (e)	Yes	Yes	Yes	Yes

In addition to determining the 44 CFR §60.3 requirement for a community, the other types of data that are shown on the community's FIRM must be determined. For example, does a 60.3(d) community also have rivers or streams that have BFEs but no floodways, AO or AH zones, unnumbered A zones, or areas that are designated as Zone D? If it does, the applicable provisions of 44 CFR §60.3(a), (b), and (c) that apply to that type of data must be included in the ordinance.

## F. TYPES OF FLOODPLAIN MANAGEMENT REGULATIONS

There are a variety of floodplain management measures a community can adopt. Each ordinance should be unique, to suit that community's existing legal and administrative framework. The ordinance must meet the minimum NFIP requirements and needs to be consistent with the needs and objectives of the community.

The following are examples of the types of ordinances a community might adopt.

### 1. “Stand-Alone” Flood Damage Prevention Ordinance

Communities may elect to adopt a stand-alone ordinance that includes all of the NFIP requirements, usually based on a State or FEMA model. This approach is used by most of the smaller NFIP communities. Alternatively, if allowed by State law, communities may incorporate some floodplain management criteria in one or more of their other types of ordinances and regulations, such as their zoning ordinance, subdivision regulation, sanitation regulation, or building code.

The advantage of a stand-alone ordinance is that one ordinance contains all floodplain development standards for the community. Developers can easily see what is required of them, and the State and FEMA can easily see if the community has adopted the latest requirements.

The disadvantage to a separate ordinance is that it may not be coordinated with other building, zoning, or subdivision regulations. Some communities have found that by adopting a stand-alone ordinance, they adopt standards that are inconsistent or even contrary to the standards in other local, State, or Federal regulations. For example, a community may have adopted in its floodplain ordinance a higher standard, such as freeboard or enclosure limitation, and the building code does not reflect the same standard.

If the community has a stand-alone ordinance, its provisions should be coordinated with all other offices and ordinances that regulate land development and building construction.

A sample comprehensive single-purpose ordinance should include the following sections:

- Statutory Authorization
- Findings of Fact
- Statement of Purpose
- Definitions
- General Provisions
- Administrative Provisions
- Legal Status Provisions
- Provisions for Flood Hazard Reduction

## 2. Building Codes

With the publication of the *International Code Series*™ (I-Codes) in 2000 and later editions and the *National Fire Protection Association*™ *Building Construction and Safety Code*™ (NFPA™5000) in 2002, more and more communities may be enforcing floodplain management requirements pertaining to the construction of buildings through their building codes. Both the I-Codes and the NFPA™5000 are consistent with the minimum flood-resistant design and construction requirements of the NFIP related to buildings and structures, but they do not meet other NFIP requirements related to non-building development. Those non-building requirements of the NFIP are contained in Appendix G of the *International Building Code*® (IBC), which is an optional appendix to the code that must be adopted separately. Key administrative provisions are also located in optional appendices. If a community wishes to comply with NFIP minimum requirements through adoption of the I-Codes, it must also adopt Appendix G or, as an alternative, adopt a companion ordinance that contains all of the provisions of that appendix. The I-Code series includes the following codes:

- IBC;
- *International Residential Code*™ (IRC);
- *International Existing Building Code*® (IEBC);
- *International Plumbing Code*®;
- *International Mechanical Code*®;
- *International Fuel Gas Code*®; and
- *International Private Sewage Disposal Code*®

Note that when communities and States adopt the IBC, they also adopt by reference the IRC, which regulates detached one- and two-family dwellings and multiple single-family dwellings (e.g., townhouses). However, a community or State may choose not to regulate one- and two-family dwellings and townhouses by amending the IBC to exclude the reference to the IRC. If a community or State specifically excludes this reference, the buildings regulated by the IRC must be covered in a community's floodplain management ordinance or other regulations. Similarly, the IRC references the IBC, so a State must explicitly exclude references to the IBC if the intention is to adopt only the IRC. With respect to NFIP consistency, this is important because the IRC refers to the IBC for many requirements. The community's floodplain management ordinance and other regulations will have to include these requirements as well as the requirements that apply to the other types of buildings normally regulated by the IBC.

Although adoption of one of the building codes (either the I-Codes or NFPA™5000) by communities and States should improve overall community compliance with the flood-resistant design and construction requirements of the NFIP, extra effort may be required when reviewing community floodplain management regulations to determine if they are compliant

with the minimum NFIP requirements. Provisions may be located in more than one building code or ordinance, which increases the likelihood of omissions or conflicts.

**a. NFIP Requirements Not Addressed by Building Codes**

The building code, or a combination of the code and other regulations, must address all development. While the NFIP requires communities to regulate all development in Special Flood Hazard Areas (SFHAs), building codes typically apply only to the construction of buildings and certain other structures. Generally, building codes do not regulate other types of development, the location of buildings, or the subdivision of land. To address this, the community can adopt Appendix G of the IBC or Annex C of the NFPA<sup>TM</sup>5000, which contain the other NFIP requirements or address these requirements through a companion floodplain management ordinance or other regulations. Participating communities will need to make sure that all development is regulated and that there are no floodplain management regulatory gaps. In addition, the Regional Offices will need to make sure that the Flood Insurance Study (FIS) report and the FIRM are appropriately referenced in a community's regulations.

The guide entitled *Reducing Flood Losses Through the International Code Series: Meeting the Requirements of the National Flood Insurance Program*, 2003 and 2006, can help communities decide how to integrate the I-Codes into their current floodplain management regulatory processes in order to meet the requirements for participation in the NFIP. The checklists and crosswalks presented in the guide can also help in reviewing community building codes and other floodplain management regulations. Three editions of this guide (for the 2003 I-Codes and the 2006 I-Codes and 2007 supplement) are available on FEMA's web site at [www.FEMA.gov](http://www.FEMA.gov).

**b. Review of the State Building Code**

States that adopt the I-Codes or NFPA<sup>TM</sup>5000 as the basis for their State-mandated building code may also amend the base model code. Any amendments could directly or indirectly affect the flood-resistant design and construction requirements of the NFIP. For example, the State could change the flood-related provisions of the code to make these non-compliant, or it could exempt certain types of structures from the State-mandated building code, such as agricultural structures or one- and two-family dwellings, as described above. It is common for States to rewrite the administrative procedures in Chapter 1 of the IBC or IRC. Regions and States will need to determine whether any changes to the administrative procedures affect enforcement of the flood-related provisions. Reviewers should take care that provisions related to flood are either retained or recaptured in a companion ordinance.

The first step is to determine whether States in your Region have a State-mandated building code that communities must adopt. In States that have adopted a State-mandated building code, the NFIP State Coordinator should contact the State building code office to determine whether the State has adopted either the IBC (and other I-Codes) or NFPA<sup>TM</sup>5000 as the basis for the State-mandated building code. The NFIP State Coordinator should also find out

whether the code was amended and determine if any of the amendments affect the flood-resistant design and construction requirements in a way that make them non-compliant with the NFIP requirements. In addition, the NFIP State Coordinator will need to make a determination of whether any more restrictive State floodplain management requirements have been affected, such as freeboard. Ongoing coordination should occur between the NFIP State Coordinator and the State building code office.

### **c. Adoption of Building Codes by Individual Communities**

In communities without State-mandated building codes or in communities where the State allows communities to amend the State building code, the State and the Regional Office will need to determine whether the community has adopted either the IBC (and other I-Codes) or the NFPA<sup>TM</sup>5000, and whether the code was amended. Along with the ordinance adopting the building codes, there may be a separate document that includes the amendments to the code. It is important to ask the community for the document so that it can be reviewed for any amendments that affect the flood provisions. They must then determine whether any of the amendments make the flood-resistant design and construction provisions non-compliant with the requirements of the NFIP.

### **d. NFIP Provisions Not Addressed by the Building Code**

While the NFIP requires communities to regulate all development in SFHAs, building codes typically apply only to the construction of buildings. Generally, they do not regulate other types of development, the location of buildings, or the subdivision of land. The community can adopt Appendix G of the IBC® or Annex C of the NFPA<sup>TM</sup> 5000, which contains NFIP requirements that are not addressed in the building codes. The community can also address the NFIP requirements that are not in the building code through a companion floodplain management ordinance that contains many of the same provisions in Appendix G. Communities may have some floodplain requirements in other regulations, such as the subdivision ordinance or zoning ordinance. The building code and Appendix G or a companion ordinance must address all development. The FEMA Regions will need to ensure that all development is regulated and that there are no floodplain management regulatory gaps. In addition, the FEMA Regions will need to make sure that the FIRM and FIS are appropriately referenced. FEMA Regions also need to ensure that the adopted building codes and the companion ordinance do not have duplicate provisions. It could create confusion and could result in non-compliant structures.

## **3. Zoning Ordinance**

Some communities meet NFIP requirements by incorporating the provisions into their existing zoning ordinance. A zoning ordinance regulates development by dividing the community into zones or districts and setting development criteria for each district. The floodplain management provisions may all be located in one chapter of the zoning ordinance, or the

provisions can be included at appropriate places throughout the ordinance. Two approaches are generally used to address development in mapped floodprone areas: separate districts and overlay zoning.

In a separate district approach, the floodplain can be designated as one or more separate zoning district(s), in which only development that is not susceptible to damage by flooding is allowed. Appropriate uses allowed by ordinance in these zones typically include public use, conservation, agriculture, and cluster or planned unit developments that keep buildings out of the floodplain, wetlands, and other areas that are not appropriate for intensive development.

As an overlay zone, the floodplain protection district adds special requirements in areas subject to flooding. The areas can be developed in accordance with the underlying zone, provided the flood protection requirements are also met. Communities that take this approach generally adopt the FIRM by reference as the overlay district. There may also be setbacks or buffers to protect stream banks and shorelines or to preserve the natural functions of the channels and adjacent areas.

#### **4. Subdivision Regulations**

Some communities also incorporate the floodplain management requirements on subdivisions into their subdivision regulations. Subdivision regulations govern how large parcels of land can be divided into single lots. These regulations set construction and location standards for the infrastructure the developer will provide including roads, sidewalks, utility lines, storm sewers, and drainage paths.

The application of subdivision regulations offers an opportunity to avoid or minimize flood risks and wetland impacts through lot layout, location of building footprints, street layout, and local drainage design. It is common for communities to require the “greenlining” of resources such as floodplains, wetlands, tree stands, and other environmental resources before developers can lay out lot lines and streets. Setting aside these areas as common open space, often for recreation or habitat protection, is another common practice in subdivision development.

#### **5. Sanitary Regulations**

The NFIP requirements for water and sewer system protection are sometimes best located in the regulations that set the standards for the location, design, and installation of these systems. Many States have regulations that place limitations on locating onsite septic systems in areas prone to flooding, often citing certain soil types or flood frequencies, such as the 10- or 25-year floodplain. See FEMA Publication Number 348, *Protecting Building Utilities from Flood Damage: Principles and Practices for the Design and Construction of Flood Resistant Building Utility Systems*, for more information on sanitary regulations.

NFIP requirements can also be incorporated into a community's building code. This is more commonly done for those requirements that relate directly to the construction of buildings. For more information on building codes, see section F-2 of this chapter.

## **G. REVIEW OF THE COMMUNITY ORDINANCE**

An NFIP Community Floodplain Management Regulations Review Checklist (Exhibit ELG-1) has been developed to assist Regions and States in reviewing community floodplain management regulations. This checklist can be modified to incorporate more restrictive State requirements or to address other issues encountered in the States/Regions. Although its use is not required, the checklist is a good tool to systematically ensure that an ordinance is compliant. It also provides documentation that the ordinance has been reviewed, if the Regional Office has the State or RSC Office perform the initial ordinance review.

## **H. PROVISIONS OF A “LEGALLY ENFORCEABLE” FLOOD DAMAGE PREVENTION REGULATION**

The NFIP regulations at 44 CFR Part 59 and 60 do not have the basic provisions necessary to administer and enforce a floodplain management ordinance. The NFIP regulations contain the minimum floodplain management requirements for all new construction, substantial improvement, and other development. The basic provisions contained in this guidance are typically found in most ordinances, regardless of their purpose. Most of these are basic structural elements necessary for an ordinance to function.

Communities need to determine which basic provisions should be incorporated into the floodplain management ordinance. The provisions listed below may be necessary to make the ordinance legally enforceable and ensure that it can be properly administered. In deciding which of the basic provisions need to be included in the floodplain management ordinance, local officials need to consider whether they would be necessary, appropriate, and useful for the community to have in its ordinance. The community's attorney can determine which of the provisions below are necessary when drafting or reviewing the ordinance for legal form and correctness. The local officials and legal staff will also need to determine whether there are other provisions that need to be included in the floodplain management ordinance in order for it to be administered and enforced.

What specific basic provisions are necessary will vary from state to state due to differences in state enabling legislation. The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community (44 CFR 60.1(b)). For the purposes of the NFIP, a legally adopted floodplain management ordinance must contain all of the necessary provisions to ensure that floodplain development complies with the minimum regulations contained in 44 CFR §59.1 and §60.3. Some or all of the provisions below may be necessary for the proper enforcement and administration of the floodplain

management ordinance. Specifying the basic provisions in the floodplain management ordinance helps local officials interpret and implement the provisions in the ordinance. A brief explanation of the purpose for the provisions is provided below.

- **Statement of Purpose** – The statement of purpose should set forth the goals and objectives to be achieved through the ordinance. In other words, the statement of purpose enumerates what the community intends to accomplish by enacting regulations. The underlying purpose of the floodplain management regulations is to protect the public health, safety, and general welfare and to minimize the harmful impacts of flooding upon the community
- **Findings of Fact** – The findings of fact set forth the reasons the community finds it necessary to adopt an ordinance. This provision generally provides the justification for the ordinance in regulating flood hazard areas by the community.
- **Definitions** – In order for the ordinance to be clearly understood, it is necessary to define technical terms or key words. The NFIP gives special meaning to a number of terms, such as “development”, “building”, “base flood elevation”, “lowest floor”, and “substantial improvement.” An understanding of these terms is a prerequisite to effective administration of the floodplain management ordinance.
- **Methods of Reducing Flood Losses** – This section identifies those activities that either aggravate the existing flood hazard or expose additional human lives and property to the flood hazard. These activities will be regulated in order to accomplish the purpose and objectives of the ordinance. There must be sound connections between the “purpose” (why the ordinance is necessary) and the “method” (how the ordinance intends to accomplish the purpose).
- **Disclaimer of Liability** – This provision advises that the degree of flood protection required by the ordinance is considered reasonable, but does not imply total flood protection.
- **Abrogation and Greater Restriction** – This is a legal provision that specifies that the floodplain management ordinance, regulations, and building codes take precedence over less restrictive requirements.
- **Appeals and Variances** – A variance provision in the floodplain management ordinance allows an applicant to deviate from the standards specified in the ordinance. An appeal is when the decision or determination made by the floodplain administrator is questioned. This process for an appeal or variance is generally handled by a separate body, such as a board of appeals or variance board; it should not be left up to the decision of a single person, such as the floodplain administrator.

FEMA does not set forth absolute criteria for granting variances from the floodplain management requirements in 44 CFR §60.3. However, general variance criteria have been established in the NFIP regulations under §60.6 (a). These criteria provide the basis for each community participating in the NFIP to determine if a structure qualifies for a variance from the local floodplain management regulations. The variance criteria are a compilation of standards most frequently found in state variance law, coupled with specific floodplain management standards.

- **Severability** – If any section, provision, or portion of the floodplain management ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

- **Enforcement Provisions** – The ordinance must have enforcement provisions that establish the responsibilities of persons, enforcement authority, what makes a violation, notice of violation, stop work orders, and citation and penalties for violations. Most state enabling acts establish penalties for violations. The state statute usually varies, but generally establishes a maximum fine and jail sentence for each violation.
- **Public Notices** – Some state or local laws may require proposed ordinances, requests for appeals and variances, and other actions by the community to be published in a newspaper, other news media (e.g., radio or television), or the Internet prior to an ordinance being adopted, or prior to approval of an appeal, variance, or other action.
- **Public Hearing** – Some states or local communities may require a local board or commission to hold public hearings to obtain public input on appeals, variances, and other actions by the local board or commissions.

# NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community \_\_\_\_\_ C.I.D. \_\_\_\_\_ State \_\_\_\_\_

Reviewed by: \_\_\_\_\_ Date of Review: \_\_\_\_\_

Community Floodplain Management Regulations Reviewed by (circle one):

FEMA    State    Other: (Agency Name) \_\_\_\_\_

Reviewer's Determination:   /   / The floodplain management regulations are compliant.   /     /       
  /   / The floodplain management regulations are not compliant.

Approved by: \_\_\_\_\_ (FEMA only) Date of Approval: \_\_\_\_/\_\_\_\_/\_\_\_\_

The “Item Description” is a synopsis of the regulatory requirement and should not be construed as a complete description. Refer to the actual language contained in the National Flood Insurance Program Floodplain Management Regulations at Title 44 Code of Federal Regulations (CFR) Part 59 and 60 for the complete description of the required minimum criteria. Below the “Level of Regulations” column, you can indicate whether the community ordinance meets or exceeds the respective provision in the non-shaded areas.

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
Ordinances Must Contain the Following Provisions:						
1. Citation of Statutory Authority						
2. Framework for administering the ordinance (including permit system, establishment of the office for administering the ordinance, record keeping, etc.).						
3. Adequate enforcement provisions (including a violation and penalty section specifying actions the community will take to assure compliance).						
4. Variance section with evaluation criteria and insurance notice. [60.6(a)]						
5. Effective Date:            Adoption Date:						
6. Signature of Appropriate Official and Certification Official.						

## Exhibit ELG-1. NFIP Community Floodplain Management Regulations Review Checklist

<sup>1</sup> If a community has both floodways and coastal high hazard areas, it must meet the requirements of both level 60.3(d) and 60.3(e).

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
<b>Other Provisions and Actions That may be Necessary to Make the Ordinance Legally Enforceable and Ensure That it can be Properly Administered:</b>						
7. Purpose section citing health, safety, and welfare reasons for adoption.						
8. Disclaimer of Liability section advising that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.						
9. Abrogation and Greater Restriction section. (e.g., This Ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this Ordinance imposes a greater restriction, the provisions of this Ordinance shall control.)						
10. Severability section (e.g., If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.)						
11. Public hearing (State/local laws may require hearings)						
12. Publication (State/local laws may require public notices)						
<b>Minimum NFIP Criteria:</b>						
13. Definitions: [59.1] __ Base Flood; __ Base Flood Elevation; __ Development; __ Existing manufactured home park or subdivision; __ Expansion to an existing manufactured home park or subdivision; __ Flood Insurance Rate Map; __ Flood Insurance Study; __ Floodway; __ Lowest Floor; __ Manufactured Home; __ Manufactured Home Park or Subdivision; __ New Construction; __ New Manufactured Home Park or Subdivision; __ Recreational Vehicle; __ Special Flood Hazard Area; __ Start of Construction; __ Structure; __ Substantial Damage; __ Substantial Improvement; __ Violation;  Other Definitions as appropriate such as __ Floodproofing; __ Highest adjacent grade for community's with mapped AO Zones; __ Historic Structures						

**Exhibit ELG-1. NFIP Community Floodplain Management Regulations Review Checklist**

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
14. Adopt or reference correct Map and date. [60.3(b)] (If the community has an automatic adoption provision in its ordinance, is it valid?)						
15. Adopt or reference correct Flood Insurance Study and date. [60.3(c), (d), and/or (e)] (If the community has an automatic adoption provision in its ordinance, is it valid?)						
16. Require permits for all proposed construction or other development including placement of manufactured homes to determine whether such construction or development is in a floodplain. [60.3(a)(1)]						
17. Require permits for all proposed construction and other development within SFHAs. [60.3(b)(1)]						
18. Assure that all other State and Federal permits are obtained. [60.3(a)(2)]						
19. Review permits to assure sites are reasonably safe from flooding and require for new construction and substantial improvements in flood-prone areas [60.3(a)(3)]:						
(a) Anchoring (including manufactured homes) to prevent flotation, collapse, or lateral movement of the structure. [60.3(a)(3)(i)]						
(b) Use of flood-resistant materials. [60.3(a)(3)(ii)]						
(c) Construction methods and practices that minimize flood damage. [60.3(a)(3)(iii)]						
(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water entry to accumulation. [60.3(a)(3)(iv)]						
20. Review subdivision proposals and other development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding [60.3(a)(4)]. If a subdivision or other development proposal is in a flood-prone area, assure that:						
(a) Such proposals minimize flood damage. [60.3(a)(4)(i)]						

**Exhibit ELG-1. NFIP Community Floodplain Management Regulations Review Checklist**

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
(b) Public utilities and facilities are constructed so as to minimize flood damage. [60.3(a)(4)(ii)]						
(c) Adequate drainage is provided. [60.3(a)(4)(iii)]						
21. Require new and replacement water supply and sanitary sewage systems to be designed to minimize or eliminate infiltration. [60.3(a)(5) and 60.3(a)(6)]						
22. Require onsite waste disposal systems be designed to avoid impairment or contamination. [60.3(a)(6)(ii)]						
23. Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [60.3(b)(3)]						
24. In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the base flood level, and for floodproofing or elevating non-residential structures to or above the base flood level. [60.3(b)(4)]						
25. Where BFE data are utilized in Zone A, obtain and maintain records of the lowest floor and floodproofing elevations for new and substantially improved construction. [60.3(b)(5)]						
26. In riverine areas, notify adjacent communities of watercourse alterations and relocations. [60.3(b)(6)]						
27. Maintain the carrying capacity of an altered or relocated watercourse. [60.3(b)(7)]						
28. Require all manufactured homes to be elevated and anchored to resist flotation, collapse, or lateral movement. [60.3(b)(8)]						
29. Require all new and substantially improve <u>residential</u> structures within A1-30, AE, and AH Zones have their lowest floor (including basement) elevated to or above the Base Flood Elevation. [60.3(c)(2)]						

Exhibit ELG-1. NFIP Community Floodplain Management Regulations Review Checklist

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
30. <sup>2</sup> In AO Zones, require that new and substantially improved <u>residential</u> structures have their lowest floor (including basement) to or above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(7)]						
31. Require that new and substantially improved <u>non-residential</u> structures within A1-30, AE, and AH Zones have their lowest floor elevated or floodproofed to or above the Base Flood Elevation. [60.3(c)(3)]						
32. <sup>2</sup> In AO Zones, require new and substantially improved <u>non-residential</u> structures have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number on the FIRM. [60.3(c)(8)]						
33. Require that for floodproofed non-residential structures, a registered professional engineer/architect certify that the design and methods of construction meet requirements at 60.3(c)(3)(ii). [60.3(c)(4)]						
34. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters in accordance with the specifications in 60.3(c)(5). (Openings requirement)						
35. <sup>3</sup> Until a regulatory floodway is designated, no encroachment may increase the Base Flood level more than 1 foot. [60.3(c)(10)]						
36. <sup>4</sup> In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [60.3(c)(11)]						

**Exhibit ELG-1. NFIP Community Floodplain Management Regulations Review Checklist**

<sup>2</sup> Item 30 and 32 are not required if the community has no AO Zones.

<sup>3</sup> Item 35 is not required if all streams have floodways designated.

<sup>4</sup> Item 36 is not required if the community has no AO or AH Zones.

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
37. Require that manufactured homes placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following location criteria, to be elevated such that the lowest floor is to or above the Base Flood Elevation and be securely anchored: (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; (iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(c)(6)]						
38. In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored. [60.3(c)(12)]						
39. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR (iii) be fully licensed and highway ready. [60.3(c)(14)]						
40. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot. [60.3(d)(2)]						
41. In a regulatory floodway, prohibit any encroachment, unless hydrologic and hydraulic analyses prove that the proposed encroachment would not cause an increase in flood levels during the Base Flood discharge. [60.3(d)(3)]						

Exhibit ELG-1. NFIP Community Floodplain Management Regulations Review Checklist

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
42. In V1-30, VE, and V Zones, obtain and maintain the elevation of the bottom of the lowest horizontal structural member of the lowest floor of all new and substantially improved structures. [60.3(e)(2)]						
43. In V1-30, VE, and V Zones, require that all new construction and substantial improvements:						
(a) Are elevated and secured to anchored pilings or columns so that the bottom of the lowest horizontal structural member is at or above the Base Flood Elevation. [60.3(e)(4)]						
(b) A registered professional engineer/architect certify that the design and methods of construction meet elevation and anchoring requirements at 60.3(e)(4)(i) and (ii). [60.3(e)(4)]						
(c) Have the space below the lowest floor either free of obstruction or constructed with breakaway walls. Any enclosed space shall be used solely for parking, building access, or storage. [60.3(e)(5)]						
(d) All new construction must be landward of mean high tide. [60.3(e)(3)]						
(e) Prohibit use of fill for structural support. [60.3(e)(6)]						
(f) Prohibit alterations of sand dunes and mangrove stands, which would increase potential flood damage. [60.3(e)(7)]						
44. Require that manufactured homes placed or substantially improved within V1-30, VE, and V Zones, which meet one of the following location criteria, meet the V Zone standards in 60.3(e)(2) through (e)(7):						
(i) outside a manufactured home park or subdivision;						
(ii) in a new manufactured home park or subdivision;						
(iii) in an expansion to an existing manufactured home park or subdivision;						
(iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(e)(8)]						

**Exhibit ELG-1. NFIP Community Floodplain Management Regulations Review Checklist**

Item Description (Section Reference to the NFIP Regulations Follows)	Level of Regs					Applicable Ordinance Section/Comments
	A	b	c	d <sup>1</sup>	e <sup>1</sup>	
45. In V1-30, VE, and V Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers that are not less than 36 inches in height above grade and securely anchored. [60.3(e)(8)(iv)]						
46. In V1-30, VE, and V zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR (iii) be fully licensed and highway ready. [60.3(e)(9)]						

Comments \_\_\_\_\_

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# ADOPTION OF INITIAL FIRMS AND MAP REVISIONS

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# ADOPTION OF INITIAL FIRMS AND MAP REVISIONS

## A. OVERVIEW

Each time the Federal Emergency Management Agency (FEMA) provides a participating National Flood Insurance Program (NFIP) community with new flood hazard information, the community is required to adopt or amend its floodplain management ordinances based on the new data. The new or amended regulations must adopt the revised data and meet or exceed the minimum requirements of the NFIP for that type of data. A community that has a valid automatic adoption clause (discussed later in this chapter) is exempted from this requirement, provided its floodplain management ordinances are otherwise compliant. Adoption of map revisions is important for two reasons. The National Flood Insurance Act of 1968, as amended, prohibits the Director from selling flood insurance in communities that have not adopted compliant floodplain management regulations. Without compliant ordinances, communities cannot be expected to properly regulate future floodplain development and cannot make use of the new flood data.

This chapter provides an overview of FEMA's mapping programs past and present. It also details the flood study process, provides procedures for the adoption of initial and revised Flood Insurance Rate Maps (FIRMs), and discusses unique community and jurisdictional situations that arise during FIRM revisions such as countywide mapping.

## B. MAPPING PROCEDURES AND PROGRAMS

Since the early years of the NFIP, FEMA has performed studies and restudies of flood hazards and coordinated with communities to produce and/or revise maps, reports, and other products in response to:

- Changes in development trends;
- Changes in hydrologic conditions;
- Changes in topographic conditions;
- Changes in flood hazard and risk assessment technologies and available data; and
- Discoveries of errors in existing analyses.

Over the years FEMA's mapping program has evolved from a program that produced community-based FIRMs affecting fewer than a thousand communities per year to a program that has released countywide FIRMs to an average 2,000 communities per year during its Map Modernization Program. The section that follows discusses FEMA's present mapping program and map update processing procedures.

## **1. History of Mapping Initiatives**

### **a. Map Modernization**

FEMA's Flood Map Modernization Program, also referred to as Map Mod, was a multi-year, multi-billion dollar effort to digitize and update FIRMs. The goal was to provide easily accessible, digital flood maps. The program's last year of funding was Fiscal Year 2009 and has transitioned into the Risk Mapping, Assessment and Planning Program, also referred to as Risk MAP.

FEMA's countywide Digital FIRMs (DFIRMs) and their underlying DFIRM database are the flagship products of FEMA's Map Modernization Program and are central to its efforts to increase the usability of flood risk data.

Another important element of Map Modernization was renewed focus on ensuring that levees are appropriately certified and accredited if they are to be shown as providing protection on the new DFIRM.

### **b. Risk MAP**

Risk MAP is a new FEMA program that builds on the strength of Map Modernization to help communities nationwide with risk assessment and mitigation planning. Risk MAP combines quality engineering with updated flood hazard data to help communities plan for flood disasters and understand their flood risk using the best possible information.

Through collaboration with State, local, and Tribal entities, Risk MAP goes beyond the original objective of the FIRM (i.e., the depiction of the 1% annual chance flood for use in setting flood insurance rates and the implementation of floodplain management regulations), and focuses on the delivery of products and services designed to help effectively communicate risk and motivate citizens to take action to reduce their risk.

As FEMA moves forward with Risk MAP, new approaches for determining flood risks will be implemented. As part of this effort, FEMA is using a watershed-based Coordinated Needs Management Strategy, or CNMS, to track the assessment process, document engineering gaps and their resolution, and prioritize flood map updates.

## **2. Flood Map Updates And Processing**

FEMA has two primary approaches to updating the flood map: studies/restudies, which are largely being produced as first-time countywide DFIRMs, and Physical Map Revisions (PMRs).

**Study/Restudy/Digital Conversions:** A Flood Insurance Study (FIS) is a hydrologic and hydraulic study conducted for a community that results in the issuance of a FIRM. A restudy is

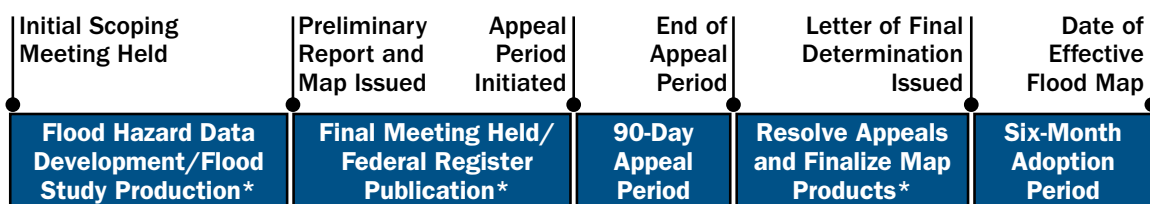
a new or revised FIS for some or all of a community. FEMA may conduct a restudy, for example, in areas where development in a watershed has substantially changed stormwater runoff conditions since the original FIS was completed, or where growth is occurring in areas not studied in detail in the initial FIS for the community. Study/restudy needs typically translate into the production of a countywide format DFIRM that includes seamless flood hazard coverage at the county level. For FIRMs prepared in the countywide format, FEMA compiles the effective flood hazard information for all jurisdictions within the subject county (both unincorporated and incorporated areas) and produces one FIRM and one FIS report. Efforts to complete first-time countywide FIRMs will continue as Map Modernization wraps up.

**Physical Map Revision:** Now that modernized countywide DFIRMs have been produced for over 90 percent of the nation, FEMA’s mapping program is moving into a map maintenance phase. This phase is focused primarily on stream-centric revisions that will be processed as PMRs. By using a stream-centric approach to map maintenance, the focus shifts from large countywide map revisions that require numerous panel updates to smaller revisions that include only the panels affected by the stream(s) to be revised. Stream-centric PMRs are scoped in a similar fashion as full countywide revisions such that jurisdictions are contacted for their input about flood hazard mapping needs and requests. However, once the scope of work is determined for a particular stream, only the panels, tables, and profiles affected by that stream are revised. Despite the stream-centric approach, FIS Reports for all affected counties will continue to be revised and reproduced on a countywide basis.

### 3. Post-Preliminary Process

The post-preliminary process, which follows the issuance of the Preliminary FIRM to the community, takes an average of 15 months to complete. The process involves meetings with community officials and the public; the statutory 90-day appeal period for revised Base (1-percent-annual-chance) Flood Elevations (BFEs), if applicable; the resolution of any appeals, protests, and comments; the issuance of the Letter of Final Determination (LFD); and the 6-month compliance period, during which the community updates its ordinance. This process is linear, with one processing step ending before the next step begins.

#### Flood Study and Adoption Timeline



\* The timeframe for completing these activities may vary.

The post-preliminary process is focused on ensuring that communities and individual property owners are provided the opportunity to review and provide comments and/or appeal the information presented on the maps. Detailed information on the process is documented in FEMA's Document Control Procedures, dated September 2006, which is available at <http://www.FEMA.gov/library>.

The section that follows addresses the map adoption portion of the post-preliminary process beginning with issuance of the LFD.

**a. Letter of Final Determination**

When FEMA issues a new or revised FIRM for a community, the Engineering Management Branch issues an LFD that finalizes the new flood data and begins the 6-month ordinance adoption period. Before the 6-month compliance period begins, or as early in the 6-month compliance period as possible, the State or Regional Office contacts the community, explains the LFD and the 6-month compliance process, and offers technical assistance in developing the appropriate regulations and/or amendments. The Regional Office, under 44 CFR Part 66, maintains a chronology of contacts with the community, including community correspondence, when regulations and model ordinances are provided to the community (and to whom these are provided), meetings with the community, and a synopsis of pertinent telephone conversations.

**b. Notification Letters**

The community must submit the adopted or amended floodplain management regulations to the State or Regional Office for review before the end of the 6-month ordinance adoption period. During the ordinance adoption period, regulatory requirements for due process under 44 CFR §59.24(a) require the Floodplain Management Branch to notify by letter all communities with FIRMs scheduled to become effective on previously established dates, if they have not yet had compliant ordinances reviewed and approved. Two letters may be required, as follows:

- 90-day notification letter (Exhibit REV-1): Issued at least 90 days before the expiration of the 6-month ordinance adoption period (in practice, this letter is issued to communities 105 days in advance); this letter reminds communities that they have 90 days to adopt compliant regulations.
- 30-day notification letter (Exhibit REV-2): Issued at least 30 days before the expiration of the 6-month ordinance adoption period (in practice, this letter is issued to communities 45 days in advance); this letter is the formal notification that the community will be suspended if it does not adopt a compliant ordinance prior to the date the FIRM becomes effective.

**44 CFR §59.24(a):**

A community...shall be subject to suspension...for failure to submit copies of adequate floodplain management regulations...within six months from the date the Administrator provides the data upon which the floodplain regulations...shall be based. Where there has not been any submission by the community, the Administrator shall notify the community that 90 days remain in the six month period...to submit adequate floodplain management regulations....If, subsequently, copies of adequate floodplain management regulations are not received by the Administrator, no later than 30 days before the expiration of the original six month period the Administrator shall provide written notice to the community and to the state and assure publication in the Final Rule Suspension of Community Eligibility...of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective upon the expiration of the six month period.

The letters are not sent if the Regional Office has notified Floodplain Management Branch that the community is compliant by updating the community's Ordinance Adoption Status screen in the Community Information System (CIS) prior to the letter being dispatched.

**c. Suspension of Community Eligibility Notice**

The Floodplain Management Branch is required to prepare and publish in the *Federal Register* the "Suspension of Community Eligibility" notice. The "Suspension of Community Eligibility" notice is a list of communities eligible for suspension from the NFIP for failure to adopt the revised FIRM. This list of communities is compiled from the original LFD report. The "Suspension of Community Eligibility" notice is prepared and forwarded to the Office of Chief Counsel (OCC) for review two weeks before the FIRM effective date. The OCC reviews the notice and forwards it on to the *Federal Register* for publication. An example of this publication is shown as Exhibit REV-8.

Most of the communities on the "Suspension of Community Eligibility" notice adopt compliant ordinances before the FIRM effective date and avoid suspension from the NFIP. A notice rescinding the suspension of these communities is published quarterly in the *Federal Register*. That notice, example included as Exhibit REV-9, is the "List of Communities Eligible for the Sale of Insurance."

**d. Review and Approval of Floodplain Management Regulations**

The Regional Office or the State reviews the draft or final floodplain management regulations submissions upon their arrival and updates the Ordinance Screen in CIS as soon as the ordinances are approved by the community. If the State reviews the ordinance and enters the ordinance data into CIS, the Regional Office must also approve the ordinance in CIS. When the Regional Office has approved the regulations, they should update the ordinance status

screen by entering the status of “Complied/No Suspension,” the name of the individual who approved the ordinance and the date the information is being entered into CIS in the Ordinance Screen. In addition, the reviewer of the community ordinance must also update the ordinance summary screen in CIS. Updating the Ordinance Screen in CIS is very important, since the Floodplain Management Branch will use CIS to determine which communities will be sent 90-day and 30-day letters, which communities will be listed in the “Suspension of Community Eligibility” notice for communities eligible for suspension, and which communities will need to be suspended. If the State or Regional Office does not notify the Floodplain Management Branch through CIS that a community’s floodplain management regulations are compliant, the 90-day and 30-day notification letters are sent to the community. In addition, if the Floodplain Management Branch is not notified of community compliance, the community is listed in the “Suspension of Community Eligibility” prior to or on the FIRM effective date. It is crucial for the Regional Office to update compliant communities in CIS in a timely manner because sending the notification letters and publishing a notice in the “Suspension of Community Eligibility” notice is an expensive process and communities can be disconcerted to receive the letters after they have adopted compliant regulations.

**e. Suspension for Failure to Adopt**

If the community does not submit the adopted ordinances and obtain approval on or before the FIRM effective date, the community will be suspended from the NFIP. Please note that the Floodplain Management Branch suspends a community at the close of business on the day following the FIRM effective date. However, if the FIRM becomes effective on a Friday and FEMA does not have approved, compliant floodplain management ordinances, the community will be suspended at the close of business on the following Monday. The one exception to this rule is if the publication of the “Suspension of Community Eligibility” notice discussed above does not occur before the FIRM effective date. If the publication is delayed past that date, the community will be suspended on the morning the “Suspension of Community Eligibility” notice is published. For example, if the FIRM effective date is on the 4th but the “Suspension of Community Eligibility” notice does not publish until the 6th, the community would be suspended on the morning of the 6th, after the Floodplain Management Branch confirms with the Regional Office that the community has not submitted the adopted compliant ordinances in the interim. No formal letter is sent to the community to notify it of the delay. See the **Suspensions, Withdrawals, and Reinstatements** section of this chapter for further information on suspension for failure to adopt.

**f. Reinstatement of Communities Suspended for Failure to Adopt**

If, after a community is suspended from the NFIP, it submits adopted ordinances and the Regional Office approves the ordinances, the Regional Office notifies the Floodplain Management Branch and updates the Ordinance Screen in CIS so the community can be reinstated. See **Suspensions, Withdrawals, and Reinstatements** for further information on the reinstatement of communities suspended for failure to adopt.

**g. Rescission of Letters of Final Determination**

On occasion, FEMA may rescind the LFD upon discovering that adequate due process has not been provided, incorrect data has been included, or the compliance period is not within the community's local meeting schedule and ordinance adoption will not be possible.

There are important implications to rescinding an LFD. Since the LFD triggers the 6-month compliance period, which is the time the community will be conducting their compliance activities, the decision to rescind the LFD and potentially burden the community with the disarray that may ensue after the adoption process has begun must be weighed against the benefit of providing more time to the study production process. Timely coordination between the FEMA Regional Office, the Engineering Management Branch, the community, the Floodplain Management Branch, and the Regional Support Center (RSC) Office is critical to ensuring that no aspect of the rescission process is overlooked. Action should be taken early enough in the compliance period to avoid unnecessarily sending 90- and 30-day notification letters, yet not so early as to prematurely rescind the LFD. If an LFD is rescinded after the community has adopted the new map, the community may need to amend the ordinance to reference the previous effective date. If the community did not amend the ordinance but was considered compliant because of an automatic adoption reference, no further action will be necessary. The ordinance will continue to reference the previous effective map. Regional floodplain management staff should coordinate with the community and the Floodplain Management Branch to set a reasonable timetable for required revisions to the community's ordinance.

Another consideration when rescinding an LFD includes verification if the "Final Flood Elevation Determinations" have been published in the Federal Register. If such publication has occurred, it will be necessary to prepare and publish a Final Rule rescission notice. This action will be led by the Engineering Management Branch.

An additional requirement in the rescission process involves coordination with FEMA's Map Service Center to determine if the FIRM has been received and if so distributed. If it has been received but not yet distributed, the Map Service Center (MSC) will cease all activity related to its distribution. If the FIRM has in fact been distributed and posted to FEMA's web site, the MSC staff will begin the process of removing the new FIRM and restoring all applicable previous FIRMs to the web site. The MSC will also send out written notification to their customers that the FIRM is no longer considered valid and should be discarded. The MSC will also ensure that the Flood Map Status Inventory System (FMSIS) and CIS are amended, if necessary, to reflect the rescission and restored map panels.

## C. ADOPTION CONSIDERATIONS

### 1. Automatic Adoption

Some communities may not be required to adopt the revised FIRM into their regulations because they have a valid automatic adoption clause. In communities with an automatic adoption provision, the map reference in the regulations generally has language that adopts the current FIS and FIRM and “any future revisions thereto,” or similar language. From that point on, each time the community’s FIS or FIRM is revised, the new or revised FIS or FIRM automatically becomes part of the ordinance without further action on the part of the community. Automatic adoption is particularly advantageous for large communities that have frequent physical map revisions or Letters of Map Revisions (LOMRs) that must be adopted. Automatic adoption is not allowed in many States where communities adopt their floodplain management regulations under the authority granted them by the State’s zoning enabling legislation. These States generally have due process requirements for amending zoning regulations, such as requirements for hearings, publication of legal notices, planning commission hearings, and approval by the legislative body, which are circumvented by automatic adoption clauses. These communities generally have to adopt each map revision or LOMR individually.

Before the Regional Office approves a State model ordinance that automatically adopts future revisions to the FIS and FIRM, it needs to ensure that the provision complies with State enabling legislation and constitutional requirements. In the Fiscal Year 2005 Community Assistance Program-State Support Services Element (CAP-SSSE) Program Guidance, the Floodplain Management Branch formally requested that Regional Offices ask the States for a legal opinion on automatic adoption by counsel or the Attorney General’s Office. States must do this if they have communities that want to use this provision, even though it is not in the State model. The Floodplain Management Branch e-mailed a memorandum with talking points to the Regional Offices on June 8, 2004 (Exhibit REV-3), to assist them in providing guidance on this issue to their respective NFIP State Coordinators.

If the Regional Office determines that a community has a valid automatic adoption clause and that its floodplain management regulations are otherwise compliant, the LFD can be modified so that it notifies the community about the new study or FIRM and advises the community that it

#### **States that Allow Automatic Adoption (as of December 2010)**

- Alabama
- California
- Delaware
- Florida
- Georgia
- Kentucky
- Louisiana
- Maryland
- Nevada
- Ohio
- Pennsylvania
- Texas
- Utah
- Vermont
- Washington
- West Virginia

is expected to enforce its ordinance using the revised FIRM (Exhibit REV-4). All LFD letters include language encouraging communities to use the BFE and Floodway data. Communities should use the BFE and floodway data presented on the revised FIRM for regulating floodplain development in accordance with the guidance provided in Floodplain Management Bulletin 1-98. Bulletin 1-98 can be found on FEMA's web site at [FEMA.gov/library/viewRecord.do?id=2231](https://www.fema.gov/library/viewRecord.do?id=2231).

The Regional Office notifies the Floodplain Management Branch and its RSC Office that the community's regulations are compliant, so that the LFD can be modified. FEMA will not send the 90-day and 30-day notification letters to these communities and will not place these communities in the suspension process. The CIS has a field on the ordinance screen to capture the Region's determination that a community has a valid automatic adoption clause.

Please note that in communities or States where an automatic adoption clause is not allowed, LOMRs may also have to be individually adopted. Communities should be advised to ask their legal counsel whether the adoption of individual LOMRs is required.

## **2. Adoption of Map Panels by Reference**

For the countywide FIRM format, it is recommended, but not mandated, that incorporated communities within the county adopt individual panels, with their effective dates, rather than the countywide FIRM Index date. By doing so, they avoid the need to amend their floodplain management regulations each time a panel is amended elsewhere in the county and the Index date changes. The exception would be for large communities with multiple panels. For these communities, it may be easier to readopt the FIRM Index and the countywide map than to adopt a large number of individual panels.

For communities that referenced the FIRM Index date in their ordinance, a procedure was put in place in 2001 to "retrofit" all existing and future countywide studies to include an updated Listing of Communities table on the FIRM Index. The Index also included an explanatory note as follows:

### **Notice**

Future revisions to this FIRM Index will only be issued to communities that are located on FIRM panels being revised. This FIRM Index therefore remains valid for FIRM panels dated [latest FIRM effective date] or earlier. Please refer to the "MOST RECENT FIRM PANEL DATE" column in the [LIST OF COMMUNITIES](#) table to determine the most recent FIRM Index date for each community.

Placing this note on the Index eliminates the need for communities to adopt all subsequent revisions to the Index. Further information can be found in *Procedure Memorandum 15–Revised Countywide FIRM Index Specifications and Distribution Protocol*. The procedure memorandum can be found on FEMA’s web site at <http://www.FEMA.gov/library/viewRecord.do?id=2275>.

CIS has a field on the Community Information Screen that allows the user to indicate whether the community has adopted individual panels or the Index. Having this information in CIS allows FEMA to know which communities need to amend their floodplain management ordinances.

### **3. Adoption of Map Panels for a Revised Countywide FIRM by a Community without SFHA Changes**

In cases where a countywide study or restudy changes the Special Flood Hazard Areas (SFHAs) on a panel, but the change is not within the corporate limits of a community on the panel, the community unaffected by the updated SFHAs may not be required to update their regulations to reference the new date. To avoid confusion, the Regional Office may opt to notify affected communities at the time of the LFD that although a new panel has been issued, SFHAs within their jurisdiction remain unchanged and as such it is not necessary that the community formally adopt the new panel(s).

### **4. Adoption at Annual Town Meetings**

In a few States (mostly in FEMA Region I), communities must formally adopt or amend their regulations at the communities’ annual town meeting. It is critical to coordinate the town meeting date and the map production schedule to assure that the town meeting date falls within the 6-month ordinance adoption period. If the date of the annual town meeting and the map production schedule are not coordinated in advance, the adoption of the regulations may have to wait for the next annual meeting. If this happens, the only alternatives are to suspend the community from the NFIP or to delay the effective FIRM date. The latter action should be avoided, since withholding flood hazard information from communities and property owners is inconsistent with the objectives of the NFIP. Therefore, these additional requirements make it critical that State Offices, RSC Offices, and Regional Offices identify these requirements during the scoping phase and closely coordinate during FIRM processing.

Some towns may have the authority to adopt floodplain management regulations as an emergency measure through a mechanism other than their town meeting. Prior to recommending that the community call a town meeting, the community be suspended, or that the FIRM effective date be delayed, the Regional Office should verify that there are no alternative ways to adopt compliant regulations.

Generally, all agenda items for town meetings must be placed on a “warrant” for a certain length of time before the town meeting is held. The length of time may vary, depending on the town charter, and can range from 7 to 14 days to 30 days or longer. Additional time may

also be needed to place an item on the warrant, for reasons such as a recommendation by the community Planning Board, which may have its own public notice requirements. It is important to make sure the town places the ordinance revision on the warrant, to ensure that the ordinance can be adopted at the meeting. As such, the timing of the LFD is critical and should be closely coordinated in advance.

## **5. Adoption of Digital Data by Communities**

Communities have the option of adopting by reference either the digital data or the paper map, although it is likely that most will have to continue to adopt the paper map in order to meet State and community due process requirements. The Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 created a new section of the National Flood Insurance Act of 1968 to allow a digital representation of the SFHA theme to have a legal standing in the NFIP equal to that of the effective printed FIRM, provided it meets FEMA accuracy standards (Section 107 of the 2004 Act). This guidance is consistent with the Act.

As previously discussed, FEMA is prohibited from providing flood insurance in a community unless the community adopts floodplain management regulations that meet or exceed the minimum criteria established by FEMA. NFIP regulation 44 CFR §60.2(h) requires that communities adopt and enforce floodplain management regulations based on data provided by FEMA, but it does not specifically require the adoption of a paper FIRM. NFIP regulation 44 CFR §59.24(a) requires a community to adopt compliant floodplain management ordinances within 6 months of the date that FEMA provides the data on which the ordinance is to be based, but again no map is mentioned. Regulation 44 CFR §60.1(d) explains that communities and States are also encouraged to adopt higher standards than the minimum requirements of the NFIP. This has always been interpreted as including the adoption of more restrictive flood data.

When a new DFIRM database is produced, the digital data and the paper FIRM should be the same; in theory, it would make no difference which one is adopted. However, currently only one NFIP community is known to have adopted an ordinance or regulation that references only a digital file and not the paper map. In general, communities will continue to adopt paper maps for some time into the future, in order to meet State due process requirements. If a community wants to adopt the digital data only, the Regional Office should require the community or State to obtain a legal opinion that the adoption of digital data is legal. This can be done on a one-time basis in each community or State wanting to adopt the digital data.

An alternative is to reference both the official paper map and the digital data in the ordinance, with one format taking precedence over the other if the two sets of data conflict (which should not occur). For example, the ordinance can state that if a question arises as to the location of the floodplain boundary, the digital data will be used to determine the exact

location of the boundary. The ordinance can also authorize the floodplain management administrator to determine the floodplain boundary based on the BFE and the ground elevation at a location, if the boundary on the paper map/digital data conflicts with what the ground elevations indicate.

## **D. UNIQUE COMMUNITY AND JURISDICTIONAL SITUATIONS**

This section provides guidance on the processing associated with unique mapping issues that require special consideration and processing, such as dual/multi-county communities, extraterritorial jurisdictions, and Zone D communities. For information on incorporations, “disincorporations,” and annexations by communities and on community consolidation and dissolved communities, see Section F of the **Community Enrollment** chapter.

### **1. Newly Identified Communities**

As counties are being mapped and remapped under the recent mapping initiatives, FEMA will likely identify communities that have not been previously identified as being floodprone. The NFIP State Coordinating Agency and/or the Regional Office should offer to assist nonparticipating communities to join the NFIP, including providing a sample resolution and model floodplain management ordinance during the study process. If these communities fail to join the NFIP prior to the issuance of the LFD, they will be issued a modified LFD that explains the consequences of not joining the NFIP. Newly identified communities (previously without maps) will be given 1 year after they are identified as floodprone (the FIRM effective date) before sanctions apply. See Chapter General, C.1, for information on establishing a new CID for a newly identified community.

### **2. Extraterritorial Jurisdictions**

Extraterritorial powers are granted to cities, towns, and villages by State statute. They are generally exercised in the unincorporated areas of the county adjacent to the community, and not within the corporate limits of another city or town. The area of Extraterritorial Jurisdiction (ETJ) is generally 1 to 3 miles beyond the corporate limits. Any municipal legislative body exercising the extraterritorial powers granted by State statute may enforce its regulations, including floodplain management regulations, within the ETJ area in the same way it enforces the regulations within the municipality. The ETJ area is considered part of the community for the purposes of the NFIP, and flood insurance is available just as it is within the boundaries of the municipality. The Regional Office determines or verifies whether a community has ETJs during the scoping meeting and reflects this boundary on the new or revised FIRM.

As part of the ordinance adoption process, the Regional Office also verifies whether the community exercises ETJs and whether this is appropriately addressed in the community’s floodplain management regulations. This ensures that there are no regulatory gaps in the extrater-

ritorial area. For example, a community may enforce its subdivision regulations within the ETJ, but not issue building permits. If this is the case, the ETJ is not part of the community for NFIP purposes. The Regional Office indicates whether the community exercises ETJs in the Community Information Screen in CIS.

### **3. Dual/Multi-County Communities**

Countywide FIRMs cover both the incorporated and unincorporated areas within a county on one comprehensive FIRM. This format has a lot of advantages; however, one complicating factor of the countywide FIRM is processing incorporated communities that fall in more than one county. Processing a dual/multi-county community is difficult, because part of a community cannot be processed; the entire community must be processed at the same time.

When a first-time countywide FIRM that contains a dual/multi-county community is processed, the subject community's community-based FIRM is either retained or revised if necessary, as indicated in Option 1 (later in this subsection), or superseded using Options 2 or 3. It is important to note that seamless mapping coverage for all affected jurisdictions must be obtained, and overlapping coverage and/or disclaimed flood hazard information must be avoided, if possible.

During initial study scoping activities and before a decision is made on the processing method, a number of issues must be considered including most notably:

- Does the subject community prefer to keep its community-based FIRM?
- In how many counties is the subject community located?
- What is the status of the surrounding counties relative to countywide processing?
- How much of the subject community falls within the county that is being processed?
- How many panels will be added to the countywide FIRM in order to include the subject community in its entirety?

After all information has been obtained, a processing decision is made in consultation with the Regional Office, the Floodplain Management Branch, and the Mapping Partner. The mapping options are as follows:

**Option 1:** Retain the community-based FIRM as a separate map, and show the community as an Area Not Included (with no flood hazard or base map information shown) on the countywide FIRM being processed and on all surrounding counties in which the subject community falls.

Option 2: Map the entire community on the new countywide FIRM. This option should be used when the following criteria are met:

- The dual/multi-county community can be shown on the new countywide FIRM without substantially increasing the panel count; and
- The majority (at least 70 percent) of the community falls on the countywide FIRM being processed.

When Option 2 is chosen, care must be taken to notify the MSC to supersede the community-based FIRM for the dual/multi-county community. The MSC must also be notified to include a notation in FMSIS that the subject dual/multi-county community is shown in its entirety on the new countywide FIRM.

Option 3: Split the dual/multi-county community such that it appears on multiple countywide FIRMs. This option should be used only when the following criteria are met:

- All adjacent counties on which the dual/multi-county community is shown are either already countywide or are planned to be converted to the countywide format in the near future; and
- The dual/multi-county community has not expressed significant concerns with being shown on more than one FIRM.

When Option 3 is chosen, if any of the contiguous countywide FIRMs that share the subject community are delayed (due to an appeal, protest, or study complication) such that it is impossible to have all counties go effective at the same time, it will be necessary to retain the community-based FIRM until the issue is resolved.

When Option 3 is chosen, it is also important that the MSC be provided clear guidance regarding which community-based FIRM panels will be superseded and/or remain in effect (See Procedure Memorandum 21—*Mapping of Multi-County Communities on Countywide FIRMs*).

#### **4. Zone D Communities**

The Zone D designation is used for areas where there are possible but undetermined flood hazards. Usually, but not always, Zone D is used in very sparsely populated areas. In some instances, a portion of a community is designated as Zone D and is shown on the FIRM as such. These communities will generally have other types of flood data. Other communities are designated as all Zone D, on the Index Panel and in CIS. In areas designated as Zone D, no analysis of flood hazards has been conducted. Zone D communities must adopt and enforce ordinances that meet the requirements of 44 CFR §60.3(a). Mandatory flood insurance purchase requirements do not apply, but coverage is available if the community participates in the NFIP. The flood insurance rates for properties in Zone D are commensurate with the uncertainty of the flood risk.

## **E. CONVERTING COMMUNITIES FROM EMERGENCY TO REGULAR PHASE**

Communities can be converted to the Regular Phase through the issuance of an initial FIRM for the community or through the special conversion process.

### **1. Conversion through Issuance of an Initial FIRM**

When the initial FIRM is issued for a community participating in the Emergency Phase, the community is given 6 months to adopt the maps into a legally enforceable floodplain management ordinance. The Regional Office notifies the Floodplain Management Branch once the community has submitted a compliant ordinance prior to the FIRM effective date. The Floodplain Management Branch then converts the community to the Regular Phase by updating the Community Information Screen in CIS.

### **2. Special Conversions of a Participating Community**

Communities participating in the Emergency Phase, which are minimally floodprone or do not have readily identifiable SFHAs, can be converted to the Regular Phase through the special conversion process. If a nonparticipating community is already determined by a letter from FEMA to be a No Special Flood Hazard Area (NSFHA), it is eligible to join the Regular Phase directly, as long as all other requirements are met. A conversion from the Emergency Phase to the Regular Phase through the special conversion process is only needed for communities that are in Zone D, are unmapped, or have been issued a Flood Hazard Boundary Map (FHBM). Special conversions are done through Special Conversion Recommendation Reports (SCRRs), prepared by the Regional Office and submitted to the Floodplain Management Branch.

### Definitions

Minimally Floodprone Communities are subject to the base (1-percent-annual-chance) flood and have identified SFHAs, but existing conditions indicate the floodprone areas are unlikely to be developed in the foreseeable future. One, or preferably more, of the following criteria must be met:

- The floodplain in the community is remote and uninhabited, and future development is unlikely;
- The community population is decreasing or stable, and no pressure for development in the floodplain is likely in the foreseeable future;
- Surrounding land use or topography limits the development potential (e.g., the surrounding land is used for agriculture and is likely to remain so);
- Zoning laws, sanitary codes, subdivision regulations, shoreland regulations, or other community regulations effectively prohibit floodplain development; or
- The floodplain is publicly owned and is designated for open space or preservation.

Generally, SFHAs identified in a minimally floodprone community do not meet the criteria established for conducting a detailed flood study. In assessing the development potential in a community, the size of the undeveloped floodplain relative to the size of the undeveloped portion of the community is also considered.

NSFHA Communities have no readily identifiable flooding sources, and any flooding is localized from stormwater. In addition, a community that meets any of the following guidelines can be designated as an NSFHA community:

- All floodplains are determined to be permanently narrowed (i.e., the base flood is contained within the channel);
- All drainage areas in the community are less than 1 square mile; and
- All floodplains are considered nondevelopable due to remoteness, topography, inaccessibility, or being uninhabitable.

Generally, no flooding sources within the community would meet the criteria for conducting either a detailed or an approximate flood study.

Unmapped Communities do not have a map but have indicated the presence of flood hazard areas.

If the Regional Office, in consultation with the community, evaluates the flooding problems in the community (in accordance with the criteria in the definition box above) and determines that special conversion procedures are appropriate, the Regional Office prepares an SCRR (Exhibit REV-5). The Regional Office submits the SCRR and any supporting data to the Floodplain Management Branch for review. Scoping meetings for countywide maps are a good time to prepare SCRRs, as the same issues should be addressed in the scoping phase of the study.

In preparing the SCRR, the Regional Office recommends one of the following conversion actions:

- NSFHA conversion;
- Minimal conversion, with a current FHBM converted to a FIRM by letter; or
- Minimal conversion, with a printed FIRM.

#### **a. Minimally Floodprone Communities**

For a minimal conversion with a printed FIRM, the Regional Office recommends one of the following mapping options or specifies an alternative mapping option:

- FIRM showing all SFHAs as Zone A;
- FIRM Index only, noting that all areas are Zone D; or
- FIRM with one or more panels showing Zones A and C/X (unshaded) for most populated areas, with all areas of undetermined flood hazards shown as Zone D.

As part of the conversion process, the Regional Office must review the floodplain management regulations of the community to determine whether they are compliant or non-compliant. If the Regional Office and the Floodplain Management Branch agree that the community should be converted to the Regular Phase, an appropriate conversion letter is drafted by the Production and Technical Services (PTS) contractor (Exhibit REV-6). This conversion letter includes the conversion effective date, which must be on the first day of the month if the conversion is done without producing a FIRM (i.e., if the Special conversion letter converts the FHBM to a FIRM). The conversion is issued to the community 45 days before the effective date of the conversion. The PTS contractor also sends the conversion letter and a copy of the FHBM stamped “Converted to FIRM by Letter,” if applicable, to the MSC for inclusion in the online Product Catalog. On the effective date of the conversion, the Floodplain Management Branch updates the Community Status Screen in CIS to reflect the conversion. Communities participating in the Emergency Phase that are determined not to have floodplain management measures that meet the minimum requirements of 44 CFR §60.3(b) of the NFIP regulations are given 6 months to adopt a compliant ordinance. A non-compliant community (a community that fails to adopt the required floodplain management measures during the 6-month ordinance adoption period) will be suspended from the program and listed as a sanctioned community.

#### **Note**

- Special conversions always go into effect on the first day of the month.
- Special conversion letters are issued to the community at least 45 days before the effective date of the conversion.

### **b. NSFHA Communities**

When FEMA determines by letter to the community that the community has no identifiable SFHAs, the community has been designated as a NSFHA. However, when the community's floodplains are determined not to represent a flood hazard (based on the guidelines in the definition box above), upon receipt of a SCRR the community can be designated by FEMA as an NSFHA community. For those communities that have an FHBM or FIRM, the NSFHA determination rescinds the effective map. NSFHA communities are converted to the Regular Phase in substantially less time than a minimally floodprone non-compliant community (Exhibit REV-7).

Because these communities have been determined not to contain SFHAs, there is no requirement for an ordinance, which eliminates the 6-month ordinance development period. These communities are all Zone X, and flood insurance policies are rated as Zone X. However, NSFHA communities are required to have adopted a Resolution of Intent, or its equivalent, as discussed in section D, entitled "General Eligibility Requirements," of the **Community Enrollment** chapter. In a Resolution of Intent, the community agrees to recognize and duly evaluate flood hazards, take actions necessary to carry out the objectives of the NFIP, and cooperate on any future mapping activities. This provides a basis for FEMA to map the community at a later date, if the community is determined to have flood hazards or annexes SFHAs from adjoining communities.

### **c. Unmapped Communities**

An unmapped community may enter either the Emergency Phase as an unmapped community or the Regular Phase as "all Zone D, panel not printed." These communities adopt legally enforceable floodplain management measures that meet or exceed the minimum requirements of 44 CFR §60.3(a). In such situations, the Regional Office requests through the Floodplain Management Branch that the PTS evaluate any existing data that could be used to create a FIRM for these communities. Technical data that could be used to create a FIRM include:

- Floodplain information reports or other studies prepared by the United States Army Corps of Engineers;
- Floodprone Quadrangle Maps prepared by the United States Geological Survey (USGS);
- Flood Reports prepared by the Natural Resources Conservation Service;
- Flood Reports produced by local jurisdictional agencies, special districts, or the State;
- Stream gauge data or Flood Reports published by the USGS; and
- Data produced following major flooding disasters.

### 3. Considerations for a Non-Participating Community

If a community with an existing FHBM wishes to join the NFIP, the Regional Office should ensure that the community adopts a minimum 60.3(b)-level ordinance by adopting the FHBM. The Regional Office then submits a memorandum to the Floodplain Management Branch requesting that the community be placed into the Emergency Phase. If the community meets the criteria for a special conversion as a minimally floodprone community, the Regional Office can at the same time submit an SCRR for conversion of the community to the Regular Phase (See section E, entitled “Emergency Phase Requirements and Procedures,” of the **Community Enrollment** chapter). Once the application package has been received, the community is immediately enrolled in the Emergency Phase. Concurrently, the Floodplain Management Branch processes the special conversion request (See section E.2 entitled “Special Conversions of a Participating Community” of the **Adoption of Initial FIRMs and Map Revisions** chapter). An FHBM cannot be converted to a FIRM by letter (placing the community into the Regular Phase) without the community first joining the Emergency Phase.

Communities may resist joining the NFIP under the Emergency Phase because the amount of flood insurance coverage is limited. It is important to tell the community that by joining the program under the Emergency Phase, it may have its FHBM converted to a FIRM and may subsequently be placed in the Regular Phase, as long as its ordinance is compliant. Once a community is participating in the Regular Phase, full limits of flood insurance are available.



**FEMA**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Name]  
[Address]

Dear [Mr./Ms. Addressee]:

I commend you for the efforts that have been put forth in implementing the floodplain management measures for the [Community, State], to participate in the National Flood Insurance Program (NFIP). As you implement these measures, I want to emphasize the following:

- a Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been completed for your community;
- the FIS and FIRM will become effective on [Effective Date]; and
- by the FIS and FIRM effective date, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office is required to approve the legally enforceable floodplain management measures your community adopts in accordance with 44 Code of Federal Regulations Section 60.3[Letter].

As noted in FEMA's letter dated [LFD Date], no significant changes have been made to the flood hazard data on the Preliminary and/or revised Preliminary copies of the FIRM for the [Community]. Therefore, the [Community] should use the Preliminary and/or revised Preliminary copies of the FIRM as the basis for adopting the required floodplain management measures. Final printed copies of the FIRM for the [Community] will be sent to you within the next few months.

If you encounter difficulties in enacting the measures, I recommend you contact the [Name of State NFIP Office]. You may contact [Name], the NFIP State Coordinator, by telephone at [Phone], in writing at [Address], or by electronic mail at [E-mail].

The FEMA Regional staff in [City, State], is also available to provide technical assistance and guidance in the development of floodplain management measures. The adoption of compliant floodplain management measures will provide protection for the [Community] and will ensure its participation in the NFIP. The Regional Office may be contacted by tele-

**Exhibit REV-1. 90-Day Notification Letter**

phone at **[Number]** or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region **[Numeral]**, at **[Address]**.

You may have already contacted the NFIP State Coordinator and/or the FEMA Regional Office, and may be in the final adoption process or recently adopted the appropriate measures. However, in the event your community has not adopted the appropriate measures, this letter is FEMA's official notification that you only have until **[Effective Date]**, to adopt and/or submit a floodplain management ordinance that meets or exceeds the minimum NFIP requirements, and request approval from the FEMA Regional Office by the effective date. Your community's adopted measures will be reviewed upon receipt and the FEMA Regional Office will notify you when the measures are approved.

I appreciate your cooperation to ensure that your community's floodplain management measures are approved by the FEMA Regional Office by the FIRM effective date. Your compliance with these mandatory program requirements will enable your community to avoid suspension from the NFIP.

Sincerely,

Sandra K. Knight, PhD, PE  
Deputy Federal Insurance and  
Mitigation Administrator, Mitigation

cc: **[Name]**, Regional Administrator, FEMA Region **[Numeral]**  
**[Name]**, NFIP State Coordinator, **[NFIP Office]**  
**[Name]**, **Floodplain Administrator/Appropriate Title**, **[Community]**



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Name]  
[Address]

Dear [Mr./Ms. Addressee]:

I am writing this letter as an official reminder that the [Community, State], has until [Effective Date], to adopt and have the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office approve floodplain management measures that satisfy 44 Code of Federal Regulations (CFR) Section 60.3[Letter] of the National Flood Insurance Program (NFIP) regulations.

The [Community] must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum NFIP requirements (copy enclosed) by [Effective Date], to avoid suspension from the NFIP. If suspended, your community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.

The provisions of Section 202(a) of Public Law 93234, as amended prohibits Federal officers or agencies from approving any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or disaster assistance loan or grant, for acquisition or construction purposes within Special Flood Hazard Areas (SFHAs), areas subject to inundation by the base (1-percent-annual-chance) flood. Your community's suspension from the NFIP would prohibit mortgage loans guaranteed by the Department of Veterans Affairs, insured by the Federal Housing Administration, or secured by the Rural Economic and Community Development Services. This prohibition also affects the disaster assistance in connection with a flood under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, as amended.

Furthermore, Section 202(b) of Public Law 93234, as amended, requires Federally regulated lending institutions to notify the purchaser or lessee of improved real property located in an SFHA, whether Federal disaster assistance will be available when the property is being used to secure a loan that is being made, increased, extended, or renewed.

Your NFIP State Coordinator and FEMA would like to assist the [Community] to ensure it remains in good standing with the NFIP and avoids suspension from the Program. If your

**Exhibit REV-2. 30-Day Notification Letter**

community is suspended, it may regain its eligibility in the NFIP by enacting the floodplain management measures established in 44 CFR Section 60.3 of the NFIP regulations. As stated in my previous correspondence, I recommend you contact your NFIP State Coordinator or the FEMA Regional Office if the **[Community]** is encountering difficulties in enacting its measures.

I recognize that your community may be in the final adoption process or may have recently adopted the appropriate floodplain management measures. Please submit these measures to the Floodplain Management Program at the **[Name of State NFIP Office]**. **[Name]**, the NFIP State Coordinator, is accessible by telephone at **[Number]**, in writing at **[Address]**, or by electronic mail at **[E-mail]**.

The FEMA Regional staff in **[City, State]**, is also available to assist you with your floodplain management measures. The FEMA Regional Office may be contacted by telephone at **[Number]** or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region **[Numeral]**, at **[Address]**.

In the event your community does not adopt and/or submit the necessary floodplain management measures that meet or exceed the minimum NFIP requirements, I must take the necessary steps to suspend your community from the NFIP. This letter is FEMA's final notification before your community is suspended from the Program.

Sincerely,

Sandra K. Knight, PhD, PE  
Deputy Federal Insurance and  
Mitigation Administrator, Mitigation

Enclosure

cc: **[Name]**, Regional Administrator, FEMA Region **[Numeral]**  
**[Name]**, NFIP State Coordinator, **[NFIP Office]**  
**[Name]**, **Floodplain Administrator/Appropriate Title**, **[Community]**



June 8, 2004

**MEMORANDUM FOR:** FEMA Regional Offices

**FROM:** Michael Grimm, Chief  
Floodplain Management Branch

**SUBJECT:** Automatic Adoption Clause

Over the last several months, we have been discussing a number of issues pertaining to ordinance adoption and how Map Modernization will impact FEMA, State, and community workloads. Most recently, this topic was discussed during the two evening sessions at the ASFPM Conference in Biloxi, as well as during the CAP-SSSE planning workgroup meeting in Madison, WI. More specifically, the issue of “automatic adoption” provisions was raised. Since Map Modernization is really beginning to gear up, particularly with the “pipeline studies” ready to roll out, we believe the timing is critical to address this issue. In addition to requiring States to address this through the FY04 CAP-SSSE activities (see FY04 CAP Guidance activity #5), we have developed a template letter (attached) that, based upon your good judgment, you may decide to provide to some of your State NFIP Coordinators to help them get started.

**BACKGROUND**

A number of States have provisions in their model ordinances that adopt the FIRM and Flood Insurance Study and all future revisions to the FIRM and study. The purpose of these provisions is to avoid having to amend the community’s floodplain management regulations each time their FIRM is revised. We believe that some States may have included this provision in their model ordinance without consulting with their State attorneys to determine if such a provision is legal in their State. This issue will become increasingly important as we move into Map Modernization and many communities will be required to update their ordinances.

The authority for adopting floodplain management regulations and the FIRM is generally State zoning enabling legislation. Adopting a revised FIRM and Flood Insurance Study may really be an amendment to the community’s zoning map and may require notice, a hearing, and approval by the community’s legislative body. Any ordinance that circumvents these procedural requirements may be subject to challenge and may be thrown out as

**Exhibit REV-3. FEMA Memo on Automatic Adoption Clause**

an illegal delegation of legislative authority to a Federal agency and a violation of State law. Even if the community's floodplain regulations are adopted under some other authority, there may still be constitutional due process requirements that apply.

Before you approve a State model ordinance that automatically adopts future revisions to FIRMs, have the NFIP State Coordinator obtain legal review by the Counsel or Attorney General's Office to ensure that the provision complies with State enabling legislation and constitutional requirements. You should also have your States obtain legal reviews of their existing model ordinances if they contain such provisions. We are aware that in at least one State, floodplain officials were advised by their legal counsel that such procedures were not legal in that State. We suspect that the answer may be the same in many States. We do not believe that adopting each map revision is a burden on communities provided that the ordinance is otherwise compliant.

Communities that have enough development activity to have frequent map revision generally routinely amend their zoning maps for other reasons. Please keep us informed on the results of various State consultations so we can pass on the information to other Regions.

## **ATTACHMENT**

### **Talking Points:**

- NFIP regulations require that community floodplain management regulations be legally enforceable. This includes adopting the current revised FIS and FIRM.
- Many State model ordinances have provisions adopting the current FIS and FIRM and “all subsequent revisions.” The purpose of these provisions is to avoid having to amend community floodplain regulations each time the FIRM is revised. This practice may not be legal in all States, because it may violate due process or procedural requirements of State enabling legislation.
- If a State wants to include this provision in its model ordinance or has communities that have adopted this provision, it must obtain a legal review to determine if the provision is legal in the State. The State can use its in-house counsel or request that the State Attorney General conduct a legal review of this provision to determine if it complies with enabling legislation and constitutional requirements.
- The State legal opinion may be very important for future development and consistency in FIRM adoption.
- States that do not have this provision in their model ordinance and do not have communities using this provision do not have to take further action.
- Countywide mapping has potential impact on more than one jurisdiction.
- Flood Map Modernization will require many communities to update their ordinance.

### **Exhibit REV-3. FEMA Memo on Automatic Adoption Clause**



## Federal Emergency Management Agency

Washington, D.C. 20472

[Date]

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:  
115-I(C)

[Name]

Community No.: [Community Number]  
Community: [Community]  
Map Panels Affected: See FIRM Index

Dear [Mr./Ms./Addressee]:

On [Date], you were notified of proposed modified flood elevation determinations affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for the [Community]. The 90-day appeal period that was initiated on [Date], when the Federal Emergency Management Agency (FEMA) published a notice of proposed Base (1% annual chance) Flood Elevations (BFEs) for your community in the [Name of Newspaper], has elapsed.

FEMA received no requests for changes in the BFEs. Therefore, the determination (copy enclosed) of the Agency as to the BFEs for your community is considered final. The final BFEs will be published in the *Federal Register* as soon as possible. The modified BFEs and revised map panels, as referenced on the FIRM Index, are effective as of [Date], and revise the FIRM which was in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated on the maps and must be used for all new policies and renewals.

Effective with the date of this letter, your community should use the BFE and floodway data presented on the preliminary FIRM and FIS report for regulating floodplain development in accordance with the guidance provided in the Floodplain Management Bulletin entitled *Use of Flood Insurance Study (FIS) Data As Available Data*.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (P.L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, P.L. 90-448) 42 U.S.C. 4001-4128, and 44 CFR Part 65. Pursuant to Section 1361 of the National Flood Insurance Act of 1968, as amended, communities participating in the National Flood Insurance Program (NFIP) are required to adopt and enforce floodplain management regulations that meet or exceed minimum NFIP criteria. These criteria are the minimum required and do not

Exhibit REV-4. Compliant at LFD Letter

supersede any State or local requirements of a more stringent nature. This includes adoption of the effective FIRM and FIS report and the modifications made by this map revision. Our records show that your community has met the requirements under 60.3(**[Letter]**).

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMCs) (i.e., Letters of Map Amendment [LOMA], Letters of Map Revision [LOMR]) that will be superseded when the revised FIRM panels become effective. Information on LOMCs is presented in four categories: (1) LOMCs that have been included on the revised FIRM panels; (2) LOMCs that have not been shown on the revised FIRM panels because of scale limitations or because the LOMC that was issued had determined that the lots or structures involved were outside the Special Flood Hazard Area shown on the FIRM; (3) LOMCs that have not been included on the revised FIRM panels because they are being superseded by new detailed flood hazard data; and (4) LOMCs that will be re-determined. The LOMCs in Category 2 of this form are revalidated through a single letter that reaffirms the validity of a previously issued LOMC. LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures have changed (Category 4) cannot be revalidated through this administrative process. However, we will review the data which were previously submitted as part of the original LOMA or LOMR request and issue a new determination for the subject properties after the FIRM effective date.

If you have any questions or concerns regarding the FIRM for your community, do not hesitate to contact the Director, Federal Insurance and Mitigation Division, FEMA, in **[City, State]** or the FEMA Map Information eXchange (FMIX) toll free at (877) 336-2627 (877-FEMA MAP).

Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Use of Flood Insurance Study (FIS) Data as Available Data*, *Frequently Asked Questions Regarding the Effect that Revised Flood Hazards have on Existing Structures*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our web site at <http://www.floodmaps.FEMA.gov/LFD>. Paper copies of these documents may also be obtained by calling the FMIX.

Sincerely,

Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation Administration

**Exhibit REV-4. Compliant at LFD Letter**

Enclosures:

Final BFE Determination

Final SOMA

cc:

FEMA, Region [Numeral]

NFIP State Coordinator

Exhibit REV-4. Compliant at LFD Letter

SPECIAL CONVERSION RECOMMENDATION REPORT

COMMUNITY NAME: \_\_\_\_\_ STATE \_\_\_\_\_

COUNTY NAME: \_\_\_\_\_ CID: \_\_\_\_\_ DATE OF CONTACT: \_\_\_\_\_

1. Describe contact with community (names and positions of individuals contacted, type of contact, etc.). \_\_\_\_\_  
\_\_\_\_\_
2. Indicate whether community is participating in the Emergency Phase of the NFIP.  
YES            NO
3. Indicate whether mudslide (mudflow) or erosion hazards exist in the community.  
YES            NO  
If yes, provide explanation in Item No. 11.
4. Describe flooding source(s), history of flood problems, and degree of flood hazard.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Describe existing development (include estimate of number of structures in floodplain, if known).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Describe development potential in the floodplain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Indicate whether community's floodplain management measures are compliant with Paragraph 60.3(b) of the NFIP regulations.            YES            NO
8. Provide name, title, address, and telephone number of community's Chief Executive Officer.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Exhibit REV-5. Special Conversion Recommendation Report**

9. Provide address of community map repository. \_\_\_\_\_

\_\_\_\_\_

10. Circle the letter before the recommended conversion action. (See instructions on reverse side for information on materials required for each conversion action.)

- a. Convert as non-floodprone community by letter. (Provide justification in Item No. 4 above.)
- b. Convert as minimally floodprone community by letter (effective FHBM changed to FIRM).
- c. Convert as minimally floodprone community with FIRM showing all SFHAs as Zone A.
- d. Convert as minimally floodprone community with FIRM Index showing all areas are Zone D.
- e. Convert as minimally floodprone community with FIRM showing Zones A and C for most populated areas, with notation on FIRM Index that unprinted panels are Zone D.
- f. Other. (Please Specify.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. Provide additional comments pertinent to conversion action, including information on mudslide (mudflow) or erosion hazards.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### INFORMATION REQUIRED TO SUPPORT CONVERSION RECOMMENDATION

- 1. For Recommendation No. 10c, attach a marked-up copy of effective FHBM for community showing changes required to SFHA delineations, street names and locations, and corporate limits before FIRM is produced. Indicate below whether the community's ordinances will continue to be compliant with Section 60.3(b) after the changes are made.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. For Recommendation No. 10d, indicate whether the community's ordinances are compliant with Paragraph 60.3(a). If the FIRM is not the first NFIP map for the community, provide a justification.

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3. For Recommendation No. 10e, attached a marked-up copy of the FHBM Index to specify which panels are to be printed and which panels are to be designated all Zone D. If previously printed panels will not be printed, provide justification below. Indicate below whether the community's ordinances will continue to be compliant with Section 60.3(b) after the changes are made.

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**Exhibit REV-5. Special Conversion Recommendation Report**



## Federal Emergency Management Agency

Washington, D.C. 20472

[Date]

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

196 C FHBM

[Name]  
[Address]

Dear [Mr./Ms. Addressee]:

I am pleased to formally notify you that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) has determined that the [City, State], will be converted to the Regular Phase of the National Flood Insurance Program (NFIP) effective [Effective Date]. The current Flood Hazard Boundary Map (FHBM) for the [Community] dated [FHBM Date], will remain in effect as a Flood Insurance Rate Map (FIRM). I recommend that the official recorded copy of the FHBM at the Community Map Repository be permanently labeled as a FIRM with the date that the [Community] was converted to the Regular Phase. A copy of the effective FHBM is enclosed.

When FEMA determines that a community has Special Flood Hazard Areas (SFHAs), areas subject to inundation by the base (1-percent-annual-chance) flood, there is no immediate need to use detailed study methods because existing conditions show these areas have a minimal potential for future development and are at a minimal risk for flood damage. Where no immediate study is necessary, a community can be converted to the Regular Phase under which residents and property owners will be eligible to purchase larger amounts of flood insurance coverage.

The SFHAs, shown on the FHBM for your community, are subject to inundation by the base flood. Based on the data currently available, FEMA did not conduct a detailed Flood Insurance Study (FIS) for these areas and; therefore, Base Flood Elevations (BFEs) have not been determined and the full extent of the flood risk for these areas have not been established. In the event that your community anticipates or experiences development in the SFHAs, community officials may request that FEMA conduct an FIS, revise the FIRM showing the updated flood hazards, and establish BFEs and/or other risk information for floodplain management and insurance purposes.

Please keep in mind that community officials are required to regulate any new construction that may take place in the SFHAs in accordance with 44 CFR Section 60.3(b) of the NFIP regulations. FEMA's records indicate that the [Community] has adopted the necessary floodplain management ordinances.

In accordance with Section 102 of the Flood Disaster Protection Act of 1973, flood insurance will be required in the amount of Federal financial assistance or the maximum amount available under the NFIP, whichever is less, for new construction in a SFHA. For structures built on or after a community's Regular Program entry date, insurance will only be available at actuarial rates. For structures located in SFHAs before the effective date of a community's conversion to the Regular Program, the first layer of insurance coverage will be available at subsidized or actuarial rates (whichever will produce the lower premium). The second layer of coverage will only be available at the actuarial rates established for the community.

If you require additional assistance or information, please contact the Director, Federal Insurance and Mitigation Division, FEMA Region [Numeral], in [City, State], by telephone at [Telephone], or by mail at [Address].

Sincerely,

Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation  
Administration

Enclosures

cc: [Name], Regional Administrator, FEMA Region [Numeral] *(without enclosures)*  
[Name], NFIP State Coordinator, [NFIP Office] *(without enclosures)*  
[FPA], *(without enclosures)*  
Community Map Repository *(without enclosures)*

**Exhibit REV-6. Special Conversion Letter**



## Federal Emergency Management Agency

Washington, D.C. 20472

[Date]

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

196 C FHBM (NFP)

[Name]

[Address]

Dear [Mr./Ms. Addressee]:

I am pleased to formally notify you that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) has determined that the [City, State], will be converted to the Regular Phase of the National Flood Insurance Program effective [Effective Date]. The Flood Hazard Boundary Map for the [Community] dated [FHBM Date], was rescinded because your community was determined to be non-floodprone.

When FEMA determines that a community has Special Flood Hazard Areas (SFHAs), areas subject to inundation by the base (1-percent-annual-chance) flood, there is no immediate need to use detailed study methods because existing conditions show these areas have a minimal potential for future development and are at a minimal risk for flood damage. Where no immediate study is necessary, a community can be converted to the Regular Phase under which residents and property owners will be eligible to purchase larger amounts of flood insurance coverage.

Flood insurance is available on a voluntary basis at low actuarial rates. In the event of property damage caused by floods greater than the base flood, which can occur with devastating results, the purchase of flood insurance can provide substantial financial protection for property owners. If authoritative information becomes available at a later date showing SFHAs in your community, FEMA will publish a flood map to identify the SFHAs in accordance with Section 201(c) of the Flood Disaster Protection Act of 1973, as amended.

Based on the data currently available, FEMA did not conduct a detailed Flood Insurance Study (FIS) for your community. Therefore, Base Flood Elevations (BFEs) have not been determined and the full extent of the flood risk in your community has not been established. In the event that your community anticipates or experiences development, community of-

officials may request that FEMA conduct an FIS, publish a flood map showing the updated flood hazards, and establish BFEs and/or other risk information for floodplain management and insurance purposes.

If you require additional assistance or information, please contact the Director, Federal Insurance and Mitigation Division, FEMA Region **[Numeral]**, in **[City, State]**, by telephone at **[Telephone]**, or by mail at **[Address]**.

Sincerely,

Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation  
Administration

cc: **[Name]**, Regional Administrator, FEMA Region **[Numeral]** *(without enclosures)*  
**[Name]**, NFIP State Coordinator, **[NFIP Office]** *(without enclosures)*  
**[FPA]**, *(without enclosures)*  
Community Map Repository *(without enclosures)*

issued on December 29, 2010. They include EPA's promulgation of nationally applicable GHG requirements that, in conjunction with the operation of the CAA PSD provisions, have resulted in GHG-emitting sources' becoming subject to PSD; as well as EPA's finding of substantial SIP inadequacy, imposition of a SIP call, and establishment of deadlines for SIP submittal. Moreover, in this rule, EPA is applying the same uniform principles for promulgating the finding of failure to submit in Jefferson County, Kentucky, as it did for each of the seven earlier-affected states. The FIP for Jefferson County, Kentucky, accompanying this rule has substantially the same, if not identical, terms as the FIP for each earlier-affected state in the December 30, 2010, rule. This rulemaking action is supported by the same single administrative record as the earlier December 29, 2010, finding of failure to submit rule and does not involve factual questions unique to the LMAPCD. In addition, as stated earlier in this preamble, this rule is part of a single approach to correcting certain inadequacies in SIPs in multiple states across the country and in several judicial circuits.

For similar reasons, this rule is based on determinations of nationwide scope or effect. For the LMAPCD, EPA is determining that it is appropriate to make this finding of failure to submit effective immediately in order to promulgate the FIP immediately and to apply the FIP to GHG-emitting sources, but not other sources, in the same way it made the same determination for the seven other states in the December 29, 2010, finding of failure to submit. These determinations are the same for each of the states. The provisions of this finding of failure to submit are also substantially the same, if not identical, to those for the seven earlier-affected states. Moreover, EPA is making this finding and promulgating this action within the context of nationwide rulemakings and interpretation of the applicable CAA provisions, as noted earlier in this preamble.

Thus, under section 307(b)(1) of the Act, judicial review of this final action is available by filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by March 15, 2011. Any such judicial review is limited to only those objections that were raised with reasonable specificity in timely comments. Under section 307(b)(2) of the Act, the requirements of this final action may not be challenged later in civil or criminal proceedings brought by us to enforce these requirements.

#### VI. Statutory Authority

The statutory authority for this action is provided by sections 101, 111, 114, 116, and 301 of the CAA as amended (42 U.S.C. 7401, 7411, 7414, 7416, and 7601).

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon dioxide, Carbon dioxide equivalents, Carbon monoxide, Environmental protection, Greenhouse gases, Hydrofluorocarbons, Incorporation by reference, Intergovernmental relations, Lead, Methane, Nitrogen dioxide, Nitrous oxide, Ozone, Particulate matter, Perfluorocarbons, Reporting and recordkeeping requirements, Sulfur hexafluoride, Sulfur oxides, Volatile organic compounds.

Dated: January 11, 2011.

Gina McCarthy,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2011-769 Filed 1-13-11; 8:45 am]

BILLING CODE 6560-50-P

#### DEPARTMENT OF HOMELAND SECURITY

##### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket ID FEMA-2011-0002; Internal Agency Docket No. FEMA-8163]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES:** *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for

the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Administrator has determined that this rule is exempt from the requirements of

the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 13132, Federalism.** This rule involves no policies that have federalism implications under Executive Order 13132.

**Executive Order 12988, Civil Justice Reform.** This rule meets the applicable standards of Executive Order 12988.

**Paperwork Reduction Act.** This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

#### PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

#### § 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map Date	Date certain Federal assistance no longer available in SFHAs
<b>Region IV</b>				
Alabama:				
Cedar Bluff, Town of, Cherokee County..	015010	March 28, 1984, Emerg; January 1, 1987, Reg; January 19, 2011, Susp.	Jan. 19, 2011	Jan. 19, 2011.
Centre, City of, Cherokee County .....	010233	December 27, 1976, Emerg; March 14, 1980, Reg; January 19, 2011, Susp.	.....do .....	Do.
Cherokee County, Unincorporated Areas.	010234	June 24, 1986, Emerg; June 17, 1991, Reg; January 19, 2011, Susp.	.....do .....	Do.
Leesburg, City of, Cherokee County ....	010235	August 2, 1999, Emerg; January 19, 2011, Reg; January 19, 2011, Susp.	.....do .....	Do.
<b>Region V</b>				
Illinois: Edgar County, Unincorporated Areas				
	170985	March 3, 2010, Emerg; January 19, 2011, Reg; January 19, 2011, Susp.	.....do .....	Do.
Ohio:				
Bellevue, City of, Erie, Huron, and Sandusky Counties.	390487	October 21, 1974, Emerg; October 17, 1978, Reg; January 19, 2011, Susp.	.....do .....	Do.
Crawford County, Unincorporated Areas	390811	September 2, 1987, Emerg; April 1, 1992, Reg; January 19, 2011, Susp.	.....do .....	Do.
Crestline, City of, Crawford and Richmond Counties.	390091	February 18, 1976, Emerg; October 5, 1984, Reg; January 19, 2011, Susp.	.....do .....	Do.
Galion, City of, Crawford County .....	390092	July 17, 1975, Emerg; June 19, 1985, Reg; January 19, 2011, Susp.	.....do .....	Do.
Greenwich, Village of, Huron County ....	390282	June 23, 1975, Emerg; September 30, 1988, Reg; January 19, 2011, Susp.	.....do .....	Do.
Huron County, Unincorporated Areas ...	390770	August 3, 1979, Emerg; August 1, 1987, Reg; January 19, 2011, Susp.	.....do .....	Do.
Monroeville, Village of, Huron County ...	390283	August 6, 1975, Emerg; August 1, 1987, Reg; January 19, 2011, Susp.	.....do .....	Do.
New London, Village of, Huron County	390284	June 12, 1975, Emerg; May 1, 1988, Reg; January 19, 2011, Susp.	.....do .....	Do.
Wakeman, Village of, Huron County. ....	390288	May 25, 1976, Emerg; September 1, 1986, Reg; January 19, 2011, Susp.	.....do .....	Do.
Willard, City of, Huron County .....	390289	June 17, 1975, Emerg; November 2, 1984, Reg; January 19, 2011, Susp.	.....do .....	Do.
<b>Region VI</b>				
Louisiana:				
Abbeville, City of, Vermilion Parish .....	220264	July 1, 1974, Emerg; August 3, 1981, Reg; January 19, 2011, Susp.	.....do .....	Do.
Delcambre, Town of, Iberia and Vermilion Parishes.	220223	July 1, 1974, Emerg; April 4, 1983, Reg; January 19, 2011, Susp.	.....do .....	Do.

#### Exhibit REV-8. Suspension of Community Eligibility Notice

**2598 Federal Register / Vol. 76, No. 10 / Friday, January 14, 2011 / Rules and Regulations**

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map Date	Date certain Federal assistance no longer available in SFHAs
Erath, Town of, Vermilion Parish .....	220224	June 26, 1974, Emerg; April 4, 1983, Reg; January 19, 2011, Susp.	.....do .....	Do.
Gueydan, Town of, Vermilion Parish ....	220225	July 1, 1974, Emerg; December 16, 1977, Reg; January 19, 2011, Susp.	.....do .....	Do.
Kaplan, City of, Vermilion Parish .....	220226	July 1, 1974, Emerg; March 1, 1982, Reg; January 19, 2011, Susp.	.....do .....	Do.
Maurice, Village of, Vermilion Parish. ...	220227	October 16, 1974, Emerg; June 30, 1976, Reg; January 19, 2011, Susp.	.....do .....	Do.
<b>Region VIII</b>				
North Dakota:				
Enderlin, City of, Cass and Ransom Counties.	385363	October 9, 1970, Emerg; June 18, 1971, Reg; January 19, 2011, Susp.	.....do .....	Do.
Lisbon, City of, Ransom County .....	380091	March 10, 1975, Emerg; September 27, 1985, Reg; January 19, 2011, Susp.	.....do .....	Do.
Ransom County, Unincorporated Areas	380089	February 17, 1978, Emerg; September 27, 1985, Reg; January 19, 2011, Susp.	.....do .....	Do.
<b>Region IX</b>				
California:				
Fort Jones, City of, Siskiyou County .....	060365	November 1, 1974, Emerg; April 15, 1980, Reg; January 19, 2011, Susp.	.....do .....	Do.
Siskiyou County, Unincorporated Areas	060362	February 23, 1973, Emerg; May 17, 1982, Reg; January 19, 2011, Susp.	.....do .....	Do.

\*do- = Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: January 4, 2011.

**Sandra K. Knight,**  
Deputy Federal Insurance and Mitigation  
Administrator, Mitigation.

[FR Doc. 2011-696 Filed 1-13-11; 8:45 am]

BILLING CODE 9110-12-P

# FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 90

[PS Docket No. 06-229; DA 10-2342]

### Requests for Waiver of Various Petitioners To Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Final rule; waiver.

**SUMMARY:** In this order, on recommendation of the Emergency Response Interoperability Center (ERIC), the Public Safety and Homeland Security Bureau (Bureau) approved an initial set of technical requirements for public safety jurisdictions (Petitioners) that were granted conditional waivers by the Commission for early deployment in the 700 MHz public safety broadband spectrum. The order grants Petitioners that previously declined to file an interoperability showing a renewed opportunity to do so and to proceed with network deployment.

**DATES:** Effective December 10, 2010.

**FOR FURTHER INFORMATION CONTACT:**  
Jennifer Manner, Federal  
Communications Commission, Public  
Safety and Homeland Security Bureau,  
445 12th Street, SW., Room 7-C761,  
Washington, DC 20554. *Telephone:*  
(202) 418-3619, *e-mail:*  
jennifer.manner@fcc.gov.

**SUPPLEMENTARY INFORMATION:** The initial set of technical interoperability requirements approved in the order creates a baseline technical interoperability framework for Petitioners' actual deployment of public safety broadband networks in advance of the Commission's adoption of final technical and operational rules for a nationwide interoperable public safety broadband network. The requirements approved in the order are essential to achieving nationwide interoperability among early-deployed public safety broadband networks. These requirements address core aspects of interoperability, such as roaming capabilities and system identifiers, that are crucial to ensuring that the users of disparate networks are capable of communicating seamlessly. Also included are requirements that early-deployed networks meet performance, coverage, and other requirements necessary to ensure that early-deployed networks achieve a baseline of operability sufficient to support interoperable communications.

Any Petitioner that previously filed an interoperability showing detailing its

plans for achieving interoperability, or that in the future files, pursuant to the order, a showing that is subsequently acted on by the Bureau, may proceed with build-out and operation of its network upon submission to ERIC of a certification that its deployment will satisfy each of the requirements approved in the order.

Federal Communications Commission.

**Jennifer A. Manner,**  
Deputy Chief, Public Safety and Homeland  
Security Bureau.

[FR Doc. 2011-811 Filed 1-13-11; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

## 49 CFR Part 541

[Docket No. NHTSA-2010-0098]

### Final Theft Data; Motor Vehicle Theft Prevention Standard

**AGENCY:** National Highway Traffic  
Safety Administration (NHTSA),  
Department of Transportation.

**ACTION:** Publication of 2008 final theft  
data.

**SUMMARY:** This document publishes the final data on thefts of model year (MY) 2008 passenger motor vehicles that occurred in calendar year (CY) 2008. The final 2008 theft data indicated a

**50856** Federal Register / Vol. 71, No. 166 / Monday, August 28, 2006 / Rules and Regulations

[FR Doc. E6-14225 Filed 8-25-06; 8:45 am]  
BILLING CODE 4310-05-P

**DEPARTMENT OF HOMELAND  
SECURITY**

**Federal Emergency Management  
Agency**

**44 CFR Part 64**

[Docket No. FEMA-7788]

**List of Communities Eligible for the  
Sale of Flood Insurance**

**AGENCY:** Mitigation Division, Federal Emergency Management Agency (FEMA), Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities that are participating and suspended from the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of properties located in the communities listed below.

**DATES: Effective Dates:** The effective date for each community is listed in the fourth column of the following tables.

**ADDRESSES:** Flood insurance policies for properties located in the communities listed below can be obtained from any licensed property insurance agent or broker serving the eligible community or from the NFIP by calling 1-800-638-6620.

**FOR FURTHER INFORMATION CONTACT:** David H. Stearrett, Chief, Floodplain Management Section, Risk Reduction Branch, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance that is generally not otherwise available. In return, communities agree to adopt and implement local floodplain management regulations that contribute to protecting lives and reducing the risk of new construction from future flooding. Because the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for properties in these communities.

FEMA has identified the Special Flood Hazard Areas (SFHAs) in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 202 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4016(a), requires the purchase of flood insurance as a condition of Federal or Federally-related financial assistance for acquisition or construction of buildings in the SFHAs shown on the map.

The Administrator finds that delayed effective dates would be contrary to the public interest and that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

*National Environmental Policy Act.* This rule is categorically excluded from

the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Paperwork Reduction Act.* This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

■ 1. The authority citation for part 64 is revised to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 64.6 [Amended]**

The tables published under the authority of § 64.6 are amended as follows:

State	Location	Community No.	Effective date of eligibility	Current effective map date
<b>New Eligibles: Emergency Program</b>				
<b>Region V</b>				
Minnesota .....	Apple Valley, City of, Dakota County.	270050	April 14, 2006 .....	Never Mapped.
<b>Region VI</b>				
Arkansas .....	Datto, Town of, Clay County ..	050190	May 23, 2006 .....	Never Mapped.
Do* .....	Nimmons, Town of, Clay County.	050332	.....do .....	Do.
<b>Region VII</b>				
Missouri .....	Merriam Woods, Village of, Taney County.	290069	June 21, 2006 .....	Adopted Preliminary FIRM dated September 26, 2006.
<b>Region IV</b>				
Alabama .....	Phil Campbell, Town of, Franklin County.	010333	June 26, 2006 .....	FHBM dated of, October 29, 1976.
Georgia .....	Oxford, City of, Newton County.	130367	.....do .....	April 11, 1975.
<b>New Eligibles: Regular Program</b>				
<b>Region VII</b>				
Missouri .....	Cedar County, Unincorporated Areas.	290791	April 11, 2006 .....	July 17, 2002.

**Exhibit REV-9. List of Communities Eligible for the Sale of Insurance**

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State	Location	Community No.	Effective date of eligibility	Current effective map date
<b>Region VI</b>				
Arkansas	Lonsdale, Town of, Garland County.	050586	April 14, 2006	Use Garland County (CID 050433) FIRM panel 125C, dated February 15, 1991.
<b>Region VII</b>				
Iowa	Grundy County, Unincorporated Areas.	190870	April 21, 2006	October 19, 2005.
Do	Hancock, City of, Pottawattamie County.	190236	.....do	Use Pottawattamie County (CID 190232) FIRM panel 338E, dated February 4, 2005.
Do	Wellsburg, City of, Grundy County.	190680	.....do	Use Garland County (CID 190870) FIRM panels 160B and 170B, dated October 19, 2005.
<b>Region IV</b>				
Florida	Lake Placid, City of, Highlands County.	120028	April 25, 2006	Use Highland County (CID 120111) FIRM panels 150B and 175B, dated February 16, 1983.
Do	West Park, City of, Broward County.	120222	.....do	Use Broward County (CID 125093) FIRM panels 312F, 0314F, 316F and 318F, dated August 18, 1992.
<b>Region VII</b>				
Missouri	Linn, City of, Osage County	290708	April 28, 2006	Use Osage County (CID 290268) FIRM panel 255D, dated September 2, 2005.
<b>Region X</b>				
Washington	** Republic, Town of, Ferry County.	530042	May 2, 2006	May 2, 2006.
<b>Region V</b>				
Michigan	Powell, Township of, Marquette County.	260452	May 4, 2006	November 20, 2000.
<b>Region VII</b>				
Iowa	Tama County, Unincorporated Areas.	190908	May 4, 2006	January 9, 2006.
<b>Region IV</b>				
Georgia	** Hampton, Town of, Henry County.	130107	May 16, 2006	May 16, 2006.
Do	Rutledge, Town of, Morgan County.	130363	May 19, 2006	February 15, 2002.
<b>Region VII</b>				
Nebraska	Pawnee County, Unincorporated Areas.	310463	June 6, 2006	July 5, 2005.
Do	Johnson County, Unincorporated Areas.	310122	.....do	April 17, 2006.
<b>Region VI</b>				
Louisiana	Stonewall, Town of, De Soto Parish.	220411	June 21, 2006	December 16, 2003.
<b>Region V</b>				
Michigan	Stevensville, Village of, Berrien County.	260557	June 23, 2006	April 17, 2006.
<b>Region IV</b>				
Alabama	Garden City, Town of, Cullman County.	010436	June 26, 2006	Use Cullman County (CID 010247) FIRM panels 345D, 365D, and 485D, dated December 2, 2004.
Do	Holly Pond, Town of, Cullman County.	010440	.....do	Use Cullman County (CID 010247) FIRM panel 265D dated December 2, 2004.
Do	Somerville, City of, Morgan County.	010363	.....do	December 16, 2005.
Do	Vance, Town of, Tuscaloosa and Bibb Counties.	010428	.....do	Use Tuscaloosa County (CID 010201) FIRM panels 575E and 600E, dated September 7, 2000.
Georgia	Grantville, City of, Coweta County.	130443	.....do	May 16, 2006.
Do	Locust Grove, City of, Henry County.	130032	.....do	Do.
Do	Sharpsburg, City of, Coweta County.	130581	.....do	Do.

Exhibit REV-9. List of Communities Eligible for the Sale of Insurance

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State	Location	Community No.	Effective date of eligibility	Current effective map date
Do .....	Turin, City of, Coweta County	130475	.....do .....	Do.
<b>Region VI</b>				
Arkansas .....	Cedarville, City of, Crawford, County.	050505	.....do .....	Use Crawford County (CID 050428) FIRM panels 100E and 175E, dated December 20, 2000.
<b>Region VII</b>				
Missouri .....	Moscow Mills, City of, Lincoln County.	290546	.....do .....	Use Lincoln County (CID 290869) FIRM panel 185C, dated April 3, 1993.
<b>Reinstatements</b>				
<b>Region V</b>				
Ohio .....	Washington County, Unincorporated Areas.	390566	April 6, 2006 .....	February 16, 2006.
<b>Region IV</b>				
North Carolina .....	Carolina Beach, Town of, Hanover County.	375347	April 7, 2006 .....	April 3, 2006.
<b>Region V</b>				
Michigan .....	Michiana, Village of, Berrien County.	260275	May 16, 2006 .....	April 17, 2006.
Do .....	Niles, Township of, Berrien County.	260041	.....do .....	Do.
<b>Region VII</b>				
Missouri .....	Creighton, City of, Cass County.	290063	.....do .....	March 16, 2006.
Do .....	East Lynne, City of, Cass County.	290065	.....do .....	Do.
<b>Region V</b>				
Michigan .....	Buchanan, City of, Berrien County.	260554	May 17, 2006 .....	April 17, 2006.
Do .....	New Buffalo, Township of, Berrien County.	260039	May 18, 2006 .....	Do.
Do .....	Niles, City of, Berrien County	260040	.....do .....	Do.
<b>Region I</b>				
Vermont .....	Alburg, Town of, Grand Isle County.	500221	June 20, 2006 .....	May 5, 1981.
Do .....	Brookline, Town of, Windham County.	500208	.....do .....	September 4, 1985.
<b>Region IV</b>				
Georgia .....	Arlington, City of, Calhoun and Early Counties.	130026	June 26, 2006 .....	June 3, 1986.
<b>Withdrawals Suspensions</b>				
<b>Region IV</b>				
North Carolina .....	Carolina Beach, Town Hanover County.	275347	April 5, 2006 .....	April 3, 2006.
<b>Region V</b>				
Michigan .....	Benton, Township of, Berrien County.	260031	April 19, 2006 .....	April 17, 2006.
Do .....	Benton Harbor, City of, Berrien County.	260032	.....do .....	Do.
Do .....	Buchanan, City of, Berrien County.	260554	.....do .....	Do.
Do .....	Coloma, City of, Berrien County.	260556	.....do .....	Do.
Do .....	Lake, Township of, Berrien County.	260036	.....do .....	Do.
Do .....	Michiana, Village of, Berrien County.	260275	.....do .....	Do.
Do .....	New Buffalo, Township of, Berrien County.	260039	.....do .....	Do.
Do .....	Niles, City of, Berrien County	260040	.....do .....	Do.
Do .....	Niles, Township of, Berrien County.	260041	.....do .....	Do.
Do .....	Watervliet, City of, Berrien County.	260047	.....do .....	Do.
<b>Region IV</b>				
North Carolina .....	Fuquay-Varina, Town of, Wake County.	370239	May 8, 2006 .....	May 2, 2006.

**Exhibit REV-9. List of Communities Eligible for the Sale of Insurance**

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State	Location	Community No.	Effective date of eligibility	Current effective map date
Do .....	Wake Forest, Town of, Wake County.	370244	.....do .....	Do.
<b>Probation</b>				
<b>Region IV</b> North Carolina .....	Erwin, Town of, Harnett County.	370456	April 28, 2006 .....	April 16, 1990.
<b>Region V</b> Indiana .....	Patriot, Town of, Switzerland County.	180309	Probation Lifted December 4, 2006.	June 30, 1979.
<b>Suspension Rescissions</b>				
<b>Region IV</b> North Carolina .....	Kure Beach, Town of, New Hanover County.	370170	April 4, 2006 Suspension Notice Rescinded.	April 3, 2006.
Do .....	New Hanover County, Unincorporated Areas.	370168	.....do .....	Do.
Do .....	Wilmington, City of, New Hanover County.	370171	.....do .....	Do.
Do .....	Wrightsville Beach, Town of, New Hanover County.	375361	.....do .....	Do.
<b>Region V</b> Ohio .....	Adena, Village of, Jefferson County.	390295	.....do .....	April 5, 2006.
Do .....	Bellaire, Village of, Belmont County.	390025	.....do .....	Do.
Do .....	Belmont County, Unincorporated Areas.	390762	.....do .....	Do.
Do .....	Bethesda, Village of, Belmont County.	390674	.....do .....	Do.
Do .....	Bridgeport, Village of, Belmont County.	390026	.....do .....	Do.
Do .....	Brookside, Village of, Belmont County.	390027	.....do .....	Do.
Do .....	Columbiana County, Unincorporated Areas.	390076	.....do .....	Do.
Do .....	Holloway, Village of, Belmont County.	390028	.....do .....	Do.
Do .....	Irondale, Village of, Jefferson County.	390741	.....do .....	Do.
Do .....	Martins Ferry, City of, Belmont County.	390029	.....do .....	Do.
Do .....	New Waterford, Village of, Columbiana County.	390663	.....do .....	Do.
Do .....	Rogers, Village of, Columbiana County.	390645	.....do .....	Do.
Do .....	Salineville, Village of, Columbiana County.	390628	.....do .....	Do.
Do .....	Shadyside, Village of, Belmont County.	390031	.....do .....	Do.
Do .....	Steubenville, City of, Jefferson County.	390302	.....do .....	Do.
Do .....	Stratton, Village of, Jefferson County.	390303	.....do .....	Do.
Do .....	Tiltonsville, Village of, Jefferson County.	390634	.....do .....	Do.
Do .....	Washingtonville, Village of, Columbiana County.	390087	.....do .....	Do.
Do .....	Wellsville, Village of, Columbiana County.	390088	.....do .....	Do.
Do .....	Yorkville, Village of, Belmont and Jefferson Counties.	390033	.....do .....	Do.
<b>Region VII</b> Missouri .....	Arnold, City of, Jefferson County.	290188	.....do .....	Do.
Do .....	Byrnes Mill, City of, Jefferson County.	290891	.....do .....	Do.
Do .....	Festus, City of, Jefferson County.	290191	.....do .....	Do.
Do .....	Herculaneum, City of, Jefferson County.	290192	.....do .....	Do.

Exhibit REV-9. List of Communities Eligible for the Sale of Insurance

**50860** Federal Register / Vol. 71, No. 166 / Monday, August 28, 2006 / Rules and Regulations

State	Location	Community No.	Effective date of eligibility	Current effective map date
Do .....	Hillsboro, City of, Jefferson County.	290573	.....do .....	Do.
Do .....	Jefferson County, Unincorporated Areas.	290808	.....do .....	Do.
Do .....	Kimmswick, City of, Jefferson County.	290193	.....do .....	Do.
Do .....	Pevely, City of, Jefferson County.	290677	.....do .....	Do.
Do .....	Scotsdale, Town of, Jefferson County.	290949	.....do .....	Do.
<b>Region V</b>				
Michigan .....	Berrien Springs, Village of, Berrien County.	260330	April 17, 2006 Suspension Notice Rescinded.	April 17, 2006.
Do .....	Coloma, Township of, Berrien County.	260034	.....do .....	Do.
Do .....	Hagar, Township of, Berrien County.	260035	.....do .....	Do.
Do .....	Lincoln, Township of, Berrien County.	260037	.....do .....	Do.
Do .....	New Buffalo, City of, Berrien County.	260038	.....do .....	Do.
Do .....	Oronoko, Township of, Berrien County.	260042	.....do .....	Do.
Do .....	Watervliet, Township of, Berrien County.	260048	.....do .....	Do.
Minnesota .....	Big Stone County, Unincorporated Areas.	270652	.....do .....	Do.
Do .....	Clinton, City of, Big Stone County.	270024	.....do .....	Do.
Do .....	Graceville, City of, Big Stone County.	270026	.....do .....	Do.
Do .....	Odessa, City of, Big Stone County.	270027	.....do .....	Do.
Do .....	Ortonville, City of, Big Stone County.	270028	.....do .....	Do.
<b>Region VII</b>				
Nebraska .....	Sterling, Village of, Johnson County.	310126	.....do .....	Do.
<b>Region IV</b>				
North Carolina .....	Apex, Town of, Wake County	370467	May 5, 2006 Suspension Notice Rescinded.	May 2, 2006.
Do .....	Cary, Town of, Wake County	370238	.....do .....	Do.
Do .....	Durham, City of, Durham County.	370086	.....do .....	Do.
Do .....	Durham County, Unincorporated Areas.	370085	.....do .....	Do.
Do .....	Gamer, Town of, Wake County.	370240	.....do .....	Do.
Do .....	Holly Springs, Town of, Wake County.	370403	.....do .....	Do.
Do .....	Knightdale, Town of, Wake County.	370241	.....do .....	Do.
Do .....	Morrisville, Town of, Wake County.	370242	.....do .....	Do.
Do .....	Raleigh, City of, Wake County	370243	.....do .....	Do.
Do .....	Rolesville, Town of, Wake County.	370468	.....do .....	Do.
Do .....	Wake County, Unincorporated Areas.	370368	.....do .....	Do.
Do .....	Wendell, Town of, Wake County.	370245	.....do .....	Do.
Do .....	Zebulon, Town of, Wake County.	370246	.....do .....	Do.
<b>Region I</b>				
New Hampshire .....	Cornish, Town of, Sullivan County.	330155	May 30, 2006 Suspension Notice Rescinded.	May 23, 2006.
Do .....	Marlow, Town of, Cheshire County.	330025	.....do .....	Do.
Do .....	Newport, Town of, Sullivan County.	330161	.....do .....	Do.
Do .....	Roxbury, Town of, Cheshire County.	330172	.....do .....	Do.

**Exhibit REV-9. List of Communities Eligible for the Sale of Insurance**

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State	Location	Community No.	Effective date of eligibility	Current effective map date
Do .....	Westmoreland, Town of, Cheshire County.	330238	.....do .....	Do.
<b>Region III</b>				
Virginia .....	Fairfax, City of, Independent City.	515524	June 12, 2006 Suspension Notice Rescinded.	June 2, 2006.
<b>Region IV</b>				
North Carolina .....	Bald Head Island, Village of, Brunswick County.	370442	.....do .....	Do.
Do .....	Belville, Town of, Brunswick County.	370545	.....do .....	Do.
Do .....	Bolling Spring Lake, City of, Brunswick County.	370453	.....do .....	Do.
Do .....	Bolivia, Town of, Brunswick County.	370394	.....do .....	Do.
Do .....	Bolton, Town of, Columbus County.	370274	.....do .....	Do.
Do .....	Brunswick County, Unincorporated Areas.	370295	.....do .....	Do.
Do .....	Calabash, Town of, Brunswick County.	370395	.....do .....	Do.
Do .....	Carolina Shores, Town of Brunswick County.	370517	.....do .....	Do.
Do .....	Caswell Beach, Town of Brunswick County.	370391	.....do .....	Do.
Do .....	Cerro Gordo, Town of, Columbus County.	370311	.....do .....	Do.
Do .....	Chadbourn, Town of, Columbus County.	370065	.....do .....	Do.
Do .....	Columbus County, Unincorporated Areas.	370305	.....do .....	Do.
Do .....	Fair Bluff, Town of, Columbus County.	370067	.....do .....	Do.
Do .....	Holden Beach, Town of, Brunswick County.	375352	.....do .....	Do.
Do .....	Lake Waccamaw, Town of, Columbus County.	370069	.....do .....	Do.
Do .....	Leland, Town of, Brunswick County.	370471	.....do .....	Do.
Do .....	Navassa, Town of, Brunswick County.	370593	.....do .....	Do.
Do .....	Northwest, City of, Brunswick County.	370513	.....do .....	Do.
Do .....	Oak Island, Town of, Brunswick County.	370523	.....do .....	Do.
Do .....	Shallotte, Town of, Brunswick County.	370388	.....do .....	Do.
Do .....	Southport, City of, Brunswick County.	370028	.....do .....	Do.
Do .....	St. James, Town of, Brunswick County.	370530	.....do .....	Do.
Do .....	Sunset Beach, Town of, Brunswick County.	375359	.....do .....	Do.
Do .....	Tabor City, Town of, Columbus County.	370070	.....do .....	Do.
Do .....	Varnamtown, Town of, Brunswick County.	370648	.....do .....	Do.
Do .....	Whiteville, City of, Columbus County.	370071	.....do .....	Do.
<b>Region IV</b>				
Florida .....	Alachua, City of, Alachua County.	120664	June 19, 2006 Suspension Notice Rescinded.	June 16, 2006.
Do .....	Gainesville, City of, Alachua County.	125107	.....do .....	Do.
Do .....	Micanopy, Town of, Alachua County.	120344	.....do .....	Do.
Do .....	Newberry, City of, Alachua County.	120679	.....do .....	Do.
Tennessee .....	Saltillo, Town of, Hardin County.	470083	.....do .....	Do.
<b>Region VI</b>				
Arkansas .....	Austin, City of, Lonoke County	050383	.....do .....	Do.
Do .....	Cabot, City of, Lonoke County	050309	.....do .....	Do.

Exhibit REV-9. List of Communities Eligible for the Sale of Insurance

**50862 Federal Register** / Vol. 71, No. 166 / Monday, August 28, 2006 / Rules and Regulations

State	Location	Community No.	Effective date of eligibility	Current effective map date
Do .....	Carlisle, City of, Lonoke County.	050312	.....do .....	Do.
Do .....	England, City of, Lonoke County.	050133	.....do .....	Do.
Do .....	Ward, City of, Lonoke County	050372	.....do .....	Do.
<b>Region IX</b>				
California .....	Shasta County, Unincorporated Areas.	060358	.....do .....	Do.

\* -do- =Ditto.  
 \*\* Designates communities converted from Emergency Phase of participation to the Regular Phase of participation.  
 Code for reading fourth and fifth columns: Emerg.-Emergency; Reg.-Regular; Rein.-Reinstatement; Susp.-Suspension; With.-Withdrawn; NSFHA.-Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: August 16, 2006.

**David I. Maurstad,**  
*Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 06-7181 Filed 8-25-06; 8:45 am]

BILLING CODE 9110-12-P

**GENERAL SERVICES  
 ADMINISTRATION  
 DEPARTMENT OF DEFENSE  
 NATIONAL AERONAUTICS AND  
 SPACE ADMINISTRATION**

**48 CFR Part 52**

**Federal Acquisition Regulation;  
 Solicitation Provisions and Contract  
 Clauses**

*CFR Correction*

In Title 48 of the Code of Federal Regulations, Parts 52 to 99, revised as of October 1, 2005, on pages 32 and 33, section 52.208-9 is corrected to read as follows:

**52.208-9 Contractor Use of Mandatory  
 Sources of Supply or Services.**

As prescribed in 8.004, insert the following clause:

**Contractor Use of Mandatory Sources of  
 Supply or Services (JUL 2004)**

(a) Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the program operated by the Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) under the Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48). Additionally, certain of these supplies are available from the Defense Logistics Agency (DLA), the General Services Administration (GSA), or the Department of Veterans Affairs (VA). The Contractor shall obtain mandatory supplies or services to be provided for Government use under this contract from the specific sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies or services by the time required, or if the quality of supplies or services provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies or services from other sources until the Contracting Officer has notified the Contractor that the Committee or a JWOD central nonprofit agency has authorized purchase from other sources.

(c) Price and delivery information for the mandatory supplies is available from the Contracting Officer for the supplies obtained through the DLA/GSA/VA distribution facilities. For mandatory supplies or services that are not available from DLA/GSA/VA, price and delivery information is available from the appropriate central nonprofit agency. Payments shall be made directly to the source making delivery. Points of contact for JWOD central nonprofit agencies are:

(1) National Industries for the Blind (NIB), 1901 North Beauregard Street, Suite 200, Alexandria, VA 22311-1705, (703) 998-0770.  
 (2) NISH, 2235 Cedar Lane, Vienna, VA 22182-5200, (703) 560-6800.

(End of clause)

[61 FR 2631, Jan. 26, 1996, as amended at 61 FR 67430, Dec. 20, 1996; 66 FR 65368, Dec. 18, 2001; 67 FR 56120, Aug. 30, 2002; 69 FR 34230, June 18, 2004]

[FR Doc. 06-5525 Filed 8-25-06; 8:45 am]

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety  
 Administration**

**49 CFR parts 350, 390, and 392**

[Docket No. FMCSA-2002-13015]

**RIN 2126-AA78**

**Enforcement of Operating Authority  
 Requirements**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) or the

Agency) adopts as final, with minor changes, its interim regulations as published in the **Federal Register** in August 2002. Since that time, enforcement officials have discovered many carriers operating without the required operating authority or beyond the scope of their authority. By making minor changes to the rule, FMCSA facilitates enforcement of these regulatory requirements by the agency's employees and its State counterparts. Clarifying that operating authority means registration as required by statute assists State enforcement officers in identifying the correct violation and not confusing operating authority with other registration requirements.

**DATES:** *Effective Date:* September 27, 2006. *Petitions for Reconsideration* must be received by the Agency not later than September 27, 2006.

**FOR FURTHER INFORMATION CONTACT:** David Mancl, phone (202) 493-0442, e-mail [david.mancl@dot.gov](mailto:david.mancl@dot.gov), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

*Docket:* For access to the docket to read background documents or comments received on the interim final regulations, including all correspondence referenced in this document, go to <http://dms.dot.gov> at any time or to room PL-401 on the Plaza Level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, April 11, 2000). This statement is also available at <http://dms.dot.gov>.

**SUPPLEMENTARY INFORMATION:**

**Exhibit REV-9. List of Communities Eligible for the Sale of Insurance**

# COMMUNITY ENROLLMENT

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# COMMUNITY ENROLLMENT

## A. OVERVIEW

National Flood Insurance Program (NFIP) flood insurance is available only in those communities that have been approved for participation in the program. Community enrollment in the NFIP is predicated by the level of detail in the Flood Insurance Rate Map (FIRM). The Emergency Phase is usually the initial phase of a community's participation in the NFIP. In this phase, only limited amounts of flood insurance coverage are available. To be eligible for the Regular Phase, the community must have an effective FIRM or be determined by letter from the Federal Emergency Management Agency (FEMA) to have no special flood hazard areas (be formally designated as NSFHA). In the Regular Phase, full limits of insurance coverage are available. More stringent floodplain management regulations are required as the level of detail in the FIRM increases. This ensures that the floodplain management requirements and flood insurance premiums accurately reflect the level of flood risk shown on the maps.

The enrollment of communities into the NFIP is an ongoing activity that has increased in volume as mapping initiatives have progressed and additional communities have been identified as being floodprone. Most eligible communities joined the NFIP during the 1970s as a result of the initial issuance of Flood Hazard Boundary Maps (FHBMs) for identified flood-prone communities. These communities were generally placed into the Emergency Program, since very few had FIRMs. Each year since then, additional communities have applied to join the NFIP, usually as a result of studies, restudies, or map revisions, because of a disaster, or because someone in the community needs or wants to purchase flood insurance. These communities are entered in the Emergency or Regular Phase of the NFIP, depending on the flood hazard data that FEMA has provided to the community.

Non-participating communities that are identified as floodprone during studies, restudies, or map revisions will be issued a Letter of Final Determination (LFD) that explains the consequences of not joining the NFIP and the sanctions that apply 1 year after communities are identified as floodprone (for those not previously identified as sanctioned). For additional information regarding the LFD, see section B-3-a, entitled "Letter of Final Determination," in the Adoption of Initial FIRMs and Map Revisions chapter of this handbook.

## B. INSURANCE CONSIDERATIONS

Once a community has enrolled in the NFIP its citizens may purchase flood insurance. While knowing which phase of the program the community participates is very important, other considerations are equally important. Determining whether or not a structure is Pre-FIRM or Post-FIRM is also an important factor in determining accurate flood insurance rates. Pre-FIRM structures are buildings for which the start of construction or substantial improvement was on or before December 31, 1974, or before the effective date of the initial FIRM for

the community. Post-FIRM structures are buildings for which the start of construction or substantial improvement was after December 31, 1974, or on or after the effective date of the initial FIRM for the community. If the structure in question is Post-FIRM, the property owner may need an elevation certificate and zone determination. The property owner may need assistance with reading and understanding the elevation certificate. It is also important for the community to be able to assist its property owners with zone determinations, to ensure the correct FIRM zones are used in order to ensure the policyholder received the correct flood insurance rate. Note: Many citizens will rely on mortgage companies, agents, or zone determination companies for determining the FIRM zone; however, the community should maintain an up-to-date map repository as an official record for its residents.

### **C. DISASTER CONSIDERATIONS**

Property owners in nonparticipating communities are not eligible for flood insurance under the NFIP (although they may be able to secure flood insurance from private companies), nor are they eligible for federal or federal-related financial assistance for the acquisition or construction of structures in their identified floodprone areas.

As a result of the prohibitions, it is not uncommon for political pressures to be intense and for communities to seek quick enrollment in the NFIP following a disaster. The Floodplain Management Branch may process communities in declared disaster areas immediately, based on recommendations sent from the Regional Office by e-mail, telephone, or facsimile. All of the minimum requirements of the NFIP regulations must be met, and follow-up documentation must be forwarded immediately to the Floodplain Management Branch. The Regional Office must have received a completed application package, including certified copies of the adopted resolution and floodplain management measures before submitting their recommendation.

#### **44 CFR §206.110(k)(2):**

Individuals or households that are located in a special flood hazard area may not receive Federal Assistance for NFIP-insurable real and/or personal property, damaged by a flood, unless the community in which the property is located is participating in the NFIP (See 44 CFR Part 59.1), or the exception in 42 U.S.C. 4105(d) applies. However, if the community in which the damaged property is located qualifies for and enters the NFIP during the six-month period following the declaration, the Governor's Authorized Representative may request a time extension for FEMA (See §206.112) to accept registrations and to process assistance applications in that community.

## D. GENERAL ELIGIBILITY REQUIREMENTS

Communities applying for NFIP participation must submit a program application package to the NFIP State Coordinator's Office or the Regional Office. Complete details are set forth in 44 CFR §59.22; however, this package generally consists of a completed copy of FEMA Form 81-64; certified copies of legally enforceable floodplain management measures that meet or exceed the minimum NFIP requirements; and a Resolution of Intent, which is an assurance, in the form of legally adopted measures, that all NFIP requirements will be adhered to, including requirements to adopt and enforce additional floodplain management measures whenever FEMA provides more comprehensive and detailed information on flood hazard areas. The Regional Office is responsible for reviewing the final application package and ensuring that all of the contents are completed before forwarding it to the Floodplain Management Branch.

### Note

- Each subparagraph of 60.3 [i.e., 60.3(a) through 60.3(e)] "builds" on the preceding subparagraph.
- *Example:* 60.3(b) references the requirements of 60.3(a).

A complete application package for a floodprone community contains each of the following, in accordance with 44 CFR §59.22:

- Completed Application Form 81-64 (Exhibit ENR-1);
- Resolution of Intent or its equivalent, as referenced in 44 CFR §59.22; and
- Certified copy of adopted floodplain management ordinance meeting the appropriate section of 60.3 of the NFIP regulations. A floodplain management ordinance is not required for communities that have been formally designated as NSFHA.

### Common Reasons that Enrollment Packages are Incomplete

- No map date or map reference is included in the ordinance
- The wrong map date or reference (i.e., an old map or the wrong map panel) is included in the ordinance
- Resolution of Intent or the ordinance is unsigned
- The ordinance is not appropriate for the level of mapping for the community, or does not include all of the definitions or required provisions

Upon receipt of the application package, the Regional Office or their designee reviews the package and ensures that there are no deficiencies. The NFIP Community

Floodplain Management Regulations Review Checklist (Exhibit ELG-1) has been created to help ensure that ordinances satisfy the criteria under 44 CFR §60.3. If the community's adopted ordinance does not satisfy the required level of regulations under 44 CFR §60.3, the State and/or Regional Office contacts the community and offers assistance and recommendations where appropriate. If the ordinance is compliant and the application is complete,

the Regional Office prepares a submittal stating its recommendation that the community be enrolled in either the Emergency or Regular Phase and forwards the community's application and ordinance to the Floodplain Management Branch for review, processing, and enrollment into the NFIP. A copy of the ordinance review checklist should be included with the enrollment package. In addition, the Regional Office should update all the Community Information System (CIS) modules which include the community's contact information, demographic data, and ordinance adoption and summary. Be sure to include the date the ordinance was approved.

After review and acceptance, the Floodplain Management Branch enrolls the community by changing the "Participation" status field in the Community Information Screen in CIS. The date of the participation status becomes the "Entry Date" of the community into the Emergency or Regular phase of the program. Provided the application is accurate and complete, enrollment occurs approximately 1 week after the Floodplain Management Branch receives the community's application package. The Floodplain Management Branch officially notifies the community of its eligibility by certified mail (See sample Emergency Phase Enrollment Letter [Exhibit ENR-2] or Regular Phase Enrollment Letter [Exhibit ENR-3]). A sample news release announcing the community's effective entry date is enclosed with the letter (See Emergency Phase News Release [Exhibit ENR-4] or Regular Phase News Release [Exhibit ENR-5]).



Community actions are published quarterly in the *Federal Register* under the "List of Communities Eligible for the Sale of Flood Insurance" notice. The Floodplain Management Branch also sends an e-mail to the Regional Office Program Specialist to indicate that the community has been enrolled.

Figure ENR-1. Emergency and Regular Phase Application Processes depicts the processes for applying for NFIP participation during the Emergency and Regular Phases.

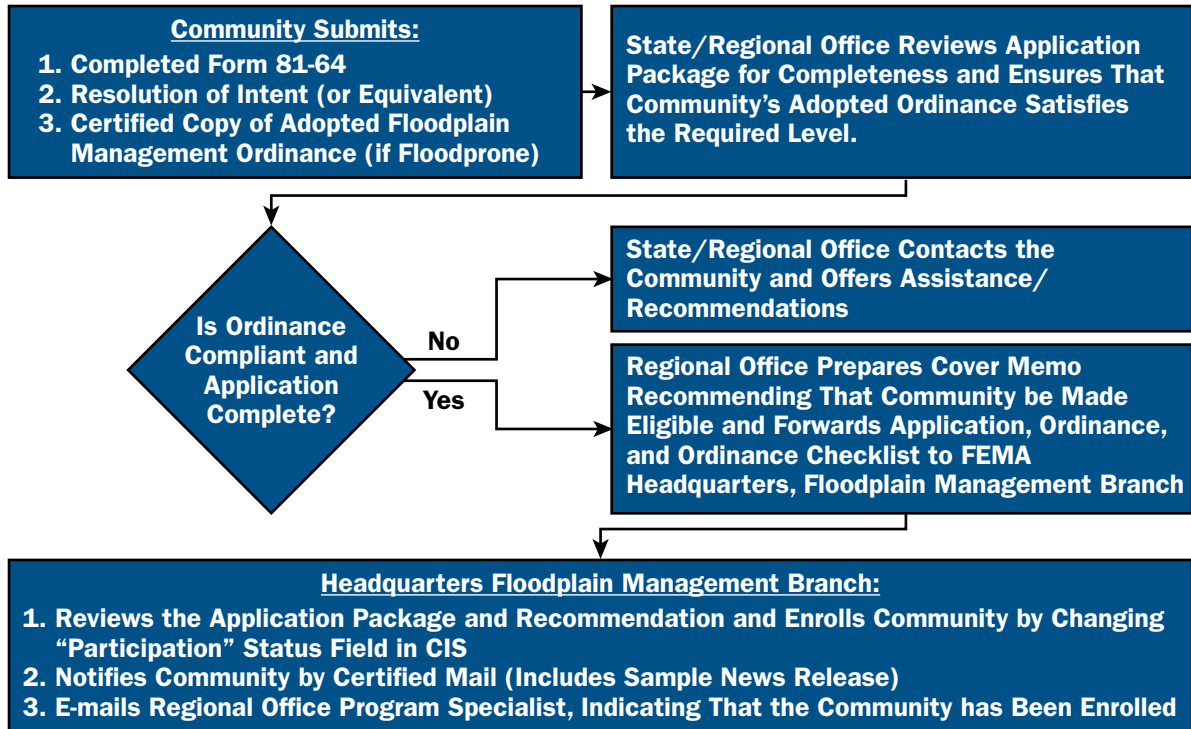


Figure ENR-1. Emergency and Regular Phase Application Processes

## E. EMERGENCY PHASE REQUIREMENTS AND PROCEDURES

### 1. Requirements and Procedures

A community is entered into the Emergency Phase of the NFIP under the following two situations:

- It is unmapped and has adopted legally enforceable floodplain management measures that meet or exceed the minimum requirements of 44 CFR §60.3(a);

#### **44 CFR §60.3(a):**

When the Administrator has not defined the special flood hazard areas within a community, has not provided water-surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the Program.

Or

- Its flood hazard areas have been identified, an FHBM has been issued, and it has adopted legally enforceable floodplain management measures that meet the requirements of 44 CFR §60.3(b). (See section E-2, entitled “Special Conversions of a Participating Community,” in the **Adoption of Initial FIRMs and Map Revisions** chapter of this handbook).

#### **44 CFR §60.3(b):**

When the Administrator has designated area of special flood hazards (A zones) by the publication of a community’s FHBM or FIRM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area.

### 2. FHBM RESCISSION

A community’s FHBM may have been rescinded following an analysis by FEMA that the community will not be inundated by the 1-percent-annual-chance flood (NSFHA or non-floodprone) or because the map does not accurately reflect the SFHA within the community’s corporate limits. The NSFHA designation is made following a formal engineering analysis of the flood hazards and the community is notified of this determination by letter. (See section E-2, entitled “Special Conversions of a Participating Community” in the **Adoption of Initial FIRMs and Map Revisions** chapter of this handbook.) Typically, this determination can be made by checking with FEMA’s Map Service Center or the FEMA library, for a copy of the notification letter. Prior to enrolling the community in the NFIP, a determination should be made as to why the FHBM was rescinded as it may have an effect on the level of participa-

tion the community is eligible for in the Program (e.g., Emergency or Regular Phase). Some other possible reasons for a rescission of the FHBM are as follows:

- Map contained printing errors or was improperly distributed. A new map will be printed and distributed.
- Community lacked land use authority over the SFHA.
- Map does not accurately show the SFHAs. A new map will be printed and distributed.
- The map had inaccurate flood elevations.

A community may be eligible to enroll in the Regular Phase of the NFIP when the FHBM has been rescinded following an NSFHA designation, provided that the community meets all other eligibility requirements. The general requirements and procedures for enrolling in the Emergency or Regular phase should be followed once the reason for the rescission has been determined.

### **3. Emergency Entry During the 6-Month Compliance Period**

If a community that does not have a current FIRM applies for participation in the NFIP during the 6-month compliance period and has adopted the new effective FIRM, the Floodplain Management Branch will enroll the community in the Emergency Phase and automatically convert the community to the Regular Phase on the date the FIRM becomes effective.

### **4. Emergency Entry by Adoption of Preliminary Map**

At times newly identified communities are proactive and take action to join the NFIP following issuance of the FIRM for their community. If a community that does not have a current FIRM applies for participation in the NFIP and has adopted the preliminary FIRM, the Floodplain Management Branch will defer enrolling the community until the appropriate map reference date can be added to the ordinance. This typically cannot occur until the FIRM effective date has been established and the LFD issued, and only then, once the community readopts and makes reference to the new FIRM effective date.

## **F. REGULAR PHASE REQUIREMENTS AND PROCEDURES**

### **1. Requirements and Procedures**

Communities that are mapped on a FIRM, either separately or on another community's FIRM (such as a county FIRM for a newly incorporated community), are entered directly into the Regular Phase.

The procedures for processing application packages for these communities are the same as for those in the Emergency Phase listed above; however, these communities must adopt legally enforceable floodplain management measures that are compliant with 44 CFR §60.3(b),

(c), (d), or (e), as determined by the level of detail in the FIRM. Each increase in the level of detail in the FIRM requires more stringent floodplain management regulations to meet NFIP requirements and to ensure that flood insurance premiums for the building accurately reflect the level of risk shown on the maps. Copies of the letters and news releases issued to Regular Phase communities are shown in Exhibits ENR-3 and ENR-5.

**44 CFR §60.3(c):**

When the Administrator has provided a notice of final flood elevations for one or more special flood hazard areas on the community's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area.

**44 CFR §60.3(d):**

When the Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AO zones, AH zones, A99 zones, and A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway.

**44 CFR §60.3(e):**

When the Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's FIRM, and has identified on the community's FIRM coastal high hazard areas by designating Zones V1-30, VE, and/or V.

Additional information on ordinance adoption is discussed in the **Adoption of Initial FIRMs and Map Revisions** chapter in this handbook.

## **2. Regular Phase Enrollment with an “All Zone D” Designation**

Communities that are designated as “all Zone D,” which do not have a map but have indicated the presence of Special Flood Hazard Areas (SFHAs), can join the Regular Phase of the NFIP by submitting a resolution compliant with 44 CFR §59.22 and land use measures compliant with 44 CFR §60.3(a). “Zone D” will appear in the map effective date column on the Community Eligibility Report, Community Status Book (CSB), and CIS.

### 3. Regular Phase Enrollment with an NSFHA Designation

Communities shown on effective FIRMs with no designated SFHAs may be entered into the Regular Phase of the NFIP at any time upon receipt of a resolution compliant with 44 CFR §59.22. In addition, a community without a published FIRM can enter the Regular Phase when FEMA has provided a letter designating them as having no SFHAs (see Exhibit REV-7).

## G. INCORPORATIONS

There are times when floodprone communities will incorporate from a participating, mapped community. Usually this occurs when a jurisdiction such as a town or village incorporates out of the unincorporated area of the county. Procedures for enrolling these communities in the NFIP can be found at 44 CFR §64.4(c). If the community notifies FEMA of its incorporation on the date of its independence and certifies that it will continue to enforce the floodplain regulations that previously applied to the area, it can be enrolled in the NFIP and all active flood insurance policies will remain in effect. The community then has 6 months in which to adopt its own floodplain management regulations. Newly incorporated communities routinely adopt the ordinances of the community they incorporate out of as interim measures until such time as they can adopt their own ordinances. A notation is made in CIS and the CSB that the community has adopted the other community's map and panel until such time as it receives its own FIRM. The initial FIRM date for the community is the initial FIRM date for the incorporated land area. Communities that do not meet the requirements of 44 CFR §64.4(c) are non-participating communities, and flood insurance cannot be sold in these communities.

Newly incorporated communities often fail to notify FEMA of their incorporation as required by 44 CFR §64.4(c). Flood insurance policies are sold and renewed in these communities under the incorporated land area's Community Identification Number (CID).

The NFIP State Coordinator can ensure early awareness of a floodprone community's incorporation by maintaining ongoing contact with the State agency or office responsible for administering the statutes governing incorporations. It may be possible to work out an agreement between the two State agencies through which the NFIP State Coordinator is notified on a regular basis of any petitions for incorporations. In addition, the State Coordinator can work with that State agency to include information on establishing NFIP eligibility in the materials provided to communities undergoing incorporation. In turn, the NFIP State Coordinator should immediately notify the Regional Office of communities that have been incorporated.

If the State Coordinator and the State agency or office responsible for incorporations do not coordinate when incorporations occur, it is sometimes several years between the time a community incorporates and the time FEMA learns of the incorporation. These communities

are non-participating in the NFIP, and properties within their corporate boundaries are not eligible for flood insurance coverage. As soon as these communities are identified, the NFIP State coordinating agency or the Regional Office should offer assistance to these non-participating communities in joining the NFIP, including providing a sample resolution and model floodplain management ordinance.

If the State and/or Regional Office are unsuccessful in getting a non-participating floodprone community to join the NFIP, the Floodplain Management Branch will send a formal letter (Exhibit ENR-6) at the request of the Regional Office to notify the community of its need to join and to outline the consequences of non-participation. If the community chooses not to join before a 90-day period has elapsed from the date of the notification letter, steps will be taken to terminate flood insurance coverage on any policies sold within the community's boundaries after the incorporation. Additionally, the Floodplain Management Branch letter serves as a formal notification to the community of its flood risk. This allows the community to be sanctioned if it does not join the NFIP. Every effort should be made to bring the community into the NFIP willingly; however, formal written notice is often necessary.

Sometimes flood insurance policies are mistakenly issued in non-participating communities, either because they are newly incorporated and their boundaries are not shown on the county's FIRM or because the FIRM failed to depict the corporate limits of an existing non-participating incorporated community. In such cases, the flood insurance policies are not valid; if a homeowner submits a claim, *the claim cannot be paid*. Once that community is identified, every effort should be made to enroll it in the NFIP. If the community chooses not to participate, the procedures discussed in the previous paragraph should be followed.

## **H. ANNEXATIONS**

Incorporated communities, as they grow, routinely annex unincorporated areas from the surrounding county. Annexations are also subject to the provisions of 44 CFR §64.4(c) and follow a similar procedure to that for incorporations. Communities are required to notify FEMA when these annexations occur.

When both communities participate in the Regular Phase of the NFIP, annexations are relatively straightforward, provided:

- The annexing community has also adopted the map for the surrounding county, or the annexed area is included on a panel of the countywide FIRM that the annexing community has adopted, and
- The ordinance of the annexing community already has provisions covering the type of flood data for the annexed area.

One of the advantages of countywide mapping is that the annexed areas are already shown on the FIRM referenced in the annexing community's floodplain management ordinance. Care must be taken to ensure that the map reference is not written in a way that precludes the community from enforcing its ordinance outside of the corporate boundaries shown on the FIRM. Even if a community adopts individual map panels, annexed areas will often be on an already adopted panel. If a community annexes areas outside of the panels it has already adopted, the community will need to amend its ordinance to adopt the additional panel(s).

As part of the flood mapping process, up-to-date corporate boundaries are captured and reflected on new or revised FIRMs. However, those boundaries may not be changed until the FIRM is revised for other reasons. Once the Regional Office is made aware of an annexation through coordination with the State Office, it forwards the map panel numbers and dates of the annexed area to the Floodplain Management Branch. The Floodplain Management Branch forwards the information to the Map Service Center to incorporate into the CIS update. The requirements pertaining to annexations by a participating NFIP community are described in 44 CFR §64.4(b), including adopting any applicable requirements described in 44 CFR §60.3.

Annexations become more complicated if one community participates in the NFIP and the other does not, or if one is in the Emergency Phase and one in the Regular Phase. If the annexing community is non-participating, flood insurance is no longer available in the annexed area.

### **1. Non-Participating Unmapped Community, Annexing Flood Hazards from a Mapped Community**

On occasion, an unmapped, non-participating community that is shown as an "Area Not Included" (ANI) on the county map annexes land from the unincorporated area of the county and, subsequently, wishes to join the NFIP. To assess whether it is appropriate to enroll the community in the Emergency or Regular Phase of the program, the Regional Office or their designee must first determine if flood hazards are applicable to the ANI. If the ANI portion can be considered NSFHA or if it all can be designated as Zone D, the community can be enrolled directly into the Regular Phase. The conversion letter must, however, specifically state that the ANI has no SFHAs or that the entire community should be designated as Zone D. If the community has indicated that there are SFHAs within the ANI, the entire community should be enrolled in the Emergency Phase until a FIRM can be created for the ANI portion of the community.

## **2. Non-Participating or Participating Community with FHBM Annexing Flood Hazards from Participating Community with FIRM**

If a non-participating community with an FHBM that has annexed land from a participating community with a FIRM wishes to join the NFIP, the Regional Office submits a memorandum to the Floodplain Management Branch requesting that the community be placed into the Emergency Phase by adopting the existing FHBM into an ordinance. Once the community has adopted the FHBM and has joined the Emergency Phase, the Regional Office prepares a Special Conversion Recommendation Report (Exhibit REV-5). This report requests:

1) a minimal conversion, with the current FHBM converted to FIRM by letter for the area of the community shown on the FHBM, and 2) that a conversion letter be drafted to convert the annexed area of the community to the Regular Phase. Normally, the Regular Phase conversion process described above would be handled under separate correspondence; however, because separate letters would likely confuse the community, a special FHBM conversion to FIRM and Regular Phase conversion letter should be sent (Exhibits REV-6 and REV-7). By using this combined letter, the community is enrolled in the Regular Phase by adopting both the FHBM (that is being converted to a FIRM) and the annexed portion of the community in one action.

## **I. COMMUNITY CONSOLIDATIONS**

In addition to incorporations, two or more communities can also merge to create a single community. Upon receiving documentation to support the consolidation, the Regional Office notifies the Floodplain Management Branch. The Floodplain Management Branch will coordinate with the Risk Insurance Branch to determine the process for transferring the flood insurance policies to the new CID. The CID chosen for the consolidated community is typically based on the total policies written under each existing CID. Notes are then placed in CIS and the CSB to inform users of the CID of the consolidated community. The CIDs for those communities that no longer exist will remain active for a period of time to allow policies to migrate to the new CID. After a period of time (in coordination with the Risk Insurance Branch), the community no longer in existence will be changed in CIS to DEFUNCT. The FIRMs for each defunct community will remain in effect until a map is created for the new community. Notes are added to CIS to clearly identify the community that has assumed jurisdiction over the defunct community's mapped flood hazards.

## **J. DISSOLVED COMMUNITIES**

Sometimes participating mapped communities are dissolved and become part of another incorporated community or part of the unincorporated areas of the county. Generally, these are small communities that are not large enough to justify the expense of maintaining a separate identity as an incorporated community. When this occurs, the Regional Office notifies the Floodplain Management Branch of the dissolved community, so it can update the com-

munity's status in CIS to DEFUNCT. In addition, the community that assumed jurisdiction is sent a letter by the Floodplain Management Branch, notifying it to use the dissolved community's FIRM until the map can be revised. The dissolved community's FIRM is not rescinded until the maps for the community that assumes jurisdiction for the area are revised. Notes are added to CIS and the CSB to clearly identify the community that has assumed jurisdiction over the defunct community's mapped flood hazards.

DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY <b>APPLICATION FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM</b>		O.M.B. NO. 1660-0004 Expires February 29, 2008	
<b>PAPERWORK BURDEN DISCLOSURE NOTICE</b> Public reporting burden for this form is estimated to average 4 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing, reviewing, and submitting the form. You are not required to submit to this collection of information unless a valid OMB control number appears in the upper right corner of this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, Paperwork Reduction Project (1660-0004). Please do not send your completed form to the address above.			
1. APPLICANT COMMUNITY NAME (City, town, etc.)		DATE	
City of Kenyon		April 13, 2010	
COUNTY, STATE			
Goodhue, Minnesota			
2. COMMUNITY OFFICIAL - CHIEF EXECUTIVE OFFICER (CEO)		E-MAIL ADDRESS	TELEPHONE NO. (Include area code)
Christopher Heineman, City Admin.		cheineman@cityofkenyon.com	507-789-6415
ADDRESS (Street or box no., city, state, zip code)			
709 2nd Street Kenyon MN 55946			
3. PROGRAM COORDINATOR (Official, if different from above, with overall responsibility for implementing program)		E-MAIL ADDRESS	TELEPHONE NO. (Include area code)
ADDRESS (Street or box no., city, state, zip code)			
4. LOCATION OF COMMUNITY REPOSITORY FOR PUBLIC INSPECTION OF NFIP MAPS			
City of Kenyon - City Hall			
ADDRESS			
709 2nd Street Kenyon MN 55946			
5. ESTIMATES FOR THOSE AREAS PRONE TO FLOOD AND/OR MUDSLIDE AS OF THE DATE OF THIS APPLICATION			
AREA IN ACRES	POPULATION	NO. OF 1-4 FAMILY STRUCTURES	NO. OF ALL OTHER STRUCTURES
71	12	5	5
6. ESTIMATES OF TOTALS IN ENTIRE COMMUNITY			
	POPULATION	NO. OF 1-4 FAMILY STRUCTURES	NO. OF ALL OTHER STRUCTURES
1,432	1740	696	100
7. FOR FEMA REGIONAL OFFICE USE ONLY			
1. FEMA REGIONAL OFFICE	2. NAME OF CONTACT	3. TELEPHONE NO.	
RV	John Devine	312 408 5567	
4. LEVEL OF 44 CFR 60.3 REGULATION ADOPTED (Check one)		5. CHECK APPROPRIATE BOX:	
<input type="checkbox"/> 60.3(a) <input checked="" type="checkbox"/> 60.3(b) <input type="checkbox"/> 60.3(c) <input type="checkbox"/> 60.3(d) <input type="checkbox"/> 60.3(e)		<input type="checkbox"/> EMERGENCY PHASE <input checked="" type="checkbox"/> REGULAR PHASE	
IF REGULAR PROGRAM, SPECIFY FIRM INDEX DATE. IF USING ANOTHER COMMUNITY'S FIRM, GIVE COMMUNITY NAME, CID, FIRM INDEX DATE AND MAP PANEL NUMBER DEPICTING COMMUNITY.			
9/25/2009			

FEMA Form 81-64, APR 06

REPLACES ALL PREVIOUS EDITIONS

Exhibit ENR-1. Completed Application Form 81-64



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Name]  
[Address]

Dear [Mr./Ms. Addressee]:

I am happy to announce that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) has approved the [Community]'s application to participate in the National Flood Insurance Program (NFIP). In accordance with Section 1336 of the National Flood Insurance Act of 1968, the [Community] is eligible to participate in the Emergency Phase of the NFIP effective on [Date]. Flood insurance is now available to local property owners and may be purchased from any insurance agent or broker licensed to do business in the State where the insurable property is located.

I am enclosing a copy of the news release announcing the [Community]'s eligibility to participate in the NFIP. I hope it assists you in your efforts to publicize the availability of this important coverage. The [Community]'s property owners will want to know about this opportunity to obtain insurance protection against losses from future flooding. The buildings and contents coverage is now available to building owners and tenants.

There is a 30-day waiting period before a newly purchased flood insurance policy takes effect or for any additional coverage or endorsement that may increase policy limits. The waiting period ends and the policy take effect at 12:01 a.m. on the 30th calendar day after the insurance policy application date and payment of premium.

There are 10 exceptions to the 30-day waiting period. However, I am only explaining the two most frequently used exceptions in this letter. The two most frequently used exceptions are: (1) when the initial purchase of flood insurance is in connection with the making, increasing, extension, or renewal of a loan, there is no waiting period and coverage is effective immediately; and (2) when the purchase of flood insurance is related to a revision or update of a Flood Hazard Boundary Map or Flood Insurance Rate Map (FIRM), there is a one-day waiting period. Flood insurance coverage takes effect at 12:01 a.m. on the day after the coverage is purchased for a structure located in a Special Flood Hazard Area (SFHA), an area subject to inundation by the base (1-percent-annual-chance) flood, on the revised flood map, which was not previously located in an SFHA prior to the revision. This

exception is limited to a 13-month period and begins on the date the revised map is issued. The information on the remaining eight exceptions is contained in the enclosed NFIP "Policy Issuance 5-98" dated October 1, 1998.

Under the Flood Disaster Protection Act of 1973, as amended, flood insurance must be purchased by property owners seeking any Federal financial assistance for construction or acquisition of buildings in SFHAs. This financial assistance includes certain federally guaranteed mortgages and direct loans, federal disaster relief loans and grants, as well as other similarly described assistance from FEMA and other agencies.

In addition, all loans individuals obtain from Federally regulated, supervised, or insured lending institutions that are secured by improved real estate located in SFHAs are also contingent upon the borrower obtaining flood insurance coverage on the building. However, purchasing and maintaining flood insurance coverage on a voluntary basis is frequently recommended for properties located outside SFHAs.

If you need additional assistance or information, I recommend you contact [Name], the NFIP State Coordinator, by telephone at [Number], in writing at the [Name of State NFIP Office and Address], or by electronic mail at [E-mail]. The FEMA Regional staff in [City, State], is also available to assist you. You may contact the Regional staff by telephone at [Number] or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region [Numeral], at [Address].

Sincerely,

Sandra K. Knight, PhD, PE  
Deputy Federal Insurance and  
Mitigation Administrator, Mitigation

Enclosures

cc: [Name], Regional Administrator, FEMA Region [Numeral]  
[Name], NFIP State Coordinator, [NFIP Office]  
[Name], Floodplain Administrator/Appropriate Title, [Community]

**Exhibit ENR-2. Emergency Phase Enrollment Letter**

**FEMA**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Name]  
[Address]

Dear [Mr./Ms. Addressee]:

I am happy to announce that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) has approved the [Community]'s application to participate in the National Flood Insurance Program (NFIP). In accordance with Section 1336 of the National Flood Insurance Act of 1968, the [Community] is eligible to participate in the Regular Phase of the NFIP effective on [Date]. Flood insurance is now available to local property owners and may be purchased from any insurance agent or broker licensed to do business in the State where the insurable property is located.

I am enclosing a copy of the news release announcing the [Community]'s eligibility to participate in the NFIP. I hope it assists you in your efforts to publicize the availability of this important coverage. The [Community]'s property owners will want to know about this opportunity to obtain insurance protection against losses from future flooding. The buildings and contents coverage is now available to building owners and tenants.

There is a 30-day waiting period before a newly purchased flood insurance policy takes effect or for any additional coverage or endorsement that may increase policy limits. The waiting period ends and the policy take effect at 12:01 a.m. on the 30th calendar day after the insurance policy application date and payment of premium.

There are 10 exceptions to the 30-day waiting period. However, I am only explaining the two most frequently used exceptions in this letter. The two most frequently used exceptions are: (1) when the initial purchase of flood insurance is in connection with the making, increasing, extension, or renewal of a loan, there is no waiting period and coverage is effective immediately; and (2) when the purchase of flood insurance is related to a revision or update of a Flood Hazard Boundary Map or Flood Insurance Rate Map (FIRM), there is a one-day waiting period. Flood insurance coverage takes effect at 12:01 a.m. on the day after the coverage is purchased for a structure located in a Special Flood Hazard Area (SFHA), an area subject to inundation by the base (1-percent-annual-chance) flood, on the revised flood map, which was not previously located in an SFHA prior to the revision. This

exception is limited to a 13-month period and begins on the date the revised map is issued. The information on the remaining eight exceptions is contained in the enclosed NFIP “Policy Issuance 5-98” dated October 1, 1998.

The FIRM, which shows the Base Flood Elevations (BFEs) established for the **[Community]**, became effective on **[Current Map Date]**. This FIRM date indicates the effective date for the authorization of the sale of first and second layer flood insurance coverage at actuarial rates for all new construction and substantial improvements to existing structures within the **[Community]**. The first layer coverage on structures built prior to **[Initial FIRM Date]**, will be available at subsidized rates unless improvements are made to the structure.

Please be aware that the increase or decrease of flood insurance costs for a structure is based on the location of the structure’s first floor and its relationship to the BFEs for the **[Community]**. In addition, on the effective FIRM date, the FIRM supersedes all previous maps for the purpose of determining whether individual properties are located inside or outside the SFHA. After the effective FIRM date, new construction will be charged actuarial rates, which may be higher, if the structure is not built in compliance with the NFIP floodplain management requirements.

Under the Flood Disaster Protection Act of 1973, as amended, flood insurance must be purchased by property owners seeking any Federal financial assistance for construction or acquisition of buildings in SFHAs. This financial assistance includes certain federally guaranteed mortgages and direct loans, federal disaster relief loans and grants, as well as other similarly described assistance from FEMA and other agencies.

In addition, all loans individuals obtain from Federally regulated, supervised, or insured lending institutions that are secured by improved real estate located in SFHAs are also contingent upon the borrower obtaining flood insurance coverage on the building. However, purchasing and maintaining flood insurance coverage on a voluntary basis is frequently recommended for properties located outside SFHAs.

If you need additional assistance or information, I recommend you contact **[Name]**, the NFIP State Coordinator, by telephone at **[Number]**, in writing at the **[Name of State NFIP Office and Address]**, or by electronic mail at **[E-mail]**. The FEMA Regional staff in **[City, State]**, is also available to assist you. You may contact the Regional staff by telephone at **[Number]** or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region **[Numeral]**, at **[Address]**.

### Exhibit ENR-3. Regular Phase Enrollment Letter

Sincerely,

Sandra K. Knight, PhD, PE  
Deputy Federal Insurance and  
Mitigation Administrator, Mitigation

Enclosures

cc: **[Name]**, Regional Administrator, FEMA Region **[Numeral]**  
**[Name]**, NFIP State Coordinator, **[NFIP Office]**  
**[Name]**, **Floodplain Administrator/Appropriate Title**, **[Community]**



#### SAMPLE NEWS RELEASE

#### FEDERAL FLOOD INSURANCE NOW AVAILABLE IN THE [Community] [Do not include the county]

Washington, D.C. – The [Community] has joined over 21,000 communities nationwide that are allowed to purchase federally backed flood insurance. This availability follows the community's adoption and enforcement of ordinances to reduce flood losses and acceptance by the National Flood Insurance Program (NFIP).

The [Community] is now a participant in the NFIP effective on [Effective Date]. Residents of the [Community] will be able to purchase flood insurance up to the limits under the Emergency Phase of the program. However, there is a 30-day waiting period before flood insurance coverage goes into effect. For single-family dwellings, the building coverage limit is \$35,000, and the contents coverage limit is \$10,000. Renters can also protect their belongings by purchasing contents coverage. For commercial properties, the building and contents coverage limits are both \$100,000. Higher limits of coverage will be available after the initial Emergency Phase.

Lenders must require borrowers whose properties are located in a designated flood hazard area to purchase flood insurance as a condition of receiving a federally backed mortgage loan in accordance with the Federal Disaster Protection Act of 1973.

The NFIP is implemented through the Federal Emergency Management Agency. There are over 5.5 million flood insurance policies in more than 21,000 participating communities nationwide.

#### Exhibit ENR-4. Emergency Phase News Release

**FEMA**

## SAMPLE NEWS RELEASE

FEDERAL FLOOD INSURANCE NOW AVAILABLE  
IN THE [Community] [Do not include the county]

Washington, D.C. – The [Community] has joined over 21,000 communities nationwide that are allowed to purchase federally backed flood insurance. This availability follows the community's adoption and enforcement of ordinances to reduce flood losses and acceptance by the National Flood Insurance Program (NFIP).

The [Community] is now a participant in the NFIP effective on [Effective Date]. Residents of the [Community] will be able to purchase flood insurance up to the limits under the Regular Phase of the program. However, there is a 30-day waiting period before flood insurance coverage goes into effect. For single-family dwellings, the building coverage limit is \$250,000, and the contents coverage limit is \$100,000. Renters can also protect their belongings by purchasing contents coverage. For commercial properties, the building and contents coverage limits are both \$500,000.

Lenders must require borrowers whose properties are located in a designated flood hazard area to purchase flood insurance as a condition of receiving a federally backed mortgage loan in accordance with the Federal Disaster Protection Act of 1973.

The NFIP is implemented through the Federal Emergency Management Agency. There are over 5.5 million flood insurance policies in more than 21,000 participating communities nationwide.



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The Honorable Jack Bish  
Mayor, City of Pleasant Valley  
1704 Kendall Drive  
Pleasant Valley, West Virginia 26544

Dear Mayor Bish:

This letter is to inform you of an important matter concerning the Federal Emergency Management Agency's National Flood Insurance Program (NFIP) and the opportunity for the City of Pleasant Valley to participate.

We were recently made aware that the City of Pleasant Valley formally incorporated in 1996. Prior to incorporation as a separate City, the land area which is now part of Pleasant Valley, was regulated for floodplain management purposes under the NFIP by ordinances administered by the Unincorporated Areas of Marion County. Participation in the NFIP is based upon an agreement between FEMA and the local community. FEMA provides flood insurance in those communities that agree to adopt a local floodplain management ordinance that governs development in floodprone areas. Since Marion County no longer has jurisdiction to enforce and oversee a floodplain management program in Pleasant Valley, the City must adopt and enforce its own local floodplain ordinance. Alternatively, you may wish to seek an arrangement with Marion County whereby they would administer the floodplain management program on the City's behalf. A detailed description of the NFIP and the role of a community as a participant is provided in the enclosed booklet entitled Answers to Questions about the NFIP.

There are currently flood insurance policies on structures in Pleasant Valley. These policies were obtained in error because FEMA was unaware that the land on which the buildings reside is in a new community, not participating in the NFIP. These flood insurance policies will not be renewed upon expiration and insurance companies will not be able to write new flood insurance policies, unless Pleasant Valley takes steps to participate in the NFIP. Specifically, in order for existing policies in the City to be renewed or new policies written, the City must join the NFIP within 90 days of the date of this letter.

**Exhibit ENR-6. Join the NFIP Notification to Floodprone Community**

We would like to take this opportunity to notify you that:

- The land area which is now Pleasant Valley is currently mapped on Flood Insurance Rate Map (FIRM) panels 5400970005B and 5400970010B for the Unincorporated Areas of Marion County, and;
- The FIRM was effective on October 18, 1995;

A set of FIRMs is enclosed for your reference. Additional copies may be obtained by calling our Map Service Center, toll free, at 1-800-358-9616.

Our regional office in Philadelphia, Pennsylvania, and the NFIP State coordinating office staff are eager to assist you in taking the necessary steps to join the NFIP which will include providing a model floodplain management ordinance. They are available to provide administrative and technical assistance and to help guide Pleasant Valley officials in the development of a strong floodplain management program. It is our goal to complete the process of having Pleasant Valley join the NFIP within the next 90 days. If your community elects not to participate in the NFIP, there are certain consequences that we must relate to you. Most importantly, as stated above, flood insurance may not be sold or renewed for structures in Pleasant Valley. Three-year flood insurance policies currently in force will remain in-force only until the end of the current policy year. Any amounts pre-paid for the remaining year(s) will be refunded. FEMA would like to help ensure flood insurance policies currently in-place remain in-force and residents remain eligible to purchase flood insurance.

For communities not participating in the NFIP, federal officers or agencies are prohibited from approving any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant (in connection with a flood), for acquisition or construction purposes within identified SFHAs. For example, this would prohibit mortgage loans guaranteed by the Department of Veterans Affairs, insured by the Federal Housing Administration, or secured by the Rural Economic and Community Development Services where the property lies within an identified SFHA. Further, in the event of a disaster caused by a flood, federal disaster relief assistance will be limited for property located within nonparticipating communities.

We encourage you to contact Robert Perry, the NFIP State Coordinator for West Virginia with the West Virginia Office of Emergency Services at (304) 558-5380 or by e-mail at [rperry@wvoes.state.wv](mailto:rperry@wvoes.state.wv) or Gene Gruber, Division Director, Federal Insurance and Mitigation Division of FEMA at (215) 223-9561 for further information concerning the program and enrollment process. The adoption of compliant floodplain management measures will provide protection for your community and will ensure participation in the NFIP.

Sincerely,

Enclosures

cc: NFIP State Coordinator  
FEMA Region III Office



# SUSPENSIONS, WITHDRAWALS, AND REINSTATEMENTS

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# SUSPENSIONS, WITHDRAWALS, AND REINSTATEMENTS

## A. OVERVIEW

Once FEMA provides a community with the flood hazard information upon which floodplain management regulations are based, the community is required to adopt a floodplain management ordinance that meets or exceeds the minimum National Flood Insurance Program

(NFIP) requirements, as discussed in previous chapters. FEMA can suspend communities from the program for failure to adopt compliant floodplain management regulations when they are provided additional flood data or for failure to enforce a floodplain management ordinance that meets or exceeds the minimum requirements of the NFIP (for more information, refer to the *NFIP Community Compliance Program Guidance* manual). Further, suspension can occur for repeal or amendment of an ordinance and for a deficient ordinance. The procedures for suspending a community from the program for failure to adopt or maintain a floodplain management ordinance that meets or exceeds the minimum requirements of the NFIP are established in the NFIP regulations at 44 CFR §59.24(a) and (d).

### Four Types of Suspensions

1. Failure to adopt
2. Failure to enforce
3. Repeal or amendment of an ordinance
4. Deficient ordinance

Since 1968, just over 2,789 communities have been suspended for failure to adopt as of May 2010. Most of these communities subsequently adopted a compliant ordinance and were eventually reinstated into the program. In suspended communities, flood insurance is not available to property owners. In addition, these communities are subject to limitations on Federal financial assistance in Section 202(a) of the Federal Disaster Act of 1973, which prohibits Federal officers or agencies from approving any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or disaster assistance loan or grant for acquisition or construction purposes within SFHAs.

Furthermore, Section 202(b) of the 1973 Act requires federally regulated lending institutions to notify the purchaser or lessee of improved real property situated in a Special Flood Hazard Area (SFHA) whether Federal disaster assistance will be available, when such property is being used to secure a loan that is being made, increased, extended, or renewed.

Eligible communities may withdraw from the NFIP at any time by submitting a legally adopted resolution or other legislative measure indicating that the community wishes to withdraw from the NFIP. The resolution will signify a community's decision to withdraw. If a

community indicates its intention to withdraw from the NFIP only by repealing its adopted floodplain management ordinance, suspension procedures must be followed. Communities that withdraw from the NFIP are subject to the same sanctions as suspended communities.

Communities that had previously withdrawn from the NFIP or floodprone communities that were previously suspended for failure to adopt, failure to enforce, or repealing a compliant ordinance may be interested in rejoining the program, particularly if a restudy indicates that SFHAs have increased in size and/or Base (1-percent-annual-chance) Flood Elevations (BFEs) are higher. The process for placing a suspended or withdrawn community back into the NFIP as a participating community is called reinstatement.

## **B. SUSPENSION FOR FAILURE TO ADOPT**

As discussed in the **Adoption of Initial FIRMs and Map Revisions** chapter, each time FEMA issues a new or revised Flood Insurance Rate Map (FIRM) for a community, the community is required to adopt or amend its ordinance based on the new data so that ordinance meets or exceeds the minimum requirements of the NFIP. The only exception is if the community ordinance has a valid automatic adoption clause and the ordinance is otherwise compliant. The Letter of Final Determination (LFD) notifies the community of the amount of time allowed to adopt the new or revised FIRM into a compliant ordinance before facing suspension. The length of time each community is given to adopt depends on its current participating status. The timeframes that FEMA allows for communities to adopt the maps before they are suspended for failure to adopt are discussed below.

### **1. Previously Mapped Communities**

FEMA requires participating communities that have an effective Flood Hazard Boundary Map (FHBM) or FIRM to adopt the revised FIRM into a compliant ordinance by the FIRM effective date. The community will be suspended the day after the effective date of the FIRM, if it does not have compliant ordinances.

Previously mapped, non-participating communities are given the opportunity to join the NFIP by adopting the new or revised FIRM into a compliant ordinance and making application for the NFIP by the end of the 6-month compliance period. Since these communities are non-participating, they are sanctioned communities if their previous map has been in effect for 1 year or more. Failure to adopt the revised FIRM panels by the FIRM effective date will result in the community remaining sanctioned.

## 2. Previously Unmapped Participating Communities

FEMA requires participating communities that are unmapped in the Emergency Phase to adopt the newly produced FIRM into a compliant ordinance by the end of the 6-month compliance period. If the community fails to do so, the community will be suspended the day after the effective date of the FIRM. However, because sanctions apply 1 year after the initial FIRM date, the community will not face sanctions for another year.

## 3. Previously Unmapped Non-Participating Communities and Newly Identified Communities

FEMA requires a non-participating community where flood hazards are being identified for the first time to adopt the FIRM into a compliant ordinance and become eligible for the NFIP within 1 year of the FIRM effective date. If it does not, it will become a sanctioned community. The community will be sanctioned the day after the 1-year anniversary of the FIRM effective date; if it does not have a compliant ordinance approved and established eligibility for the NFIP by that date.

## C. PROBATION AND SUSPENSION FOR FAILURE TO ENFORCE

Communities can also be placed on probation or suspended for failure to enforce their floodplain management ordinance. Following a Community Assistance Visit (CAV), the community must be given reasonable time to demonstrate that any buildings identified as being potential violations are compliant with the ordinance, or to correct any program deficiencies and remedy any violations identified during the visit to the maximum extent possible. As long as a community is making adequate progress toward correcting program deficiencies and remedying violations, FEMA will not initiate a formal probation. It is important that the community work toward resolving its problems to ensure that future flood damages and potential loss of life are mitigated. FEMA, however, will initiate probation in a community that chooses not to address or make sufficient progress in resolving its floodplain management issues (refer to *NFIP Guidance for Conducting Community Assistance Contacts and Community Assistance Visits* **and** *National Flood Insurance Program Community Compliance Program Guidance* for more information). The procedures for placing a community on probation or suspending a community from the program are established in 44 CFR §59.24(b) and (c) and discussed below.

### 1. State Minimum Requirements

FEMA will support State-initiated enforcement actions, even in those instances where State regulations are more restrictive than FEMA requirements. This includes the imposition of NFIP probation on a community and possible suspension. If the State chooses not to enforce its own regulations, FEMA will limit its enforcement actions to those not meeting the standards established in 44 CFR §60.3. The basis for this support of State enforcement actions is included in the precedence clause of 44 CFR §60.1(d).

## 2. Probation and Suspension Processes

A probation action can serve one or both of two main purposes. First, in the case of a community with violations and program deficiencies that may not be serious enough to warrant suspension, probation is a tool for obtaining compliance. Being placed on probation emphasizes that a community's administrative and enforcement responsibilities are important and that neglecting these responsibilities does in fact jeopardize participation in the NFIP. Second, in the case of a community with violations and program deficiencies that may warrant eventual suspension, probation is the formal precursor to suspension. In both instances, the imposition of probation is the formal notification to the community that its floodplain management program is regarded by FEMA as non-compliant with NFIP criteria.

When it becomes necessary to initiate probation, the Regional Office (under signature of the FEMA Regional Administrator) notifies the community by letter that it will be placed on probation in 120 days if the community does not demonstrate that it has corrected its program deficiencies and remedied violations to the maximum extent possible. (A copy of this letter can be found in Appendix A of the *NFIP Community Compliance Program Guidance* manual.) The probation letter should state the violations and program deficiencies, the corrective actions and remedial measures required, and the fact that insurance remains available during probation. While probation has no effect on the availability of flood insurance, an additional charge of \$50 is added to the premium for each policy for a period of at least 1 year. Even if the community remedies all violations, the surcharge must stay in effect for the entire year, so that each policy holder is charged equally. A 120-day notice is provided, so that the community has one last opportunity to remedy the violations and correct the program deficiencies and avoid probation. The notice also ensures that policyholders are given adequate notification of the impending probation and the additional premium that will be charged. According to NFIP regulations, FEMA (e.g., the NFIP Bureau and Statistical Agent) must provide each policyholder in the community a notice of the pending probation at least 90 days before probation is to begin. The regulations further require that a press release be issued to the local media at least 60 days before probation is to begin, explaining the reasons for and the effects of probation. During the 120-day period, the community has the opportunity to avoid probation by demonstrating compliance with the NFIP requirements.

When a community is placed on probation, the Regional Office sends a letter to the community establishing new compliance deadlines. (A copy of this letter can be found in the *NFIP Community Compliance Program Guidance* manual.) If the community fails to take remedial measures during the period of probation, the Regional Office can recommend to the Floodplain Management Branch that the community be suspended from the NFIP. The Floodplain Management Branch then sends the community a 30-day "show cause" letter citing the specific program deficiencies and violations and the steps that the community will need to take to avoid suspension, including correcting the program deficiencies and remedying the violations to the maximum extent possible. If the community cannot demonstrate that it has

completed those actions by the end of the 30 days, it is sent a 30-day suspension letter, and notice of the suspension is published in the Final Rule, *Suspension of Community Eligibility*. At the end of the 30 days, it is suspended from the NFIP. When a community is suspended from the NFIP, flood insurance is no longer available. In addition, the community is subject to limitations on Federal financial assistance, as discussed in the **Adoption of Initial FIRMs and Map Revisions** chapter.

Most communities comply with NFIP requirements before FEMA issues a probation notice. Communities often recognize that it is in everyone's best interest to bring the community into compliance before probation or suspension occurs. One of the primary reasons communities comply is to avoid the disruptions in the real estate market that would result from the potential loss of flood insurance.

## **D. SUSPENSION FOR NON-COMPLIANT REGULATIONS**

Communities should be careful when they decide to modify floodplain management regulations. These types of alterations may render a compliant ordinance non-compliant. It is equally important that the originally approved ordinance is thoroughly reviewed. It is not uncommon for deficiencies to be missed during the original approval phase and a non-compliant ordinance confirmed. In both cases, the community may be subject to suspension.

### **1. Repeal or Amendment of A Compliant Ordinance**

A community that repeals compliant floodplain management regulations or amends a compliant ordinance so that it becomes non-compliant may be suspended under 44 CFR §59.24(b). Under this provision, the Administrator is required to send the community a 30-day suspension notification letter and notice of the suspension is published in the *Federal Register* under the "Suspension of Community Eligibility" notice. If the community does not demonstrate that it has a compliant floodplain management ordinance prior to the end of the 30-day period, it is suspended from the NFIP. If development has taken place in the community that is inconsistent with 44 CFR §60.3, an enforcement action should be initiated in accordance with the NFIP Community Compliance Program.

The Regional Office contacts the community to verify that the ordinance has been repealed or amended and obtains a copy of the legislative action or ordinance amendment. The community should be provided with an opportunity to rescind its action, provided that no development inconsistent with NFIP floodplain management criteria, such as new construction that is not compliant with NFIP requirements, has taken place in the interim. If the community does not rescind its actions, the Region will submit to the Floodplain Management Branch supporting documentation along with a recommendation that a 30-day suspension letter be sent to the community. The supporting documentation should include a copy of the non-compliant floodplain management ordinance and/or evidence that the community

has refused to provide copies of compliant floodplain management regulations. Based on the response to the 30-day “show cause” letter that the community should be suspended, the Floodplain Management Branch establishes a suspension date that should correspond, where possible, with an established Regular Phase conversion date. The Floodplain Management Branch then sends the community a 30-day notification letter by certified mail. The suspension letter should be received by the community at least 30 days before the suspension date. The community suspension is published in the *Federal Register* under 44 CFR §64.6, “Suspension of Community Eligibility” notice, on or before the suspension date.

The Floodplain Management Branch then issues a press release to the local media, explaining the reasons and effects of the suspension. If the community becomes compliant prior to the suspension date, the Regional Office notifies the Floodplain Management Branch. On the suspension date, the Floodplain Management Branch suspends the community by updating the Community Information Screen in CIS, and the Regional Office sends the community a follow-up letter confirming the suspension and offering assistance in developing compliant regulations.

## **E. SUSPENSION FOR A DEFICIENT ORDINANCE**

There are times when a participating community has deficiencies in its ordinance that were inadvertently overlooked when the community joined the NFIP or when the community revised its ordinance. These deficiencies are normally found while conducting a Community Assistance Contact (CAC) or CAV. Generally, the non-compliant provisions of the ordinance are identified in the CAV/CAC follow-up letter, and the community is given a period of time to amend the ordinance. The State or Regional Office may provide technical assistance to the community to correct the ordinance. If the ordinance is not amended in the specified time period, the Regional Office notifies the Floodplain Management Branch about the non-compliant ordinance. The Floodplain Management Branch then sends the community a “deficient ordinance” letter (Exhibit SUS-1), notifying the community that it has 90 days to correct the deficiencies in its ordinance or it will be suspended from the NFIP. A suspension date is established to coincide with a FIRM effective date. If the community does not correct its ordinance deficiencies, the community is sent a 30-day suspension notification and published in the Final Rule, *Suspension of Community Eligibility*. If the community does not comply prior to the suspension date, the community will be suspended.

## F. PROCEDURES FOR WITHDRAWING A COMMUNITY FROM THE NFIP

The NFIP is a voluntary program, and a community may withdraw from the program at any time by submitting to the Administrator a copy of a legislative action that explicitly states its desire to withdraw from the NFIP. When the resolution to withdraw is received, the Regional Office contacts the community to ensure that local officials are fully aware of the consequences of withdrawal. The Regional Office fully documents the contact with the community. In addition, the Regional Office notifies the Floodplain Management Branch and submits a copy of the legislative action or resolution requesting withdrawal, along with supporting documentation such as correspondence to and from the community.

Once the Floodplain Management Branch receives the withdrawal documentation, the Floodplain Management Branch establishes a withdrawal date and officially notifies the community by certified letter of the effective withdrawal date and the requirements for reinstatement. Once the community has been notified, community participation is changed to “Withdrawn” on the Community Information Screen in CIS, and the community status is updated and published in the quarterly Final Rule, *Suspension of Community Eligibility*.

## G. REINSTATEMENT PROCEDURES FOR SUSPENDED OR WITHDRAWN COMMUNITIES

Communities that are suspended or withdraw from the NFIP can be reinstated into the program if they meet certain requirements. The minimum acceptable reinstatement package, for a community suspended under 44 CFR §59.24(a) or a community that has withdrawn from the program, will be the application sheet, a certified copy of a Resolution of Intent or its equivalent, and adopted legally enforceable floodplain management ordinances.

The following NFIP regulation applies to reinstatements:

### **44 CFR§59.24(f):**

If during a period of ineligibility under paragraphs (a), (d), or (e) of this section, a community has permitted actions to take place that have aggravated existing floodplain, mudslide (i.e., mudflow) and/or flood related erosion hazards, the Administrator may withhold reinstatement until the community submits evidence that it has taken action to remedy to the maximum extent possible the increased hazards. The Administrator may also place the reinstated community on probation as provided for in paragraph (b) of this section.

A suspended or withdrawn community could have permitted actions to take place that aggravated existing floodplain hazards. For example, the community could have allowed fill in the floodway that increased flood stages or allowed buildings to be built with their lowest

floors below the BFE. If so, the community must submit evidence that it has acted to remedy, to the maximum extent possible, the increased floodplain hazards (44 CFR §59.24[f]). The Regional Office has discretion in how it determines whether the community has allowed actions that aggravated existing floodplain hazards or has taken actions to remedy them. Most NFIP communities that are suspended for failure to adopt are only suspended for a few weeks or months before they apply for reinstatement, and little or no development has taken place during this period. In these cases, a phone call to the community may be all that is necessary. For larger communities, or communities that have been out of the NFIP for extended periods of time, a CAV or its equivalent may be required.

To process a reinstatement, the Regional Office develops proposed recommendations to remedy any actions that aggravated flood hazards while the community was out of the NFIP and obtains the Floodplain Management Branch's concurrence. The Regional Office then informs the community of these requirements by letter. Examples of remedial measures that have been required for the reinstatement of communities include removing floodway obstructions, restudying a stream or re-delineating a floodway at community expense, and surveying the lowest floors of buildings and notifying property owners of their hazard. Actions that aggravate flood hazards are generally not violations of a local ordinance, since the community usually has no floodplain ordinance in effect while it is out of the program. This may limit the community's legal authority to undertake some remedial measures. If reinstatement is recommended, the required ordinances have been adopted, and actions have been taken to remedy any aggravation of the flood hazard, the Floodplain Management Branch establishes a reinstatement date and issues a reinstatement letter (Exhibit SUS-2) to the community. Copies of the reinstatement letter are sent to the Regional Administrator and the NFIP State Coordinator. Procedures for reinstating communities that have been suspended for failure to enforce floodplain management ordinances are discussed in 44 CFR §59.24(c).

The Floodplain Management Branch updates the Community Information Screen in CIS and then lists the community in the quarterly "Community Eligibility Report" to be published in the Final Rule, *List of Communities Eligible for the Sale of Flood Insurance*.



**FEMA**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Name]  
[Address]

Dear [Mr./Ms. Addressee]:

This letter is to inform you of an important matter concerning your community's participation in the National Flood Insurance Program (NFIP). The [Community] participates in the NFIP and is therefore required to have floodplain management measures in place that meet or exceed the minimum requirements of the NFIP. The Federal Emergency Management Agency (FEMA) Region [Numeral] Office in [City], [State], has informed us that the [Community] has not amended its ordinance to incorporate the necessary floodplain management provisions required of communities that participate in the NFIP. The [Community]'s continued participation in the NFIP is in jeopardy unless the community takes the necessary steps to adequately amend the community's floodplain management ordinance by [Date].

The [Name of State NFIP Office] has provided the [Community] with a model flood damage prevention ordinance that fully meets the requirements of Title 44 Code of Federal Regulations Section 60.3[Letter]. We encourage your community to adopt the model ordinance to ensure continued program participation.

I realize your community may now be in the final adoption process, or may have recently adopted the appropriate measures. If you have not done so, please consider this a formal reminder that you have until [Date], to adopt the appropriate floodplain management measures and have them approved by the [Name of State NFIP Office] and our Regional Office staff. Your community will be suspended from the NFIP on that date if your floodplain management measures are not in place. Your community's adopted measures will be reviewed upon receipt, and our Regional Office will notify you when your measures are approved.

Please note that there are significant consequences to a community that is suspended from participation in the NFIP. Flood insurance may not be sold or renewed within the community. It is important to also note that when a community is suspended, it is subject to the provisions of Section 202(a) of Public Law 93-234, as amended. This section prohibits Federal officers or agencies from approving any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, for acquisition or construction purchases within special flood hazard areas. For example, this would prohibit mortgage loans guaranteed by the

**Exhibit SUS-1. Deficient Ordinance Letter**

Department of Veterans Affairs, insured by the Federal Housing Administration, or secured by the Rural Economic and Community Development Services. In the case of disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, as amended, this prohibition only applies to assistance in connection with a flood.

Furthermore, Section 202(b) of P.L. 93-234, as amended, requires federally regulated lending institutions to notify the purchaser or lessee of improved real property situated in a special hazard area whether Federal disaster assistance will be available when such property is being used to secure a loan that is being made, increased, extended or renewed.

A suspended community can regain eligibility in the NFIP by submitting a new application and enacting the floodplain management measures established in Section 60.3 of the NFIP regulations. However, please note that during the period of suspension from the NFIP, if the community permits development to take place in the floodplain that aggravates the flood hazard, the community will be required to remedy the increased hazard to the maximum extent possible before eligibility can be restored.

If you should encounter difficulties in enacting the measures or have other questions, I recommend that you contact the **[Name of State NFIP Office]**. You may contact **[Name]**, the NFIP State Coordinator, by telephone at **[Phone]**, in writing at **[Address]**, or by electronic mail at **[E-mail]**. Both the NFIP State Coordinator staff and our Regional Office staff will be happy to provide technical assistance and guidance in the development of floodplain management measures. The adoption of compliant floodplain management measures will provide protection for your community and will ensure participation in the NFIP. The Regional Office may be contacted by telephone at **[Number]** or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region **[Numeral]**, at **[Address]**.

I encourage you to submit your community's floodplain management measures and have them approved by **[Name of State NFIP Office]** and our Regional Office staff to avoid suspension from the NFIP.

Sincerely,

Sandra K. Knight, PhD, PE  
Deputy Federal Insurance and  
Mitigation Administrator, Mitigation

cc: **[Name]**, Regional Administrator, FEMA Region **[Numeral]**  
**[Name]**, NFIP State Coordinator, **[NFIP Office]**  
**[Name]**, Floodplain Administrator/Appropriate Title, **[Community]**

**Exhibit SUS-1. Deficient Ordinance Letter**



**FEMA**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Name]  
[Address]

Dear [Mr./Ms. Addressee]:

The Department of Homeland Security's Federal Emergency Management Agency (FEMA) has completed its review of the [Community]'s floodplain management measures. I am happy to inform you that the [Community]'s floodplain management measures are in compliance with the 44 Code of Federal Regulations Section 60.3[Letter] of the National Flood Insurance Program (NFIP) regulations and satisfactorily meet the program requirements at this time. Pursuant to Section 59.24, the [Community] is reinstated as a participating community in the NFIP effective on [Date]. This reinstatement means that flood insurance under the NFIP is now available to local property owners and may be purchased from any insurance agent or broker licensed to do business in the State where the insurable property is located.

There is a 30-day waiting period before a newly purchased flood insurance policy takes effect or for any additional coverage or endorsement that may increase policy limits. The waiting period ends and the policy take effect at 12:01 a.m. on the 30th calendar day after the insurance policy application date and payment of premium.

There are 10 exceptions to the 30-day waiting period. However, I am only explaining the two most frequently used exceptions in this letter. The two most frequently used exceptions are: (1) when the initial purchase of flood insurance is in connection with the making, increasing, extension, or renewal of a loan, there is no waiting period and coverage is effective immediately; and (2) when the purchase of flood insurance is related to a revision or update of a Flood Hazard Boundary Map or Flood Insurance Rate Map (FIRM), there is a one-day waiting period. Flood insurance coverage takes effect at 12:01 a.m. on the day after the coverage is purchased for a structure located in a Special Flood Hazard Area (SFHA), an area subject to inundation by the base (1-percent-annual-chance) flood, on the revised flood map, which was not previously located in an SFHA prior to the revision. This exception is limited to a 13-month period and begins on the date the revised map is issued. The information on the remaining eight exceptions is contained in the enclosed NFIP "Policy Issuance 5-98" dated October 1, 1998.

**Exhibit SUS-2. Reinstatement Letter**

The FIRM, which shows the Base Flood Elevations (BFEs) established for the [Community], became effective on [Current Map Date]. This FIRM date indicates the effective date for the authorization of the sale of first and second layer flood insurance coverage at actuarial rates for all new construction and substantial improvements to existing structures within the [Community]. The first layer coverage on structures built prior to [Initial FIRM Date], will be available at subsidized rates unless improvements are made to the structure.

The actuarial rate zones applicable to the [Community] are indicated on the FIRM. Please be aware that the increase or decrease of flood insurance costs for a structure is based on the location of the structure's first floor and its relationship to the BFEs for the [Community]. In addition, on the effective FIRM date, the FIRM supersedes all previous maps for the purpose of determining whether individual properties are located inside or outside the SFHA. After the effective FIRM date, new construction will be charged actuarial rates, which may be higher, if the structure is not built in compliance with the NFIP floodplain management requirements.

I believe the effective administration and enforcement of your adopted floodplain management regulations will enable the [Community] to substantially reduce future flood losses through its prudent management of its floodplains. If you need additional assistance or information, I recommend you contact [Name], the NFIP State Coordinator, by telephone at [Number], in writing at the [Name of State NFIP Office and Address], or by electronic mail at [E-mail]. The FEMA Regional staff in [City, State], is also available to assist you. You may contact the Regional staff by telephone at [Number] or in writing. Please send your written inquiries to the Director, Federal Insurance and Mitigation Division, FEMA Region [Numeral], at [Address].

Sincerely,

Sandra K. Knight, PhD, PE  
Deputy Federal Insurance and  
Mitigation Administrator, Mitigation

Enclosure

cc: [Name], Regional Director, FEMA Region [Numeral]  
[Name], NFIP State Coordinator, [NFIP Office]  
[Name], Floodplain Administrator/Appropriate Title, [Community]

**Exhibit SUS-2. Reinstatement Letter**

# ADOPTION OF HIGHER STANDARDS

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# ADOPTION OF HIGHER STANDARDS

## A. OVERVIEW

This chapter discusses the importance of communities adopting and enforcing more restrictive State and local measures, in addition to the minimum National Flood Insurance Program (NFIP) requirements, to prevent the loss of life and property damage. The “precedence clause” at 44 CFR §60.1(d) specifically states that the criteria of the NFIP are minimum standards and that any floodplain management regulations adopted by a State or community that are more restrictive than the NFIP criteria are encouraged and take precedence.

The precedence clause has important implications for adoption of higher regulatory standards:

- More restrictive community regulations must meet NFIP minimum requirements and, if they are submitted, should be approved.
- If a State adopts floodplain management statutes and regulations that include requirements that are more restrictive than NFIP minimum requirements, then communities must also meet the State’s more restrictive requirements. Communities that do not meet the State’s more restrictive State requirements are non-compliant and can be suspended from the NFIP. Note that it is not enough for the State standard to be in a model floodplain management ordinance; it must be established by statute or regulation. See also section C of the **Eligibility and Community Land-Use Regulations: Ordinances, Building Code, and Other** chapter.

### 44 CFR§60.1(d):

The criteria set forth in this subpart are minimum standards for the adoption of floodplain management regulations...Any community may exceed the minimum criteria under this part by adopting more comprehensive floodplain management regulations...In some instances communities may have access to information or knowledge of conditions that require, particularly for human safety, higher standards than the minimum criteria set forth in Subpart A of this part. Therefore any floodplain management regulations adopted by a state or community which are more restrictive than the criteria set forth in this part are encouraged and shall take precedence.

It is FEMA’s policy to encourage States and communities to adopt more restrictive floodplain management regulations. NFIP criteria are national minimum requirements and cannot address all of the unique circumstances of a community. FEMA has established the NFIP’s Community Rating System (CRS), in part, to encourage communities to adopt and enforce more restrictive floodplain management regulations. CRS provides discounts on flood insurance premiums for communities that undertake floodplain management activities above and beyond the minimum requirements of the program.

## B. ADOPTION OF MORE RESTRICTIVE ORDINANCE MEASURES

FEMA has established minimum floodplain management requirements for communities to adopt in order to participate in the NFIP. In addition to these minimum NFIP requirements, communities must enforce more restrictive State requirements, but they should also consider enacting regulations that exceed the State and Federal criteria, to further prevent loss of life and property damage and to maintain the beneficial uses of floodplains. Additional regulatory measures can be found in 44 CFR §60.22, *Planning Considerations*. Refer also to the Association of State Floodplain Managers (ASFPM) publication entitled **No Adverse Impact: A Toolkit for Common Sense Floodplain Management (2003)**.

### Examples of More Restrictive Requirements

- Encroachment Standards
- Setbacks
- Freeboard
- Foundation Standards

Many states and regions have made adoption of more restrictive ordinances easier by providing model ordinances that clearly identify and recommend the inclusion of higher regulatory standards. Many of these models include the minimum standard (either NFIP or State) followed by more restrictive language the community may choose to enact. Model ordinances widely available and accessible through State web sites and commonly rolled out to communities during the map adoption process are believed to have greatly increased the number of communities adopting more restrictive provisions into their floodplain management regulations in recent years.

As FEMA implements Risk MAP, more focus will be given to providing communities with the tools to strengthen local programs and reduce risk. Effective communication and wide acceptance of risk reduction measures such as the adoption of higher regulatory standards and the alignment of mitigation plans with such measures are key to the success of the Risk MAP program. A few examples of the commonly adopted higher regulatory standards are discussed below.

### 1. Encroachment Standards

Some communities and States are not comfortable with allowing development in a flood fringe that is defined by floodway analyses that assume encroachment may occur until the water-surface elevation increases by up to 1 foot. A 1-foot increase in flood heights will increase the potential

### Floodway Standards

In some States, floodways are mapped on the basis of allowing flood heights to increase by less than 1 foot. In those States, the encroachment certification must be based on the more restrictive State standard, not the FEMA standard that allows a 1-foot rise.

for flood damage to existing floodprone buildings and will affect properties that were not otherwise threatened by the base (1-percent-annual-chance) flood. This is especially true in flat areas, where a 1-foot increase can extend the floodplain boundary inland a considerable distance.

These communities and States require floodway mapping and encroachment studies to allow a smaller surcharge, usually 0.5 or 0.1 foot. Twelve States require that regulatory maps use a floodway mapping surcharge smaller than the NFIP's 1-foot minimum standard. This results in a wider floodway and less potential for increased flood losses caused by future development.

In Minnesota, one watershed district took another regulatory approach, enacting regulations that restricted encroachments outside of the floodway, in the flood fringe, to 20 percent of the total floodplain area. In Washington State, some communities treat higher velocity and deeper flood fringe areas as floodways and make development in these areas comply with the floodway construction standards.

## **2. Setbacks**

Setbacks may also be used to keep development out of harm's way by establishing minimum distances that structures must be positioned or "set back" from river channels and coastal shorelines. Setbacks from watercourses have been used to minimize the effect of non-point sources of pollution caused by land development activities, timber harvesting, and agricultural activities. Areas within the setback are often required to be left in natural vegetation as a buffer to protect water quality and limit erosion and sedimentation. Solid waste landfills and onsite sewage disposal systems often are restricted, within certain distances of a body of water.

Setbacks can be defined by vertical height, horizontal distance, or a combination. While floodplain boundaries are defined by vertical measures, horizontal setbacks also provide protection from flood damage, especially in coastal areas where wave effects decrease further inland. For coastal shorelines, setback distances act as buffer zones against beach erosion and can protect sand dunes. In riverine situations, setbacks help prevent erosion of the channel banks and sedimentation of the channel; keep development out of high-velocity, deep areas of the floodplain; and protect riparian habitat. Setbacks are particularly useful along rivers and streams that are designated as unnumbered A zones, where FEMA has not provided sufficient data to determine Base Flood Elevations (BFEs) or establish a floodway.

### **3. Freeboard**

Freeboard is an additional height requirement above the BFE that provides a margin of safety against uncertainties in floodplain modeling, waves smaller than 3 feet, increases in flood stage due to future upstream development, and flood level increases due to flood fringe development. Many State and community floodplain management regulations require that buildings be elevated or floodproofed to the BFE plus 1 or more feet of freeboard. This reduces the risk of flooding and makes the structure eligible for a lower flood insurance premium rate.

While not required by NFIP standards, communities are encouraged to adopt at least a 1-foot freeboard to account for the 1-foot rise built into the concept of designating a regulatory floodway and the encroachment requirements where floodways are not identified. One of the obstacles that communities may face in adopting freeboard is cost. However, when constructing a new elevated building, the additional cost of adding 1 or 2 feet is usually negligible. Elevating buildings above the BFE also reduces flood insurance costs for current and future owners.

### **4. Foundation Standards**

Without a stable foundation, an elevated building can suffer damage from a flood due to lateral movement, uplift, debris impact, erosion, scour, or settling. The NFIP regulations require as a performance standard in A zones that buildings be anchored to resist floatation, collapse, or lateral movement, and that enclosed areas below the BFE have openings that automatically allow the entry of floodwaters into the enclosure to equalize hydrostatic pressure. NFIP regulations for V zones require that the design of building foundations be certified by a registered professional engineer or architect.

The NFIP performance standards for A zones do not specify how building foundations are to be constructed. More specific foundation construction standards would help protect buildings from flood damage. One option is to require that a registered professional engineer or architect certify the adequacy of elevated building foundations and the proper placement, compaction, and protection of fill when it is used to elevate a building. This is an ordinance requirement in the New Orleans area, where subsidence threatens so many buildings.

### **5. Development of BFE Data**

NFIP regulations require that all subdivision proposals and other proposed developments greater than 50 lots or 5 acres in Zone A include BFE data. Subdivisions and proposed developments that do not meet these thresholds are only required to use BFE data if it is already available. Some States and communities require BFE data for all subdivisions and other proposed developments in Zone A, including individual buildings, and a few even require that an encroachment analysis be preformed. In some situations, the State, community, or a spe-

cial district develop the BFEs for the applicant, but in other instances the applicant is responsible for obtaining the help of a qualified engineer.

**44 CFR § 60.3(b)(3):**

Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is greater, include within such proposals BFE data,

This provision has a number of advantages:

- There is more certainty that a building built to a BFE is reasonably safe from flooding.
- The floodplain management administrator does not have to judge what elevation to require and whether a building is reasonably safe from flooding.
- Since the building is elevated above the BFE, flood insurance rates and premiums are much less expensive than if there were no BFE.

There is a cost for developing site-specific BFEs, but in the long run many States and communities feel that this cost is more than made up for in reduced flood damages and lower flood insurance premiums. Software available now makes the development of a site-specific BFE less costly than it used to be, particularly considering the amount of investment that is at risk even for a single building.

### **C. LOCATION RESTRICTIONS**

There are situations where prohibitions or strict limitations on development in the floodplain may be appropriate. In some floodplains, the hazard may be so severe that the community decides to prohibit or limit some or all development in portions of the floodplain. A common approach is to prohibit particular types of structures in the floodway or in areas exceeding certain flood depths or velocities. Some communities use planning and regulatory tools such as density transfer, transfers of development rights, and planned unit development ordinances to require or encourage developers to avoid or minimize development in floodplains.

Because this is the most restrictive higher regulatory provision, location restriction language must be carefully drafted to avoid legal challenges. Sometimes, a community can tie transfers of development rights or other benefits to a development that avoids the flood hazard area, to minimize the economic impacts of the restrictions on property owners. These types of situations benefit everyone and reduce the potential for challenging the ordinance.

## **1. Highly Hazardous Areas**

Prohibiting development makes sense in highly hazardous areas, where people are exposed to a life-threatening situation even though buildings could be protected from flood damage. For example, it would be appropriate to prohibit development at the apex of an alluvial fan or along a narrow floodplain in a stream valley that is susceptible to flash flooding.

## **2. Critical Facilities**

For some activities and facilities, even a slight chance of flooding poses too great a threat. These activities and facilities should be given special consideration when regulatory alternatives and floodplain management plans are formulated.

There are four kinds of critical facilities:

- Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials;
- Hospitals, nursing homes, and housing likely to have occupants who may not be sufficiently mobile to avoid injury or death during a flood;
- Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- Public and private utility facilities which are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

Ideally, a critical facility should not be located in a floodplain. Communities often prohibit the development of critical or hazardous facilities in or near the floodway, V zones, or the entire floodplain. If they are located outside of floodplains, emergency and other critical facilities can continue to operate during a flood. While a critical facility in a floodplain may be considered protected from the BFE, a higher flood or an error by the builder or operator could result in a greater risk than the community is willing to accept. If locating a critical facility in a flood hazard is unavoidable, then a common approach is to apply higher levels of protection, either to the 500 year flood level or a 2-foot or higher freeboard above the BFE. This at least will help ensure that the critical facility can resume operation as soon as floodwaters recede.

## **3. Low-Density Zoning**

As part of their land-use planning and zoning ordinances, many communities consider which uses and densities are appropriate for flood hazard areas. Some elect to zone the floodplain for agricultural open space or other low-density uses, to minimize the number of structures that can be built. Other communities limit development in floodplains by requiring larger lots than in areas outside of the floodplain.

A few States have land-use planning laws that require local plans before enacting a zoning ordinance. A few States, including Oregon, Florida, New Hampshire, and Hawaii, mandate that local plans account for floods and other natural hazards.

#### **4. Natural Areas**

The natural and beneficial functions of floodplains have led communities to promote and guide the less intensive use and development of floodplains. More communities are requiring that subdivision proposals and large-lot commercial developments set aside as open space important natural attributes such as wetlands, drainage ways, and floodplain areas, as a condition for approval.

#### **5. Wetland Protection**

The Federal regulations that local permit officials see most often are established by Section 404 of the Clean Water Act. Jointly administered by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, the Section 404 program regulates the discharge of fill or dredged material into United States waters, including adjacent wetlands.

Section 303(b)(1) of the Clean Water Act provides extensive environmental criteria for judging permit applications, while emphasizing the need to prevent avoidable losses of aquatic resources and to minimize adverse environmental impacts.

Because wetlands are often adjacent to floodplains, the management of wetlands is important to flood-loss reduction. All coastal States and many inland States have their own wetlands regulations. Many communities establish regulations that are more restrictive than State or Federal programs. The desire to reduce the cumulative impacts of wetland losses has led many jurisdictions to adopt a “no net loss of wetlands” policy. “No net loss” is addressed in terms of either acreage or the functional value of the wetlands.

### **D. COMMUNITY RATING SYSTEM**

Many of the more restrictive requirements mentioned above are eligible for credit under CRS, a voluntary program that provides insurance premium discounts to policyholders in NFIP-participating communities with more restrictive floodplain management programs.

The table below lists the higher standard and the corresponding CRS activity number and name. Please see the *CRS Coordinator’s Manual* for more information on each activity.

Higher Standard	CRS Activity Number and Activity Name
More Restrictive Ordinance Measures	Activity 400 – Mapping and Regulations
Encroachment Standards	Activity 410 – Additional Flood Data
Setbacks	Activity 430 – Higher Regulatory Standards
Freeboard	Activity 430 – Higher Regulatory Standards
Foundation Standards	Activity 430 – Higher Regulatory Standards
No-build Floodplain District Provisions	Activity 420 – Open Space Preservation
Highly Hazardous Areas	Activity 430 – Higher Regulatory Standards
Critical Facilities	Activity 430 – Higher Regulatory Standards
Low-Density Zoning	Activity 430LD – Land Development Criteria
Natural Areas	Activity 420 – Open Space Preservation

To be eligible for CRS, a community must be in the Regular Phase and in full compliance with the NFIP. Communities in the Emergency Phase of the program are not eligible.

If a newly incorporated community incorporates out of a county or other community that participates in the CRS, community officials need to be aware that the community will need to apply for CRS as a separate entity in order to obtain the insurance discounts that were previously available. As stated above, the community must also be in full compliance with the NFIP and be in the Regular Phase to participate in CRS. Communities must participate in the NFIP for 1 year before they can be eligible for CRS.

## E. NO ADVERSE IMPACT

No Adverse Impact (NAI) floodplain management is a managing principle developed by the ASFPM to improve the effectiveness of local floodplain management programs. CRS and NAI are closely related. Most of the activities associated with the NAI principles are recognized by one of the CRS activities. Rather than depending on the minimum requirements of State or Federal programs, NAI provides tools for communities to provide a higher level of protection for their citizens and to prevent increased flood risk for the present and the future.

For local governments, NAI floodplain management represents a more effective way to tackle flood problems. The concept offers communities a framework with which to design programs and standards that meet their true needs, not just the requirements of a State or Federal agency. The basic principle behind NAI is that actions in the floodplain by one property owner should not adversely affect other property owners or the community. The NAI con-

cept is about communities being proactive, understanding potential impacts, and implementing prevention and mitigation activities before the impacts occur.

Please consult the ASFPM publication *No Adverse Impact: A Toolkit For Common Sense Floodplain Management* for more information about NAI. This publication also lists other CRS references and guides, shows which tools are credited by CRS, and notes the section of the *CRS Coordinator's Manual* where more information can be found.

## **F. ENFORCEMENT OF HIGHER REGULATORY STANDARDS**

### **1. Community Adoption of Higher Regulatory Criteria, but the Community Is Not Enforcing the Criteria**

A number of participating NFIP communities have adopted higher regulatory criteria, such as freeboard, either because a State statute or regulation require communities in the State to adopt higher regulatory criteria or if the State does not have a statute or regulation that requires higher regulatory criteria, communities have chosen to adopt higher regulatory criteria on their own. If during a Community Assistance Contact (CAC) or Community Assistance Visit (CAV) or other contact with the community, it is discovered that the community is not enforcing its higher regulatory criteria, FEMA and the State need to find out why the community is not enforcing these regulations. Detailed guidance is provided below on the following three situations as it relates to communities not adopting or enforcing higher regulatory criteria.

#### **a. Communities in States with a statute or regulation requiring adoption of higher regulatory criteria**

Some States may have a statute or regulation that is more restrictive than the NFIP floodplain management criteria and communities in those States may be required to adopt and enforce those State higher regulatory criteria. If a State requires its communities to adopt higher regulatory criteria and a community does not adopt or enforce the State-required higher regulatory criteria, the State may initiate an enforcement action under its authorities. If the State does not approve the community's regulations because they do not meet State criteria, FEMA can suspend the community. However, FEMA cannot suspend a community for failure to adopt higher regulatory criteria contained in the State model ordinance, unless the State has a statute or regulations in place requiring the adoption of higher regulatory criteria in the model ordinance.

Based on the precedence clause in 44 CFR 60.1 (d), FEMA will support a State initiating an enforcement action against a community in instances where the community is not enforcing its higher regulatory criteria but is required to do so based on a State statute or regulation. The precedence clause states that "any floodplain management regulations adopted by a State

or a community which are more restrictive than the criteria set forth in this Part are encouraged and take precedence.” FEMA can take an enforcement action against a community if a State pursues enforcement actions also against the community for failure to enforce the more restrictive criteria established under State statute or regulation.

If a State chooses not to enforce its own statute or regulation pertaining to higher regulatory criteria, FEMA shall limit its enforcement actions to compliance with NFIP criteria. FEMA should coordinate with the State in contacting the community to find out if the community is willing to enforce the State higher regulatory criteria. Because of concerns over legal enforceability of the community’s regulations (44 CFR 60.2[b]), FEMA should approach the State and find out whether the higher regulatory criteria in the community’s regulations can be removed. However, there may be instances when it may not be possible to remove the higher regulatory criteria if required under State statute or regulation.

**b. Communities that have adopted higher regulatory criteria in States that do not have a statute or regulation pertaining to higher regulatory criteria**

The precedence clause quoted above applies to communities that have voluntarily adopted higher regulatory criteria. FEMA can only condition acceptance of participation in the Program based on NFIP requirements and not more restrictive community criteria (44 CFR 59.24[a] and 59.24[d] and 60.1[d]). Therefore, FEMA must limit its enforcement actions to the NFIP criteria. Further, FEMA cannot take an enforcement action against the community if it is not enforcing its adopted higher regulatory criteria.

**Community Rating System**

The CRS recognizes community efforts beyond the minimum NFIP floodplain management criteria through reduced flood insurance premiums. Communities can receive credit for adopting such things as freeboard, enclosure restrictions, and requiring all structures be free of obstruction in V Zones. If a CRS community receives credit for higher regulatory criteria, but does not effectively enforce them, FEMA must remove those CRS credits. The loss of CRS credits applies to both situations described above in subsection a) and b).

As part of the CAV or CAC follow-up, FEMA or the State should ask the community to either effectively enforce the higher regulatory criteria or remove the criteria from the community’s regulations. The concern is that if there are provisions in the communities regulations that are not being enforced, the community may be challenged over legal enforceability of its regulations (44 CFR 60.1[b]).

# TRIBAL NATIONS

This section is currently under development. Efforts are underway by FEMA to evaluate and revise, if necessary, the current *Federal Insurance Administration Policy on Indian Tribal Organizations' Participation in the National Flood Insurance Program*, dated February 21, 1978.



# DEFINITIONS

**6-month Compliance Period.** A 6-month period beginning with the issuance of an LFD and ending with the effective date of a FIRM, during which a community must develop and adopt compliant floodplain management measures.

**30-day Letter.** The official letter that notifies community officials that only 30 days remain in which to submit legally enforceable floodplain management measures to the appropriate Regional Office for approval, to be compliant with Section 60.3 of the NFIP regulations. If measures are not submitted and approved prior to the expiration of the 30-day period, the community is suspended from the NFIP.

**90-day Letter.** The letter that reminds community officials that they have 90 days to seek approval by the appropriate Regional Office for legally enforceable floodplain management measures, to be compliant with Section 60.3 of the NFIP regulations.

**Community Information System (CIS).** FEMA's authoritative database for NFIP community status. CIS is used to administer the ordinance adoption process.

**Code of Federal Regulations (CFR).** A document prepared by the Federal government that contains the NFIP regulations as well as final NFIP rules.

**Community.** As defined in the NFIP regulations, a community is “any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native Village or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.”

**Conversion/Suspension Date.** The date that a community's initial or revised Flood Insurance Rate Map becomes effective and by which a community's newly adopted or amended floodplain regulations ordinance must be received and approved by the Regional Office. If approved by the Regional Office, the community is converted to the Regular Phase. If the ordinance is not approved by the Regional Office, the community is suspended from the NFIP on the Conversion/Suspension Date. Generally, two conversion dates are established each month.

**Emergency Phase.** The NFIP as implemented on an emergency basis in accordance with Section 1336 of the National Flood Insurance Act of 1968. The Emergency Phase allows communities to join the NFIP before a risk study is undertaken (e.g., a FIRM issued). It is intended as a phase to provide a first-layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

**Federal Register.** The *Federal Register* is published on a daily basis by the Office of the Federal Register. It provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. All Flood Insurance Agency program activities under Section 64.6 are published monthly in the *Federal Register*.

**Flood Hazard Boundary Map (FHBM).** An official flood map of a community, issued by the Administrator, and used in the Emergency Program for floodplain management and insurance purposes. The Special Flood Hazard Area (SFHA) boundaries are based on approximate data and designated as Zone A.

**Flood Insurance Rate Map (FIRM).** An official map of a community on which FEMA has delineated the area in which the purchase of flood insurance is required under the Regular Phase and the actuarial rate zones applicable to such areas.

**Map Modernization.** An initiative by FEMA to provide accurate and cost-effective flood maps and data to communities nationwide.

**Floodplain Management Regulations.** Zoning ordinances, subdivision regulations, building codes, health regulations, special-purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes local or State regulations of this type that provide standards for the purpose of flood damage prevention and reduction.

**International Building Code (IBC).** A national building code that a State or community can adopt that meets the minimum design and construction requirements of the NFIP for all buildings and structures. Some States mandate that communities use the IBC.

**International Residential Code (IRC).** A national building code that a State or community can adopt that meets the minimum requirements for the flood-resistant design and construction of one- and two-family dwellings. States and communities that adopt the IRC usually adopt the IBC also.

**Letter of Final Determination (LFD).** The official letter that notifies community officials of the final Base (1-percent-annual-chance) Flood Elevation (BFE) determinations for the community. It specifies the effective date of the FIRM and the appropriate portions of Section 60.3 of the NFIP regulations that a community must adopt prior to that date to remain eligible.

**Minimally Floodprone.** Label for communities that are subject to inundation by the base flood, but where existing conditions indicate that the floodprone areas are unlikely to be developed in the foreseeable future. SFHAs on FIRMs for minimally floodprone communities are designated as Zone A.

**Moratorium.** An interim measure, not to exceed a 6-month duration, that prohibits all new construction, substantial improvements, or other development within SFHAs. This measure allows a community to continue its participation in the NFIP and gives it additional time to adopt a compliant ordinance without being suspended.

**Floodplain Management Branch.** The Floodplain Management section of the Mitigation Division, located at the FEMA Headquarters. The Floodplain Management Branch provides guidance and support for community eligibility and adoption issues to the State and Regional Offices.

**Production and Technical Services (PTS).** The FEMA contractor charged with improving consistency throughout the Nation and monitoring Risk MAP's recent mapping initiatives performance goals.

**No Special Flood Hazard Areas (NSFHA).** FEMA's formal designation for a community that has no readily identifiable SFHAs. NSFHA communities do not have a FHBM or FIRM and are considered all Zone X.

**Probation.** A condition imposed by the Regional Administrator as a result of non-compliance with NFIP floodplain management criteria. A community is placed on probation for 1 year (which may be extended), during which time a \$50 surcharge is applied to all NFIP policies, including Preferred Risk Policies, issued on or after the probation surcharge effective date. If a community does not take remedial or corrective measures while on probation, it can be suspended.

**Regular Phase.** The program authorized by the National Flood Insurance Act of 1968 under which risk premium rates are required for the first half of available coverage (also known as "first layer" coverage) for all new construction and substantial improvements started on or after the effective date of the FIRM or after December 31, 1974, for FIRMs effective on or before that date. All buildings, the construction of which started before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date, are eligible for first layer coverage at either subsidized rates or risk premium rates, whichever are lower. Regardless of date of construction, risk premium rates are always required for the second layer coverage, and such coverage is offered only after the Administrator has completed a risk study for the community.

**Risk MAP. The Risk Mapping, Assessment and Planning Program**, is a new FEMA program that builds on the strength of Map Modernization to help communities nationwide with risk assessment and mitigation planning.

**Sanctioned.** Label for a community that has been identified as being floodprone for at least 1 year (usually through issuance of an FHBM or FIRM), which is not participating in the NFIP or has been suspended or withdrawn from the program. Federal assistance for acquisition or construction of buildings is not available in the designated floodplains of sanctioned communities.

**Special Flood Hazard Area.** A mapped area that is considered to be subject to inundation by the base flood.

**Suspension.** A process for removing communities from the NFIP that have not adopted compliant floodplain management regulations or that have not adequately enforced those regulations. Flood insurance may not be sold or renewed in communities that are suspended from the NFIP.



