
Floodplain – Shoreland Management Notes

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Basement Exemption Bill Signed

Wisconsin Act 311, recently signed by the Governor, allows communities to apply to the Federal Emergency Management Agency (FEMA) for an exemption to allow basements below the Regional Flood Elevation (RFE). ***Only communities which apply for and receive this exemption can allow basements below the RFE.*** Other communities must continue to enforce the standards in NR 116 which require basement floors to be no lower than the RFE and floodproofed to the Flood Protection Elevation.

Communities interested in applying for the basement exemption must meet a number of specific and complicated criteria. This process can take up to a year. Even if the

exemption is granted, specific standards for depth, floodproofing, fill and approved plans must be met. Because of these tough standards, FEMA has approved fewer than 10 exemptions in recent years.

If you have questions about the exemption process, please contact your local DNR floodplain specialist.

Non-Conforming Properties Face Double Standard

Non-conforming floodplain structures that are damaged **by means other than flooding** can be rebuilt according to federal standards, under the provisions of a law recently signed by the Governor. Wisconsin Act 455 only applies to non-conforming structures in floodplain areas. Structures in shoreland or wetland areas or anywhere else are not covered under this law.

Because the rules and case law governing non-conforming structures are complex, the department is currently researching the implications of this law in order to provide communities with complete and specific guidance on its applications for local ordinance administration. This guidance will be developed with the assistance of the Federal Emergency Management Agency.

The Act also gave an exemption to the city of Oak Creek, allowing a structure to remain in Crayfish Creek. The city cannot be required to remove the structure and it is authorized to maintain the structure without getting state permits or approval. A similar provision for this structure was passed as part of a budget bill several years ago and was later ruled to be unconstitutional.

Do You Need Flood Insurance? COVER AMERICA Campaign Moves Forward

Are you prepared for a flood? Did you know you don't have to be close to water to become a flood victim? Do you have flood insurance?

You need to know the answers to these questions!

The above, quoted directly from an National Flood Insurance Program ad, effectively captures the simple and powerful message at the heart of the *Cover America* flood insurance campaign: Flooding can happen anywhere at any time. Protect your family, your home or business and your future by purchasing flood insurance now. It's easier than you think!

Starting last October, *Cover America* has built awareness of flood risks and flood insurance through traditional and proven methods: a well-targeted advertising, marketing and public relations campaign that is designed to reach at least 80% of all adults with focused and hard-hitting messages.

The campaign targets homeowners, renters and small-business owners with information

on how to protect their most important investment and recover quickly after floods. Raising people's awareness of their level of flood risk and how easy it is to get flood insurance will make the decision to buy that much easier.

Radio, cable TV and national magazine ads have built general awareness of flooding and flood insurance. Posters, envelope stuffers, ad slicks and fact sheets are being distributed to insurance agents, lenders and local officials to help reinforce the key messages. In February, response-driven ads were run in high risk areas to make sure the message got through.

The messages are designed to urge people to call their insurance company, agent or the NFIP toll-free number (1-800-611-6123, ext. 78). That number is also a source of leads for agents and for information on the National Flood Insurance Program. Agents interested in receiving free leads produced through customer calls to this number can sign up for the program by calling 1-800-720-1093 or the FEMA FAX number at the end of the article.

To build on the awareness generated by the national campaign, the NFIP has started a co-op program to share in the costs for local insurance agents' advertising expenditures. For the next four years, agents can save 50% of the cost of their flood insurance advertising in either local newspaper ads or Yellow Pages display ads. Any **exclusive** flood insurance ad that features the NFIP logo qualifies. For more information on this program, call 1-800-564-8236.

The success of the *Cover America* campaign is best measured by the numbers. In the first four months (October 1995 - January 1996), over 13,000 calls from consumers were received in response to the campaign. In

February alone, when the new response-driven commercials began airing, the NFIP received more than 13,000 additional calls! Also, more than 22,000 agents have signed up for the Leads Generation Program.

By partnering with agents, insurance companies, lenders, and other government agencies, the *Cover America* campaign is spreading the message that flood insurance offers benefits to many different interests:

Consumers, who can protect their most important investment and recover quickly after floods; Small Business Owners, who can get their businesses up and running again quickly; Lenders, who can reduce the risk on mortgages they hold; The Insurance Industry, which benefits from increased business; State and Local Officials, who get more mitigation assistance from FEMA because of increased policy sales; and ultimately, The American Taxpayer, when federal disaster assistance decreases because more homes and businesses are covered by flood insurance.

For monthly updates about *Cover America* and order forms for publicity materials, please call the FEMA Fax at (202) 646-FEMA and enter the appropriate number:

- * Agent Sign-up Form for NFIP Leads Generation Program.....23017
- * *Cover America* Campaign Materials Order Form.....23018
- * Monthly *Cover America* Update.....23019

FEMA Reference Information

The upswing in recent flood disasters and passage of the National Flood Insurance

Reform Act (NFIRA) have sparked interest in floodplain management and flood insurance. FEMA has responded by revamping customer service and communication functions to better serve businesses, regulators and the general public. The following information sources should simplify your search for publications, information and answers to your most pressing floodplain management and insurance questions.

For quick answers to general policy and programmatic questions, the following phone numbers will be helpful.

Telephone Response Center

General Public	1-800-427-4661
Lenders	1-800-611-6125
Agents	1-800-720-1093
TDD	1-800-427-5593

Automated FAX Lines

FEMA's Office of Emergency Information and Public Affairs has installed an automated FAX distribution system for use by anyone with a push button phone. An index of all documents for the Flood Insurance Administration, including the new NFIRA, may be obtained on Doc. Number 23000. For Mitigation, enter Doc. Number 20000. Additional information on FEMA and its programs is available through the system by dialing in and following the voice prompts.

Dial (202) 646-FEMA.

<u>Doc. Number</u>	<u>Document Name</u>
23101	Federal Regulators' Final Ruling on Use of SFHDF

<u>Doc. Number</u>	<u>Document Name</u>	
23102	FEMA's Review of Determinations for Required Purchase of Flood Insurance, Final Rule	FEMA Distribution Center P.O. Box 2012 Jessup, Maryland 20794 1-800-480-2520 FAX: (301) 497-6378
		Recent publications of interest include:
23103	Camera Ready Copy of Standard Flood Hazard Determination Form with Instructions	* <i>How to Use a Flood Map to Protect Your Property</i> , FEMA 258, May 1995
23104	FEMA's Final Rule on Standard Flood Hazard Determination Form	* <i>Managing Floodplain Development in Approximate Zone A Areas</i> , FEMA 265, July 1995
23105	Mortgage Portfolio Protection Program	* <i>Engineering Principles and Practices for Retrofitting Flood Prone Residential Buildings</i> , 1995
23106	NFIP Policy Issuance: 30-Day Waiting Period	The Corps of Engineers has a series of publications on local floodproofing programs. To order, contact: U.S. Army Corps of Engineers ATTN: CECW-PF 20 Massachusetts Avenue, N.W. Washington, D.C. 20314 (202) 761-0169
23107	How to Request a Lender Flood Hazard Determination Review	
	FEMA maps and all other NFIP materials (including COVER AMERICA materials) should now be ordered through:	
	Federal Emergency Management Agency Mitigation Directorate Map Service Center 6730 Santa Barbara Court Baltimore, Maryland 21227-5624 1-800-358-9616 FAX: (410) 471-4030	A number of other organizations distribute public information materials, planning guides and technical manuals on floodplain and wetland management. Most have lists of available publications. These include: Terrene Institute (202) 833-8217
	Technical and general interest publications related to floodplain management that FEMA distributes can be ordered through this address:	Citizen information materials on watershed protection

U.S. Geological Survey
(303) 236-7477

Poster series on water resources for schools

U.S. Army Engineer Waterways Experiment
Station
(601) 634-4217

A Young Scientist's Introduction to Wetlands

EPA Wetland Information Hotline
(800) 832-7828

Wetlands Fact Sheets and other information

EPA Office of Regional Operations and
State/Local Relations
Washington D.C. 20460

*Environmental Planning for Small
Communities*

Institute for Water Resources
Water Resources Support Center
Casey Building
7701 Telegraph Road
Alexandria, VA 22315-3868
(703) 355-3042

*Cost Effectiveness Analysis for
Environmental Planning: Nine Easy Steps*

National Park Service's Rivers, Trails and
Conservation Assistance Program
(202) 343-3780

*How Greenways Work, a Handbook on
Ecology*

Waiting Period Exceptions For Flood Insurance

Section 579 of the National Flood Insurance Reform Act of 1994 requires a 30-day waiting period before coverage becomes effective for new or increased flood insurance policies. However, the regulations written to implement this section created four inequitable situations for insurance purchasers. To remedy these, the following policy decisions have been issued.

The 30-day waiting period will not apply when:

- There is an existing insurance policy and additional insurance is required due to the making, increase, extension or renewal of a loan, such as a second mortgage, home equity loan or refinancing. The increased coverage is effective at loan closing, assuming it has been applied for and the additional premium has been paid at or prior to closing.
- Additional insurance is required due to a map revision. The increased coverage is effective the day after it is applied and paid for.
- A lender determines that a loan not covered by flood insurance should be. Coverage is effective when applied and paid for.
- Additional insurance is purchased when the policy is renewed. The increase is effective on the date of renewal if the additional premium is received before the end of the grace period.

News From The FEMA Spring Meeting

State floodplain management and hazard mitigation staff from Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin met with FEMA staff in Chicago, April 16-18. The three-day meeting covered a variety of topics, summarized below.

Mitigation Grant Rules

Rules are being written for the Hazard Mitigation Grant Program (HMGP) and Floodplain Management Assistance Program (FMAP). To simplify the application process and minimize the paper work, standard forms will be used for all programs. FEMA will obligate all grant monies within two years of appropriation.

Each region's share of the FMAP monies will probably be based on the number of states in the region, the number of policies in force and the number of repetitive losses. Individual projects will be judged on their effectiveness in reducing flood risks, cost/benefit comparison, and feasibility.

All communities in good standing in the NFIP with a presidential disaster declaration are eligible for the HMGP grants. The following costs are not eligible:

- response-related costs
- routine maintenance costs
- mitigation costs for new construction
- partially constructed projects

Specific program application criteria are not final yet. We will provide updates as the rules are finalized.

Technical Issues

FEMA is testing a new software product that collects attributes of flood damaged

properties using Geographic Information System data. This data is used to produce observation sheets that include a picture of the structure and show the floodplain limit, flooding level, and structure location. This technology will be useful for doing substantial damage assessments and as a community planning tool.

A new Letter of Map Revision based on fill (LOMR-F) has been produced, which asks for the lowest floor elevation (including basement) after completion. FEMA hopes this new form will make it easier to identify applicants who plan to dig a basement after filling a site to remove it from the floodplain. Minnesota will not approve a LOMR-F until an acceptable development plan - showing no basement - has been approved. If there are no approved plans, the community must place a permanent deed restriction prohibiting basements on the property.

Flood Zone Determinations

The biggest problem is that many (over 100) companies are offering these services to lenders, but there are no minimum qualifications to judge them by and no way to determine their track record or experience.

About 30 companies belong to the fledgling National Flood Determination Association (NFDA), but membership is voluntary and the associations' rules and minimum standards are still being developed.

As lenders, realtors, local officials and property owners become familiar with the new requirements, we should see fewer problems such as incorrect map determinations or insurance requirements. However, more people are trying to remove property from the floodplain through the LOMA/LOMR process. In many cases,

flood determination companies are filling out the forms instead of registered engineers or land surveyors.

Some state staff believe the federal regulatory agencies should set minimum guidelines for these companies to follow. Also, local surveyors are starting to explore opportunities for some of this business, especially when a "quick and dirty" determination can't be done.

Regulatory Agency Update

The Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration, among others, are developing rules, required under the National Flood Insurance Reform Act of 1994, on monitoring lender practices in floodplain areas. Some particular concerns include whether "life-of-loan" monitoring is required, how current loans can be routinely audited, and would new maps be a trigger for doing a determination.

Other concerns are training for auditors, monitoring consistency among auditors, overseeing the implementation of new procedures, and concerns about lenders who don't sell loans on the secondary market and are not technically covered under the National Flood Insurance Reform Act.

Interesting Findings On Boards Of Appeals

In the fall of 1995, the American Planning Association's Zoning News staff mailed a survey to its subscribers to gather information about zoning boards of appeals. Approximately 600 responses poured in

from all over the country. From these responses, a group of 50 small and medium-size communities including villages, counties and towns with populations under 100,000 were studied focusing on basic information such as annual case load, the frequency of meetings, compensation, board structure, terms of offices as well as identifying several concerns. The following highlights some of the findings from the survey that were featured in the February, 1996 issue of Zoning News.

- Most communities are busy with zoning appeals. Only 11 of the 50 jurisdictions reported fewer than 12 cases per year. All but six have boards that meet monthly, and 10 meet more often. At the low end, the Washington County, Nebraska, Board of Adjustment has not met since September 1, 1994. "That either means everyone is getting their permits and following the law", says planning administrator Douglas Cook, "or a lot of people aren't getting permits and we haven't caught them." At the opposite extreme, Oldham County, Kentucky reports 132 cases. More than half the respondents had 30 or more cases per year; one fourth reported at least 50.
- Several communities have tried to limit the number of cases before their boards. According to administrative assistant Jo Evans, Springville, Utah has dramatically reduced its caseload. "There was a time when the board members seemed to think that the purpose of the board was to grant variances," she says. "That combined with a \$20 fee, just encouraged people to appeal." But Springville decided to get tough with the appellants. "We raised the fee to \$100 and require them to sit down with staff and go over the

conditions which need to be met in order to win the appeal,” Evans says. “When they find out what the legal requirements are, most people are not willing to risk the \$100.”

- As expected, finding volunteers to serve on board of appeals was identified as a problem. This is complicated when appointments have to meet special criteria. For example, McLean County, Illinois; Benzie County, Michigan; and Columbus, Indiana have geographic criteria. Appointees must come from separate townships or districts to ensure equal representation. In Columbus, one alternate must be from the extra-territorial jurisdiction.
- Without a doubt, adequate training is the primary issue for planners working with Zoning Board of Appeals. Training concerns, successes and failures dominated the comment list. Horror stories include a board with a 95 percent approval rate, conflicts of interest, and controversial cases with indefensible decisions.
- Some communities’ board members are able to participate in state-level or APA training programs, but Springeville, UT uses an unusual source. “Once or twice a year, we require our board members to go through a risk-management training session run by our liability insurance group,” says Jo Evans. They get very specific training on what they can or cannot do, and the risk management representative puts them through different scenarios so they get some practice. *It is very effective when your liability insurance representative stands up and says, “You cannot do that. You cannot violate your own codes.”*

- Many communities lack access to training programs but still prepare their board. Iowa City has an in-house program run by Melody Rockwell, board secretary and associate planner. “Every member goes through an orientation upon appointment,” she reports. “A workshop is held every two or three years to discuss protocol, due process, the quasi-judicial nature of the board, and the importance of clear statements of findings of fact.” The training works. It has been more than 10 years since an Iowa City ZBA case has gone to district court.

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How To Request A Flood Hazard Determination Review From FEMA

In accordance with Section 524 of the National Flood Insurance Reform Act of 1994, borrowers who have reason to dispute the flood hazard determination presented by a lender may request jointly with the lender that the Federal Emergency Management Agency (FEMA) review that determination.

What to Submit

- A) a copy of the completed Standard Flood Hazard Determination (SFHD) form (FEMA Form 81-93);
- B) a copy of the dated notification to the borrower from the lender that the property is in a flood hazard area;
- C) a copy of all material used by the lender or the lender’s agent to make the flood hazard determination;
- D) a letter to FEMA requesting a review of the lender’s determination, signed by the borrower and the lender;

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- E) payment by check or money order, in U.S. funds, made payable to “National Flood Insurance Program”.

Where to Submit

For property located in states *east* of the Mississippi River and in Minnesota:

Determination Review Coordinator
C/O Dewberry & Davis
P.O. Box 2020
Merrifield, V., 221 16-2020

When to Submit

Requests **MUST** be postmarked not later than 45 days following the date the lender notified the borrower that the property was in a flood hazard area. Data and fees received bearing a postmark later than 45 days following notification will be returned without review by FEMA.

FEMA's Response

- A) within 45 days of receipt, FEMA will advise the lender and borrower of one of the following
- B) request postmarked more than 45 days following notification; all material and fee returned.
- C) Insufficient information and/or fee received; all material and fee returned
- D) Incorrect map date used to locate property/structure; all material and fee returned.
- E) Sufficient information received; structure(s) is either in or out of designated special flood hazard area.
- F) Insufficient information received to change determination; LOMA process suggested and technical data returned

Effect of Response

Review of the lender's determination does not result in an amendment or revision to the NFIP map. It is only a finding as to a building's or manufactured home's location

within a designated special flood hazard area, which has implication regarding the Federal requirement for purchase of flood insurance. The determination by FEMA will remain in effect until the NFIP map affecting the property is revised.

The rule details can be found in the Federal Register, Vol. 60, No. 233, December 5, 1995, pp. 62213-62218. For further information, contact:

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