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# Floodplain – Shoreland Management Notes

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Articles in This Issue	Page
Questions And Answers About The New Standard Flood Hazard Determination Form (SFHDF) An New Lender Compliance Provisions	1
Beware Of Basements In The Floodplain	3
What's Your Elevation Situation?	4

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## Questions And Answers About The New Standard Flood Hazard Determination Form (SFHDF) And New Lender Compliance Provisions

National Flood Insurance Reform Act of 1994 requires lenders to determine whether properties to be used as collateral for a loan are in a floodplain area. To ease the transition to the new determination and reporting procedures, the Federal Emergency Management Agency (FEMA) has prepared a standard form to be used and has provided this information about the form and its use.

### WHO has to use the form?

Beginning January 2, 1996, all federally regulated lending institutions must complete a Standard Flood Hazard Determination Form (SFHDF) for every loan secured by

improved real estate or a mobile home. This includes banks, savings & loans, credit unions, or Farm Credit System institutions. Loans sold to the secondary market (Fannie Mae & Freddie Mac) must also use the form, which determines:

- Whether a structure or mobile home is located within an identified Special Flood Hazard Area (SFHA);
- Whether flood insurance is required;
- Whether federal flood insurance is available.

This form will help standardize the collection of required information and ensure that the necessary flood insurance is purchased. The form is to be used for all loans, not just those in a SFHA.

The lender is ultimately responsible for this determination, but a third party can be contracted to do it. Surveyors, realtors, appraisers, and map determination companies may provide this information in your area. The accuracy of third party information must be guaranteed by the third party.

### WHAT has to be used?

FEMA Form 81-93, or a reasonable facsimile. The SFHDF may be reproduced and used in place of originals. Either

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printed, electronic, or computer formats are acceptable. Form users may develop their own, similar versions. An electronic version is being developed and will be available in the future.

**WHEN does the SFHDF have to be used?**

The SFHDF was published by FEMA as a final rule in the Federal Register on July 6, 1995. Mandatory use begins January 2, 1996, although it can be used prior to that date. The form must be used to determine whether a building or mobile home used as collateral for a loan is located in a SFHA.

**Can the same determination be copied and used for another loan with the same borrower and the same collateral?**

The lender can use a previous determination for up to seven years. However, the lender must verify that the NFIP map has not changed.

**Can a determination made on one structure be used for other structures located on the same street or area?**

No. An individual determination must be done for each building.

**WHERE can I get questions answered and obtain copies of the SFHDF?**

You can order copies by faxing a request to the FEMA Printing Office at (301) 497-6378, or by calling the NFIP hotline at 1-800-638-6620. Copies of the Federal Register publications are available through the FEMA Fax system at (202) 646-3362. The document numbers are:

- 16002 – SFHDF Final Rule, July 6, 1995

- 16003 – Lending Regulators Final Rule on Form Use, July 6, 1995
- 16005 – Form and Instructions

A scanned version is available on the Internet at:  
<http://www.fema.gov/fema/stdfhdf.html>.

Questions regarding the SFHDF should be faxed to (202) 646-4596, Attention: Standard Flood Hazard Determination Form.

**Will the Reform Act increase lender compliance?**

The new provisions provide additional tools to help lenders comply with the law. Familiarity with the new requirements will make it easier to comply. This should greatly increase the number of flood insurance policies being purchased, thereby protecting a greater number of properties.

**Must the cost of flood insurance be escrowed by lenders?**

Yes. Lenders escrow for other purposes; they must escrow for flood insurance, too. This ensures that flood insurance is purchased and maintained, similar to other escrow arrangements.

**Will any loans be exempt from flood insurance requirements?**

Yes. Short-term loans (less than one year) for no more than \$5,000 are exempt from flood insurance requirements.

**Are all lenders covered under the new law?**

No. Only Federally regulated lenders; those that provide loans through Federal agencies, such as VA and FHA; and those that sell

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loans to Government Sponsored Enterprises (GSE) such as Fannie Mae, Freddie Mac, and Ginnie Mae, are covered by the new law. Mortgage banks, commercial finance companies and similar lenders that do not sell loans to a GSE are not covered.

**Must lenders require flood insurance at any time during the term of a loan?**

Yes. Any time a lender determines that a building is located in a special flood hazard area; the lender **MUST** notify the borrower that flood insurance is required. Only the lender can determine whether flood insurance is required for a loan.

**May lenders purchase flood coverage on behalf of the borrower?**

Yes. If a borrower refuses to purchase coverage after proper notification, the lender **MAY** purchase coverage on behalf of the borrower and **MAY** pass the costs on to the borrower.

**What are the penalties for noncompliance with the law?**

Currently, the penalties of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) apply to such violations. The new law adds additional financial penalties that will apply to patterns or practices of such violations.

**Must lenders provide notification of servicers, and if so, why?**

Yes. The lender must notify FEMA of the servicer of the loan, both during the term of the loan and within 45 days of any change in the servicer. This enables FEMA and the insurance company to send policy renewal

or cancellation notices to the appropriate lender/servicer for the insured property.

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**Beware Of Basements In The Floodplain**

Some people believe that simply filling a floodplain building site above the Regional Flood Elevation (RFE) would remove the requirements of the applicable floodplain zoning standards and allow them to build a house with a basement.

It's not that simple. Hauling in dirt does not remove the area from the mapped floodplain or lessen the restrictions on developing floodplain areas. Standards in Wis. Admin. Code Chapter NR 116 state that land can only be removed from the floodplain if the site is filled two feet above the RFE, the fill is contiguous to land outside the floodplain, and the floodplain map is amended according to the ordinance.

That insures that building in filled areas meets the same requirements as building in the floodplain, which by state regulation requires the first floor of a new or substantially improved structure to be built two feet above the RFE and the basement no lower than the RFE.

If a property owner does not choose to fill in their site to remove it from the floodplain, they must apply for a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA). To support a LOMR for fill, FEMA requires that a Certification of Fill Compaction be completed and submitted by a registered professional engineer. This means the fill must be "structural fill that has been compacted to 95% of the maximum density

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obtainable with the Standard Proctor Test method or an acceptable equivalent method.”

These procedures must be followed to insure that any fill placed is properly compacted so that it is stable under the saturated conditions that accompany a flood. Saturated soils expose a basement to significant hydrostatic forces that could cause severe structural damage. The amount of fill needed to meet this standard would greatly increase the project costs.

If a basement were built below the RFE in a filled area, flood insurance costs would also be expensive. For a single-family home worth \$100,000, flood insurance would cost \$150.00 if the house were built two feet above RFE. That figure would climb to \$560.00 if the home were one foot below RFE. Similar rate increases would apply to contents coverage. The only alternative would be to fill in the basement to the RFE.

Most Wisconsin communities have avoided these types of problems by properly administering and enforcing their floodplain zoning ordinance, working closely with property owners and developers on all projects, and by educating their customers about the values and functions of floodplain areas and the problems they will encounter in developing those areas. If you have any questions about floodplain fill projects, please contact your district DNR floodplain specialist.

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## What's Your Elevation Situation?

The mainstay of the National Flood Insurance Program (NFIP) and the state regulations is the Regional Flood Elevation (RFE). Floodplain maps are based on elevations; local zoning officials use these

maps to inform property owners where and how high they must build. Just as height is important to a basketball team, so height is also important to the NFIP team. You have to be above the stick to get your permit.

The trade lingo we use is “elevation prevails.” It means that, regardless of how the special flood hazard area (SFHA) is shown on the floodplain map, if a detailed study has produced water surface elevations, those elevations are what matters. Because of the map scale and technology used, not every little rise or dip in the topography is mapped. If accurate survey information indicates a structure is above the RFE, the property owner needs to get a Letter of Map Amendment (LOMA) if they want the NFIP to waive the flood insurance requirement.

A LOMA is issued to acknowledge an error in the map. It only removes the insurance requirement (the map is not revised) by a letter stating that “building X” is above the RFE and is therefore not in a SFHA. A LOMA is not necessary for granting permits from local zoning officials (the elevation information is sufficient), and is intended to be used solely for waiver of flood insurance requirements.

Property owners may use surveyed elevation data to demonstrate that a parcel is above the RFE. This survey must be performed, reviewed, and approved by a licensed land surveyor or registered professional engineer. The costs of this information can vary widely depending on the number and location of vertical elevation benchmarks in the area and how much work the surveyor must do to tie in those benchmarks to the property being surveyed. If the RFE has not been determined for the body of water the property is located on, that will also be needed.

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Whether or not a LOMA is applied for, all communities must record the lowest floor elevation (including basement) of new or substantially improved structures built in the floodplain. The elevation certificate is an important administrative tool of the NFIP and must be completed accurately.

This certificate is also used for writing flood insurance. Insurance rates for all "Post-FIRM" buildings (constructed after the date of the Flood Insurance Rat Map) are based on the elevation of the lowest floor in relation to the RFE. The higher the floor, the cheaper the insurance. Insurance rates for Pre-FIRM buildings are all based on the same rate, unless the owner provides accurate survey information that shows the building to be above the RFE, in which case the Post-FIRM rate should be used since it will likely be much cheaper.

A common problem occurs when the certificate is completed based on proposed construction drawings rather than final as-built elevations. A certificate issued based on construction drawings is only valid if the lowest floor is not completed and only during the construction phase. A post-construction certificate must be completed before a certificate of occupancy can be issued. The construction drawing can only be used to write flood insurance to cover flood losses during construction.

To avoid problems, a construction permit should require the following information:

- Is the proposed building in the 100-year floodplain?
- What is the RFE at the site of the proposed building?
- To what elevation should the lowest floor be constructed?

Provide the builder or developer with an elevation certificate. A surveyor or engineer must establish a benchmark at the building site from which the top of the foundation can be constructed at the elevation listed on the permit. After construction of the lowest floor, the engineer or surveyor completes the elevation certificate to certify the elevation of the lowest floor. This can only be done after the lowest floor is completed.

State and local floodplain regulations require a first floor elevation of two feet above the RFE. The basement floor can be built at the REF. New and substantially improved buildings not meeting minimum regulations are subject to serious flood damage risks and much higher flood insurance premiums (see above article).

To preclude the need for two surveys, the initial benchmark should be set as a permanent mark, such as a concrete sidewalk, curb or paved street, or placed in an area that is not subject to accidental disruption.

Although a community can record lowest floor elevations using any form, we recommend using the FEMA elevation certificate. Community Rating System participants must use this form.

To order this free form, call the FEMA Customer Service Center toll-free at 1-800-638-6620. Ask for form number 593-117A, "Elevation Certificate."

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“Floodplain – Shoreland Management Notes” is published by the Wisconsin Department of Natural Resources’ Bureau of Water Regulation and Zoning. Our purpose is to inform local zoning officials and others concerned with state and federal floodplain management and flood insurance issues, shoreland and wetland management, and dam safety issues. Comments or contributions are welcome, call (608)266-3093.

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