

Floodplain and Shoreland Management

Notes

Floodplain Management: Non-Compliance

Non-compliance in the floodplain management world means different things to different people. A property owner, a developer or a community or state agency can be considered non-compliant if the requirements of the local floodplain ordinance are not met. A community can be considered non-complaint by FEMA if local officials fail to enforce the local floodplain ordinance. The enforcement action taken and who takes the action is dependent on who is considered to be in violation and what is the violation. Floodplain development may be compliant under the requirements of the National Flood Insurance Program (NFIP 44 CFR 59-72) yet be in violation of the higher state standards outlined in the Wisconsin Floodplain Management Program (Chapter NR 116, Wisconsin Administrative Code).

In all cases, the primary regulatory document is the local floodplain ordinance and the primary enforcement official is the local floodplain administrator. For more information on determining who is the responsible party and which set of regulations apply, please see *Floodplain Management: Who's in Charge* (Floodplain Shoreland Notes, Vol. 9, No. 1; Winter 2010) at <http://dnr.wi.gov/org/water/wm/dsfm/flood/oldFPSLnotes.htm>.

Non-compliant floodplain development is always considered a violation of the local ordinance and enforcement action is the responsibility of local officials. FEMA and the DNR expect the community to identify potential violations and bring the development into compliance. If the community cannot resolve the outstanding violation, then FEMA or the DNR will become involved upon request depending on wheth-

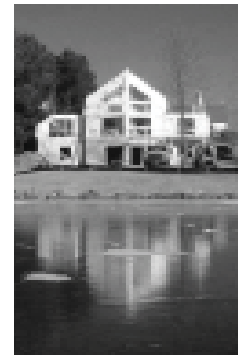
er the requirements of 44 CFR 59-72 or NR 116 are violated. FEMA enforcement action is typically limited to a denial of flood insurance under Section 1362. If NR 116 is violated then the DNR can request a court order to bring the development into compliance.

A community can be considered non-compliant if it fails to adequately enforce the local floodplain ordinance. A determination that a community is non-compliant typically happens as the result of a Community Assistance Visit (CAV). Most CAVs are conducted by the DNR on behalf of FEMA and consist of a review of all development in the floodplain as well as the community's floodplain management process and ordinance. The DNR will work with the community to mitigate any non-compliant development or process/ ordinance issues found during the CAV. If the community either fails to work with the DNR to resolve the problems found during the CAV, is found to have repeatedly issued permits for development which is non-compliant or refuses to amend a non-compliant ordinance, the DNR can then request that FEMA place the community on "probation".

A community placed on probation is still considered as participating in the NFIP and flood insurance is still available. However, all new insurance policies will have a penalty of \$50.00 added to the premium. The penalty will be added to all existing policies at the time of renewal. FEMA reviews the community's progress in resolving the compliance problems annually to determine if the probation status should be removed.



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If a community fails to show adequate progress in resolving the compliance issues or refuses to work with FEMA and the DNR, then FEMA may choose to suspend the community from the NFIP. A community on suspension is no longer considered as participating in the NFIP. No new flood insurance policies can be sold for structures within the municipal boundaries. Any existing policies will lapse upon renewal. The community would also be ineligible for most disaster assistance programs. To rejoin the NFIP, a community would need to provide evidence that any outstanding compliance issues are in the process of being resolved or have been resolved. An application to rejoin would need to be submitted and a CAV would need to be conducted.

A community can also be suspended from the NFIP for a failure to adopt a compliant ordinance when new Flood Insurance Rate Maps (FIRMs) are issued. The suspension becomes effective on the date the new FIRMs become effective. A community may be required to submit an application and undergo a CAV before being allowed to rejoin the NFIP under certain circumstances.

Non-compliance, probation and suspension are easily avoided by any community. All that is needed is a local floodplain ordinance that meets the minimum floodplain management standards as outlined in 44 CFR 59-72 and NR 116 and more importantly is enforced by issuing permits, providing technical assistance to citizens or taking prompt action when non-compliant development is discovered.

Community Rating System Updates

The 2012 edition of the CRS Coordinator's Manual, to be released early in 2012, will incorporate many improvements to the Community Rating System. Changes—some large and some small—are being made to certain elements, activities, prerequisites, procedures, documentation, and credit points. They are the product of several years of effort by the CRS Task Force, FEMA, and many CRS stakeholders, who collaborated to review and evaluate the current program, pursuant to A Strategic Plan for the Community Rating System, 2008—2013.

Two new vehicles are being used to help orient communities and others to the revised Coordinator's Manual before it becomes effective. This will give everyone a chance to get answers to specific questions, submit comments on the proposals, anticipate the impacts of certain revisions, and plan for a smooth transition.

First, a series of two-hour "webinars" are being offered in July and August during which the new aspects of the Coordinator's Manual will be explained and webinar participants can ask questions. (A participant in a webinar logs onto a specified internet website at the same time he or she phones in to a specified toll-free conference call line. PowerPoints or other visual aids are displayed on the participant's computer screen while the presenter or moderator speaks over the phone line. Discussion among the participants or between the presenter and the participants can take place just as on a regular conference call.)

Second, a special website for the 2012 Coordinator's Manual has been set up as a central point for distributing the latest information on the proposed changes to the CRS, the background work that went into the revisions, the schedule of webinars, and other information. The website can be found at <http://www.crs2012.org>.

Top Ten Changes Proposed for the 2012 CRS Coordinator's Manual

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Here is a short preview of some of the changes to the 2012 Coordinator's Manual that will be explained during the webinars planned for July and August (see <http://www.CRS2012.org> and click on "Webinar Info"). By the time the first webinar takes place, more detailed information will be posted on the special website (<http://www.crs2012.org>). Note that these ten are listed in CRS Activity order, not in order of importance.

1. The 50-page CRS Application will be replaced with a shorter "Quick Check," which will appear in Section 212–Application Documents.
2. More items will need to be submitted with each annual recertification, including all Elevation Certificates collected during the previous year. (Section 214, Recertification, and Activity 310–Elevation Certificates)
3. A new web-based self-assessment can help communities identify the CRS activities that will help them the most. Instructions will appear as a new Section 240, Self-Assessment.
4. A new approach to public information programs is being taken, which will result in a reduction in credit for old, routine, annual outreach projects. (Activity 330–Outreach Projects)
5. The first new activity in 20 years is being added to the CRS. Activity 370–Promotion of Flood Insurance, will provide credit for communities that take an active role in encouraging people to obtain and maintain their flood insurance coverage.
6. More credit will be provided for preserving open space. New credit points are going to be available to communities that encourage developers to set aside their floodplain areas as open space. (Activity 420–Open Space Preservation)
7. There will be more points available for protecting the natural functions of flood plains and coastal areas. This will include a new credit for implementing regulations that encourage low impact development. (Activity 420–Open Space Preservation and Activity 450–Stormwater Management)
8. More emphasis will be placed on prohibiting fill in the floodplain, including NOT approving LOMR-Fs (Letters of Map Revision based on Fill). (Activity 430–Higher Regulatory Standards)
9. New credit will be provided for exemplary administration of local regulations, including points for conducting field inspections and reinspections. (Activity 430–Higher Regulatory Standards)
10. A new approach will be taken to the provision of credit to programs that prepare people and emergency management offices for the potential failure of a levee or dam. (Activity 620–Levee Safety and Activity 630–Dam Safety)

For more information on changes to the Community Rating System Program go to www.crs2012.org. For information on joining CRS, go to <http://www.fema.gov/business/nfip/crs.shtm> or contact Gary Heinrichs at 608-266-3093 or Miriam Anderson at 608-266-5228 at WDNR.

DNR Website for Mapping Status

The Department of Natural Resources has developed a website to provide communities and others with information regarding the Flood Map Modernization Program in Wisconsin. The website contains information on project status, the public open house schedule, the comment and appeal process, post preliminary map process and other mapping related issues.

Links to FEMA's website are included. The FEMA sites are for information on Letters of Map Change and the Map Service Center.

For further information regarding the Flood Map Modernization Program contact:

Amanda Schwoegler - Process Issues
amanda.schwoegler@wisconsin.gov

Bob Watson - Technical Issues
robert.watson@wisconsin.gov

Ken Hinterlong - FEMA
ken.hinterlong@dhs.gov

The website is located at: <http://dnr.wi.gov/org/water/wm/dsfm/flood/mapping.htm>.

Current Letters of Final Determination

Letters of Final Determination (LFD) have been issued for several counties. Once an LFD has been issued, all communities in the county participating in the NFIP have six (6) months to amend the local floodplain ordinance to include the new FIRMs and Flood Insurance Study. Communities which do not adopt by the effective date of the maps will be immediately suspended from the NFIP. Communities which do not currently participate in the NFIP have one (1) year to join the NFIP and adopt the new maps.

All ordinance amendments must be reviewed and approved by the DNR and FEMA. For further information on ordinance amendments and adoption go to <http://dnr.wi.gov/org/water/wm/dsfm/flood/communities.htm> and download the appropriate DNR Model Floodplain Ordinance and Checklist and the Ordinance Approval Procedures. You may also consider contacting your local DNR Regional Engineer.

LFDs have been issued for the following counties and all the incorporated communities within the county:

County	Effective Date
Manitowoc County	August 2, 2011
Lincoln County	August 16, 2011
Grant County	September 2, 2011
Polk County	September 16, 2011
Pierce County	November 16, 2011
Dunn County	December 2, 2011
Bayfield County	December 16, 2011
Forest County	December 16, 2011
La Crosse County	January 6, 2012

For further information and updates on mapping issues go to <http://dnr.wi.gov/org/water/wm/dsfm/flood/mapping.htm>.

Updating Your Floodplain Ordinance

Interested in updating your local floodplain ordinance? Download the latest Model Floodplain Ordinance at <http://dnr.wi.gov/org/water/wm/dsfm/flood/communities.htm> or contact Gary G. Heinrichs (gary.heinrichs@wisconsin.gov) or Miriam G. Anderson (miriam.anderson@wisconsin.gov) for further information.

Municipal Dam Grant Program

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DNR has begun accepting applications for the **Municipal Dam Grant Program**. Applications must be received on or before Thursday, September 15, 2011 in order to be eligible for funding consideration. The application form and all relevant application information can be found on the following DNR website: <http://dnr.wi.gov/org/caer/cfa/Grants/dammaint.html>.

ELIGIBLE PARTIES: Any town, city, village, county, tribe, or public inland lake protection and rehabilitation district who owns the entire dam. Private dam owners are **not** eligible to apply.

PURPOSE: This program provides a cost-sharing opportunity for eligible engineering and construction costs for dam maintenance, repair, modification, or abandonment and removal up to a maximum of \$400,000.00. Funding sources outside the applicant's own resources can now be used toward the local match for this grant.

APPLICATION DEADLINE: A complete application must be received by DNR by September 15, 2011. Applications received after this date will not be considered for funding in this year's grant cycle.

AVAILABLE FUNDS: Approximately \$3.5 million is available.

PRIORITY LIST: All eligible, complete applications received by the application date will be scored and ranked. A priority list will be established and commitments for funding made based on available funds. Grant awards will be based on actual construction bids.

FUNDING COMMITMENT: Commitments for funding are expected to be determined as of November 15, 2011. Successful applicants can expect to hear from the Department of Natural Resources (DNR) shortly after this date.

APPLICATION MATERIALS: Application form, guidance, and more information is available at the following DNR website: <http://dnr.wi.gov/org/caer/cfa/Grants/Dammaint.html>. (For a hard copy of application materials, contact the Dam Grant Manager)

QUESTIONS: Bill Sturtevant, Bureau of Watershed Management, 608-266-8033; William.Sturtevant@Wisconsin.gov

Eileen Trainor, Dam Grant Manager; 608-267-0848; Eileen.Trainor@Wisconsin.gov
Meg Galloway, Bureau of Watershed Management, 608-266-7014; Meg.Galloway@Wisconsin.gov

MAIL APPLICATION TO: WI DNR; Dam Grant Programs – CF/2; 101 S. Webster Street, P.O. Box 7921, Madison, WI 53707-7921.

Note: If the application is hand carried to DNR, deliver to: DNR Bureau of Community Financial Assistance, 2nd floor, State Natural Resources Building, 101 S. Webster Street, Madison, WI 53702. Be sure to observe that the date of delivery is noted on the application packet.

Dam Removal Grant Program

The DNR accepts applications on a continual basis for the **Dam Removal Grant Program**. These grants are available to municipalities and private dam owners who want to remove their dams. They are also available to any person, including the DNR, who has permission to access the property containing an abandoned dam for removal of that dam. The grants pay for 100% of the removal costs up to a \$50,000 cap. Approximately \$500,000 will be available in this program. The application form & guidance materials related to this grant program are available at the following DNR website: <http://dnr.wi.gov/org/caer/cfa/Grants/damremov.html>.

WISCONSIN ASSOCIATION FOR FLOODPLAIN, STORMWATER AND COASTAL MANAGEMENT (WAFSCM)

Membership Application/Renewal Form For January 2011 – December 2011

Membership Fee: \$20.00

Name: _____

Title: _____

Organization: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Ext.: _____ Fax: _____

E-mail: _____

Would you like to receive occasional announcements, newsletters and/or notices via E-mail: Yes ___ No ___

Other Affiliations: _____

Primary Interest: ___ Floodplain ___ Stormwater ___ Coastal

Specific Interest: _____

Please send a check for the annual Membership Fee of \$20.00 made payable to WAFSCM in care of:

Carrie Bristol-Groll, PE, CFM
WAFSCM
c/o Stormwater Solutions Engineering, LLC
100 East Sumner Street
Hartford, WI 53027

If you have questions, contact Carrie Bristol-Groll at either (262) 673-9697 or cbg@stormwater-solutions-engineering.com.

"Floodplain and Shoreland Management Notes" is published by the WDNR, Bureau of Watershed Management. Its purpose is to inform local zoning officials and others concerned about state and federal floodplain management, flood insurance, shoreland and wetland management, and dam safety issues. Comments or contributions are welcome.

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- Bob Watson, 608-266-8037
robert.watson@wisconsin.gov

Shoreland Contacts:

- Water Management Specialist
<http://dnr.wi.gov/org/water/wm/dsfm/shorecounty.htm>

Dam Safety Contacts:

- Bill Sturtevant, 608-266-8033
william.sturtevant@wisconsin.gov
- Meg Galloway, 608-266-7014
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