

APPENDIX G

ADDITIONAL GUIDANCE FROM FEMA

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Federal Emergency Management Agency

Region IV

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EFFECTS OF NON-PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM

1. Flood insurance will no longer be available. No resident will be able to purchase a flood insurance policy.
2. No Federal grants or loans for buildings may be made in identified flood hazard areas. Includes all Federal agencies such as HUD, EPA, SBA, HHR, etc.
3. No Federal disaster assistance may be provided in identified flood hazard areas for permanent restorative construction and grants.
4. No Federal mortgage insurance may be provided in identifies flood hazard areas. This includes FHA, VA, FmHA, etc.
5. For conventional loans in non-participating communities: Restriction on conventional loans in non-participating communities requires that lenders:
 - a. must notify buyer or lessee that property is in a flood hazard area; and
 - b. must notify buyer or lessee that property is in the flood hazard area is not eligible for Federal disaster relief in a declared disaster.
6. The Flood Insurance Rate Map and appropriate actuarial rates go into effect regardless of whether or not a community participates in the program. Lacking a local ordinance, unsafe construction today may result in prohibitively expensive insurance rates tomorrow.
7. Local governing body may be susceptible to liability by not participating because their action:
 - a. denies the ability of its citizens to purchase flood insurance and;
 - b. does not take positive steps to reduce the exposure of life and property in the face of authoritative scientific and technical data.



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NFIP RESTRICTIONS ON FEDERAL ASSISTANCE IN SANCTIONED COMMUNITIES

Both the Flood Disaster Protection Act of 1973, as amended, and the Stafford Disaster Relief and Emergency Assistance Act, restrict federal assistance in identified special flood hazard areas. Specifically, federal grants and loans are not available to repair or replace insurable items (buildings or contents) located in Zone A or Zone V on a FEMA flood map, unless the community is participating in the National Flood Insurance Program (NFIP). A "community" is a political subdivision such as city, town or county if the area is unincorporated.

Communities "not participating" in the NFIP are under sanction if special flood hazard areas have been officially identified on a FEMA flood map for at least one year prior to the disaster declaration. In such cases, the following "sanctions" apply:

I. DISASTER HOUSING PROGRAM

A. If flooded, under sanctions and in Zone A or V:

No financial assistance to repair or replace flood insurable items unless community joins program within six months from disaster declaration. No flood insurance policy purchase requirement because repairs are temporary. Rental assistance may be provided. [44 CFR 206.131(d)(1)(iii) A,B]

B. No flood damage:

No problem, no map reading, no flood insurance purchase requirement. [44 USC 4001 et seq.]

II. INDIVIDUAL AND FAMILY GRANT PROGRAM

A. If flooded, under sanctions, and in Zone A or V:

No financial assistance to repair or replace flood insurable items. (buildings or contents) unless community joins program within six months from the disaster declaration. Flood insurance must be purchased and maintained for three (3) years. [44 CFR 206.133(d)(1)(iii) B,C]

B. No flood damage:

No problem, no map reading, no flood insurance purchase requirement. [44 USC 4001 et seq.]

C. No assistance for person denied SBA assistance for failure to maintain flood policy. [44 CFR 206.131 (d) (1) (iii) D]

III. SMALL BUSINESS ADMINISTRATION

A. If under sanctions, Zone A or V:

No insurable items (buildings or contents) may be repaired or replaced by federal loan regardless of cause of damages, unless community joins program and flood insurance is purchased.

B. SBA will process loan applications but no funds can be disbursed unless the community joins the NFIP within six months of date of loan approval.

C. If applicant elects to voluntarily move from Zone A or V, loan is available to the extent of verified losses.

IV. PUBLIC ASSISTANCE

A. If flooded, under sanctions and applicant is a local government:

No assistance for insurable items (buildings or contents) unless community joins program. Then, assistance can be approved but must be reduced by the dollar amount community could have insured against for flood damages.

B. If flooded, under sanctions, Zone A or V, and applicant is private non-profit:

No assistance for insurable items (buildings or contents) unless community joins program and flood insurance is purchased. Note that there is no Stafford Act reduction for failure to purchase flood insurance.

C. If flooded, participating community, Zone A or V:

Public assistance reduced by dollar amount of flood insurance which could have been purchased. This applies to both public facilities as well as private non-profit facilities.



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POLICY GUIDANCE: FLOOD ZONE DETERMINATIONS FOR UNMAPPED COMMUNITIES

Frequently, a community is enrolled into the National Flood Insurance Program [NFIP] before a Flood Hazard Boundary Map [FHBM] or Flood Insurance Rate Map [FIRM] has been issued for that community by the NFIP. However, some communities have annexed or extended their planning jurisdiction over Special Flood Hazard Areas [SFHAs - A, AE, A1-30, AO, AH, or V- Zones] identified on the FHBM or FIRM for the unincorporated areas of a county. This can lead to considerable confusion as to flood zone determinations for Standard Hazard Determination Forms, flood insurance policy applications and Elevation Certificates.

What is the flood zone if a flood map has never been issued? That depends on where the property is located.

1. If the subject property is located within the municipal limits shown on the county FHBM or FIRM as "*Area Not Included*", **the flood zone is C or X**, as noted on page MAP 1, of the **Flood Insurance Manual**. C and X Zones are not part of the SFHA, so federal mandatory flood insurance purchase requirements do not apply. However, if a subject property is known to be flood-prone, this should be noted. The flood insurance rates for B, C, and X Zones are the same, and property may be eligible for a **Preferred Risk Policy**, the least-expensive flood insurance available. Generally, B and C Zones are used on pre-1988 maps, and have been combined as the X Zone since then.
2. If the subject property is located within areas annexed from the county or within an area of extra-territorial planning jurisdiction [ETJ], use the county flood maps to determine the appropriate flood zone.

What Community Identification Number [CID] is used? When a community joins the NFIP, a six-digit CID number is assigned, eg. 370488 for Lake Lure, NC. This number is used on flood insurance applications and should be shown on documents for all properties located within the municipality's jurisdiction. Although the county also has a CID number, which is shown on the county FHBM or FIRM, **only the municipality's CID number** should be used for documents *once property is annexed or included in an extra-territorial planning jurisdiction [ETJ]*.

What Flood Map Panel Number is used? Use the county's Flood Map Panel Number applicable to the property location in annexed areas or the ETJ. For sites within the "*Area Not Included*", state "**No NFIP Map**". Show both the municipality's CID number and the county Flood Map Panel Number on all documents. **Note:** Use the entire county Panel Number in the "*Panel #*" box on the forms [eg. "*370087 0005*", not just "*0005*"].



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PROCEDURES FOR "NO-IMPACT" CERTIFICATION FOR PROPOSED DEVELOPMENTS IN REGULATORY FLOODWAYS

Section 60.3(d)(3) of the National Flood Insurance Program (NFIP) regulations states that a community shall "prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base (100-year) flood discharge."

Prior to issuing any building grading or development permits involving activities in a regulatory floodway, the community must obtain a certification stating the proposed development will not impact the pre-project base flood elevations, floodway elevations, or floodway data widths. The certification would be obtained from the permittee and be signed and sealed by a professional engineer.

The engineering or "no-impact" certification must be supported by technical data. The supporting technical data should be based upon the standard step-backwater computer model utilized to develop the 100-year floodway shown on the community's effective Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM) and the results tabulated in the community's Flood Insurance Study (FIS).

Although communities are required to review and approve the "no-impact" submittal, they may request technical assistance and review from the FEMA regional office. However, if this alternative is chosen, the community must review the technical submittal package and verify that all supporting data, listed in the following paragraphs, are included in the package before forwarding to FEMA. To support a "no-impact" certification for proposed developments encroaching into the regulatory floodway, a community will require that the following procedures be followed:

Currently Effective Model

1. Furnish a written request for the step-backwater computer model for the specified stream and community, identifying the limits of the requested data. A fee will be assessed for providing the data. Send data requests to:

Flood Insurance Information Specialist
c/o Dewberry & Davis
2977 Arlington Boulevard
Fairfax, Virginia 22031
Fax (703) 876-0073

Duplicate Effective Model

2. Upon receipt of the step-backwater computer model, the engineer should run the original step-backwater model to duplicate the data in the effective FIS.

Existing Conditions Model

3. Revise the original step-backwater model to reflect site specific existing conditions by adding new cross-sections (two or more) in the vicinity of the proposed development, without the proposed development in place. Floodway limits should be manually set at the new cross-section locations by measuring from the effective FIRM or FBFM. The cumulative reach lengths of the stream should also remain unchanged. The results of these analyses will indicate the 100-year floodway elevations for revised existing conditions at the proposed project site.

Proposed Conditions Model

4. Modify the revised existing conditions model to reflect the proposed development at the new cross-sections, while retaining the currently adopted floodway widths. The over-bank roughness coefficients should remain the same unless a reasonable explanation of how the proposed development will impact Manning's "n" values, this should be included with the supporting data. The results of this floodway run will indicate the 100-year floodway elevations for proposed conditions at the project site. These results must indicate NO impact on the 100-year flood elevations, floodway elevations, or floodway widths shown in the duplicate Effective Model or in the Existing Conditions Model.

The original FIS model, the duplicate effective FIS model, the Revised Existing Conditions Model, and the Proposed Conditions Model should all produce the same exact results.

The "no-impact" supporting data and a copy of the engineering certification must be submitted to and reviewed by the appropriate community official prior to issuing a permit.

The "no-impact" supporting data should include, but may not be limited to:

- a. Duplicate of the original FIS step-backwater model printout or floppy disk.
- b. Revised existing conditions step-backwater model.

- c. Proposed conditions step-backwater model.
- d. FIRM and topographic map, showing floodplain and floodway, the additional cross-sections, the site location with the proposed topographic modification superimposed onto the maps, and a photocopy of the effective FIRM or FBFM showing the current regulatory floodway.
- e. Documentation clearly stating analysis procedures. All modifications made to the original FIS model to represent revised existing conditions, as well as those made to the revised existing conditions model to represent proposed conditions, should be well documented and submitted with all supporting data.
- f. Copy of effective Floodway Data Table copied from the FIS report.
- g. Statement defining source of additional cross-section topographic data and supporting information.
- h. Cross-section plots, of the added cross sections, for revised existing and proposed conditions.
- i. Certified planimetric (boundary survey) information indicating the location of structures on the property.
- j. Copy of the microfiche, or other applicable source, from which input for original FIS HEC-2 model was taken.
- k. Floppy disk with all input files.
- l. Printout of output files from EDIT runs for all three floodway models.

The engineering "no-impact" certification and supporting technical data must stipulate NO impact on the 100-year flood elevations, floodway elevations, or floodway widths at the new cross-sections and at all existing cross-sections anywhere in the model. Therefore, the revised computer model should be run for a sufficient distance (usually one mile, depending on hydraulic slope of the stream) upstream and downstream of the development site to insure proper "no-impact" certification.

Attached is a sample "no-impact" certification form that can be completed by a registered professional engineer and supplied to the community along with the supporting technical data when applying for a development permit.



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FEMA GUIDELINES FOR LOCAL VARIANCE AND APPEAL BOARDS

In circumstances where compliance requirements set out in a community's regulations pose an exceptional hardship, the community may, after examining the applicant's hardship, approve or disapprove a request for a variance. Although FEMA does not set forth absolute criteria for granting variances from the provision of Title 44, CFR, Sections 60.3, 60.4, and 60.5, the following general standards have been established in Section 60.6(a):

1. An applicant has good and sufficient cause for requesting a variance;
2. An applicant will suffer exceptional hardship should a variance be denied;
3. A variance will not cause increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and
4. A variance is the minimum necessary, considering the flood hazard, to afford relief.

The granting of variances is a local decision that must be based on not only NFIP criteria, but also on State law and any other provisions the community may wish to require. It may be useful, however, to review some additional background information we have developed regarding variances and the NFIP variance criteria in order to fully appreciate our position on issues such as this.

Nature of Variances

The NFIP variance criteria are based on the general principal of zoning law that variances pertain to a piece of property and are not personal in nature. Though standards vary from State to State, in general a properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the ordinance would create an exceptional hardship to the applicant or the surrounding property owners. Those characteristics must be unique to that property and not to be shared by adjacent parcels. The unique characteristics must pertain to the land itself, not to the structure, its inhabitants, or the property owners. The granting of variances by a community should be based only on a structure by structure review. Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.

Examples of the kinds of characteristics that might give rise to a hardship that might justify a variance to certain other building or zoning ordinances would include an irregularly shaped lot, a parcel with unsuitable soils, or a parcel with an unusual geologic condition below the ground surface. It is difficult, however, to imagine any physical characteristic that would give rise to a hardship sufficient to justify a variance to a flood elevation requirement. A frequently encountered example is the case of a very small undeveloped lot completely surrounded by lots on which buildings have been constructed at grade, and an ordinance that requires new buildings to be constructed at a level several feet above grade. If the owner were to elevate the house on fill, the lot might drain onto the neighbors' property. In this case the size of the lot and its status as the only undeveloped lot in the vicinity are the characteristics that could result in a hardship. However, this situation still probably would not warrant a variance because, as is discussed below, the owner does not face an exceptional hardship since there are many other ways to alleviate the drainage problem (elevation on pilings or a crawl space, grading the fill to drain away from adjoining properties, etc). Our manual, Elevated Residential Structures and the Corps of Engineers; Flood-proofing Systems and Techniques, illustrate ways in which various site-specific problems can be overcome when designing and building houses that must be elevated.

Individual Hardship vs. Community Goals

In determining whether or not an applicant has established an exceptional hardship sufficient to justify a variance, the local board weighs the applicant's hardship against the purpose of the ordinance. In the case of variances from a flood elevation requirement, this would mean asking which is more serious: the hardship that this individual applicant would face, or the community's need for strictly enforced regulations that protect its citizens from the dangers and damages of flooding? Only a truly exceptional, unique hardship on the part of an individual property would persuade local officials to set aside provisions of an ordinance designed with the whole community's safety in mind. The hardship might not have to be so severe if the applicant were seeking a variance to a setback ordinance, for instance, which was intended merely to simplify street repair and modifications. In the course of considering variances to flood protection ordinances however, local boards continually must face the more difficult task of frequently having to deny requests from applicants whose personal circumstances evoke compassion, but whose hardships are simply not sufficient to justify deviation from a community-wide flood damage prevention requirements.

Hardship (Section 60.6(a)(3)(ii))

The hardship that would result from failure to grant a requested variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as exceptional hardships. All of

these problems can be resolved through other means without granting a variance. This is so even if the alternative means are more expensive or complicated than building with a variance, or if they require the property owner to put the parcel to a different use than originally intended, or to build his or her home elsewhere.

For example, a situation in which it would cost a property owner several thousand dollars more to elevate a house to comply with the ordinance and an additional several thousand to build a wheelchair ramp or an elevator to provide access to that house for a handicapped member of the family might at first glance seem like the sort of problem that could be relieved by a variance. However, while financial considerations are always important to property owners and the needs of the handicapped person certainly must be accommodated, these difficulties do not put this situation in the category of "exceptional hardships" as they relate to variances. This is because:

1. The characteristics that result in the hardship are personal (the physical condition and financial situation of the people who propose to live on the property) rather than pertaining to the property itself.
2. The problem of day-to-day access to the building can be alleviated in any one of a number of ways (going to the additional expense of building a ramp or an elevator), without granting a variance.
3. The situation of handicapped persons occupying flood-prone housing raises a critical public safety concern. If a variance is granted and the building is constructed at grade, it will be absolutely critical that the handicapped or infirmed person evacuate when flood waters begin to rise, yet he or she may be helpless to do so alone. Not only does this pose an unnecessary danger to handicapped persons but also it places an extra demand on the community's emergency services personnel who may be called upon during the early stages of the flood to rescue them. In contrast, if the building is properly elevated, the handicapped person can still be evacuated if there is sufficient warning and assistance available. If there is not, that person can, in all likelihood, survive the flood simply by remaining at home safely above the level of the flood waters.

More simply, the property owner's difficulties would not really be relieved by the variance, but likely only postponed and perhaps ultimately increased. It would be more prudent over the long run for both the property owner and the community, if the variance were denied and the home built at the proper elevation with handicapped access.

This will ensure the safety of all family members when flood waters rise and also protect the individual and community investment in the property, as discussed below.

Public Safety and Nuisances (60.6(a)(3)(iii))

Variances must not result in additional threats to public safety or create nuisances. As mentioned above, local flood damage prevention ordinances (including elevation requirements) are intended to help protect the health, safety, well-being, and property of the local citizens. This is a long-range community effort usually made up of a combination of approaches such as adequate drainage systems, warning and evacuation plans, keeping new property (especially homes) above the flood levels, and participating in an insurance program. These long-term goals can only be met if exceptions to the laws are kept to a bare minimum.

Fraud and Victimization (60.6(a)(3)(iii))

Properly granted variances must not cause fraud on or victimization of the public. In examining this requirement, local boards should consider the fact that every newly constructed building adds to local government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damages, and can be insured only at very high flood insurance rates.

Minimum Necessary to Afford Relief (60.6(a)(4))

The variance that is granted should be for the minimum deviation from the local requirements that will still alleviate the hardship. In the case of variances to an elevation requirement, this means the board need not grant permission for the applicant to build at grade, but only to that level that the board believes will both provide relief and preserve the integrity of the local ordinance.

Insurance rates

While the building standards in a local ordinance may be altered by means of a variance, the flood insurance purchase requirement, which must be enforced by lending institutions, cannot be waived and thus may create severe financial consequences for the property owners. Insurance rates for structures built below BFE can be substantially higher than those for elevated structures. In many instances the rates will be so high as to make the structure essentially uninsurable because the owners cannot afford the premium. This may not matter to the original owner who applied for the variance in the first place, but it may matter a great deal to subsequent potential owners who must forego purchase of the property, or to subsequent owners who cannot find buyers because of the high insurance rates, or to the community that finds itself with large number of unsalable houses. In addition,

if the property is not insured and cannot be insured due to high actuarial rates, there may be no funds available to repair the structure if it is seriously damaged by a flood. Even disaster loans may not be obtainable if the flood insurance coverage required as a condition of the loan was available only at very high rates. The result may be that the present owner or a future owner may choose to abandon the damaged house rather than repair it since the damages may exceed the equity in the house. The local government and/or the holder of the mortgage are then left with the problem of one or more vacant, flood-damaged and essentially uninsurable houses.

Technical Staff Assistance

In considering variances, the variance board should utilize local technical staff expertise and recommendations from the building Department, Planning and/or Zoning Department, Engineering Department, etc. The local technical staff should consider alternatives available such as relocation of the structure on the lot, slope or fill, retention walls, proper drainage away from adjoining structures, and other less drastic variances such as set back or lot coverage variances as previously mentioned elsewhere in this guideline or other publications.

Summary

Because the duty and need of local governments to help protect their citizens from flooding is so compelling, and the implications of the cost of insuring a structure build below flood level are so serious, variances from the flood elevation or from other requirements in the flood ordinance should be quite rare. This is why the NFIP guidelines at Section 60.6 are so detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. It is not surprising that when these guidelines are followed, very few situations qualify for a variance.

QUESTIONS AND ANSWERS CONCERNING FEE SCHEDULE FOR CONDITIONAL AND FINAL MAP AMENDMENTS AND REVISIONS

Why was the fee schedule changed?

The fee schedule was changed primarily to (1) simplify the payment procedures for the requesters, thereby shortening the turnaround time for most requests and (2) allow FEMA to recover more fully their costs for processing requests for conditional and final map amendments and revisions and maintain the NFIP as a nontaxpayer-supported program.

When was the revised fee schedule first published and what requests are covered by the schedule?

The revised fee schedule was first published as a notice in the *Federal Register* on August 30, 1996. The fee schedule published on August 30, 1996, applies to all conditional and final map amendment and map revision requests dated October 1, 1996, or later.

Were any changes made in the NFIP regulations at the same time?

The required changes to Parts 65, 70, and 72 of the NFIP regulations were presented in an Interim Final Rule, which also was published in the *Federal Register* on August 30, 1996. The comment period for the Interim Final Rule ended on September 29, 1996. The formal written comments received from the public during the comment period did not result in changes to the language in the Interim Final Rule or the fee schedule.

Is the revised fee schedule being changed again? If so, what changes have been included?

Responding to comments from the FEMA Regional Offices and selected others, FEMA revised the fee schedule to restore exemptions for: (1) map change requests based on federally sponsored flood-control projects where 50 percent or more of the project's costs are federally funded; and (2) map change requests based on detailed hydrologic and hydraulic studies conducted by Federal, State, or local agencies to replace approximate studies conducted by FEMA and shown on the effective FIRM. FEMA also revised the fee schedule to reduce the review and processing fees for LOMR-F requests that are based on as-built information submitted as a followup to CLOMR-F requests. (The new review and processing fees are \$300 for single-lot/single-structure requests and \$700 for multiple-lot/multiple-structure requests.)

Will any changes be made in the NFIP regulations?

The required changes to Parts 65, 70, and 72 of the NFIP regulations were presented in a Final Rule, which was published in the *Federal Register* on February 6, 1997. The comment period for the Final Rule will last 30 days. The rule changes are scheduled to go into effect on March 10, 1997.

How were the review and processing fees calculated?

The review and processing fees were calculated based on the average actual processing costs for each product category, with a \$35 cartographic processing fee included for LOMRs, LOMR-Fs, and PMRs. The average costs were based on products processed during Fiscal Year 1995. Additional information on how fees were calculated is provided in the Interim Final Rule and Final Rule.

Are requesters still required to pay an initial fee or cartographic processing fee?

With the exception of conditional and final map revision requests based on structural measures on alluvial fans, the revised procedures require requesters to submit only one payment. No separate cartographic processing fee will be required. This fee has been included in the review and processing fee for revisions.

For what types of requests will requesters still pay an initial fee and then receive an invoice for the remaining fees?

For conditional and final map revision requests based on structural measures on alluvial fans, requesters must submit an initial fee of \$5,000. The requesters will then be invoiced, at the rate of \$50 per hour, for all requests for which FEMA processing time exceeds 100 hours. Determination letters will not be issued until invoiced amounts are paid.

What are the review and processing fees for non-exempt requests?

The review and processing fees are as follows:

Single-lot/single-structure LOMR-F based on as-built information (CLOMR-F previously issued by FEMA)	\$300
Single-lot/single-structure CLOMA, CLOMR-F, and LOMR-F	\$400
Multiple-lot/multiple-structure LOMR-F based on as-built information (CLOMR-F previously issued by FEMA)	\$700
Multiple-lot/multiple-structure CLOMA	\$700
Multiple-lot/multiple-structure CLOMR-F and LOMR-F	\$800
LOMR/PMR based on bridge, culvert, channel, or combination	\$3,700
LOMR/PMR based on levee, berm, or other structural measure	\$4,300
LOMR/PMR submitted as followup to CLOMR	\$2,300
LOMR/PMR based solely on submission of more detailed data	\$2,300
CLOMR based on new hydrology, bridge, culvert, channel, or combination	\$3,100
CLOMR based on levee, berm, or other structural measure	\$3,300

Are any map revision or map amendment requests exempted from review and processing?

Under the Final Rule, FEMA has maintained the exemptions for requests for LOMAs; requests to correct mapping or analysis errors; map change requests based on federally sponsored flood-control projects where 50 percent or more of the project's costs are federally funded; and map change requests based on detailed hydrologic and hydraulic studies conducted by Federal, State, or local agencies to replace approximate studies conducted by FEMA and shown on the effective FIRM. FEMA has eliminated all other exemptions.

Is there any difference in the fees for residential and commercial structures?

The fees are the same for both residential and commercial structures.

Are requests for map revisions based on more detailed data be exempt from review and processing?

According to the Final Rule, map changes requests are exempt from review and processing fees if they are based on detailed hydrologic and hydraulic studies conducted by Federal, State, or local agencies to replace approximate studies that were conducted by FEMA and shown on the effective FIRM. Communities preparing to submit such requests may wish to discuss the requests in advance with the appropriate Regional Office to see whether their request will be exempt.

Will FEMA/TEC staff process a non-exempt request if no payment is submitted with a request?

FEMA Headquarters and TEC staff will review incoming submittals to determine whether the payment is enclosed or has been submitted separately to the Fee-Collection System Administrator (FCSA). Unless otherwise directed by FEMA Headquarters, if the payment has not been received, the TEC will perform the initial review and request the payment along with other required items in the appropriate acknowledgment letter. No detailed technical review of the submittal will be started until the payment is received, even if all required data and forms are received.

Will FEMA/TEC staff process a non-exempt request if an initial fee under the previous fee schedule is submitted with a request?

If an initial fee is submitted, the TEC will complete the initial review and request the balance of the required review and processing fee in writing in the appropriate acknowledgment letter that is sent to the requester. No detailed review will be conducted until the full review and processing fee is received, even if all required data and forms are received.

Will requests that were suspended for insufficient data be subject to the new fee schedule, even if they were exempt under the old fee schedule? Will map revisions be exempt if they follow CLOMR requests that were exempt?

All requests dated October 1, 1996, to March 9, 1997, are subject to the fee schedule published on August 30, 1996; all requests dated March 10, 1997, or later are subject to the fee schedule published on February 6, 1997. The TECs will work with FEMA Headquarters staff to develop measures to inform requesters of the changes in advance to minimize problems. If TEC staff members believe a particular requester or project should be exempt, this will be presented to the appropriate FEMA Headquarters staff (Project Officer or Project Engineer) for approval.

What are the review and processing fees for requests to have LOMAs, LOMR-Fs, and LOMRs reissued?

No processing fee will be charged for reissued LOMAs, LOMR-Fs, and LOMRs. FEMA Headquarters has begun sending communities, free of charge, letters to revalidate the determinations in LOMAs, LOMR-Fs, and LOMRs that are unchanged, but superseded by physically updated and reprinted map panels. Once a community receives a revalidation, or LOMC-VALID, letter, the individual determination letters cited will not be reissued. Instead, FEMA will send the requester a copy of the LOMC-VALID letter.

In what form should payments of the review and processing fees be made?

Payment of the review and processing fees may be made in the form of a check or money order, made payable in U.S. funds to "National Flood Insurance Program," or by credit card payment.

How are credit card payments processed?

Requesters submitting payment by credit card must complete the "Credit Card Information" form from either the MT-1 or MT-2 application/certification forms package. The requester must then send the form by U.S. Postal Service or overnight service to one of the following addresses or by facsimile transmission to (703) 849-0282:

Using U.S. Postal Service:
Federal Emergency Management Agency
Fee-Collection System Administrator
P.O. Box 3173
Merrifield, VA 22116-3173

Using overnight service:
Fee-Collection System Administrator
c/o Dewberry & Davis, METS Division
8401 Arlington Boulevard
Fairfax, VA 22031

Where should checks and money orders be sent?

Checks and money orders, with the appropriate case numbers shown, should be sent to the FCSA at one of the addresses above.

What will happen if the submitted check cannot be deposited in the National Flood Insurance Fund?

The TEC will notify the requester by telephone and send the requester a followup letter requesting a new check. The TEC will return the check to the requester with the followup letter.

What will happen if the payment submitted by a requester is for more than the required fee?

The TEC will notify the requester in writing that the payment submitted is more than what was required. The TEC will then return the check to the requester and ask for a replacement check for the amount or notify the requester that a refund will be issued. The refund notification may be handled by including the appropriate refund paragraph in the acknowledgment letter or by sending the requester a separate refund letter. If a refund is required, the FEMA Program Specialist will coordinate the refund request with the Office of the Comptroller.

How frequently will the fee schedule be reviewed? If changes are necessary, how will they be published?

A FEMA oversight group will review the fees at the end of Fiscal Year 1997 and at the end of each fiscal year thereafter. Any changes to the fees will be published as a notice in the *Federal Register* and distributed to FEMA Headquarters, Regional Office, and TEC staff before they go into effect. To inform the general public, FEMA will place the notice on FEMA's site on the World Wide Web (<http://www.fema.gov/MIT/feesch.htm>) and, as necessary, mail announcements to communities with LOMC correspondence and printed copies of FIS reports and FIRMs.

How can individuals obtain copies of the Final Rule and notice that is scheduled to be published in the Federal Register in February?

Individuals may download the Final Rule and notice from FEMA's World Wide Web site; request a copy by calling the FEMA Fax-on-Demand, at (202) 646-3362, and requesting document number 20018; or request a copy from Ms. Imelda Edwards at the address and telephone number shown below.

Federal Emergency Management Agency
Hazard Identification & Risk Assessment Division
500 C Street SW
Washington, DC 20472
Telephone: (202) 646-3860
Facsimile: (202) 646-4596



Federal Emergency Management Agency

Region IV, Mitigation Division
3003 Chamblee-Tucker Road, Suite 270
Atlanta, Georgia 30341

Processing Letters of Map Amendment or Revision

or

Help! I'm closing tomorrow, and I've been told I have to buy flood insurance. But, my surveyor says I'm out of the floodplain. What do I do?

WHY?? (Won't the lender take my surveyor's word?)

The Flood Insurance Rate Maps (FIRMs) and Flood Hazard Boundary Maps (FHBM) portray the **Special Flood Hazard Area (SFHA)**, within which the purchase of flood insurance is required as a condition for granting a mortgage from a federally backed or federally regulated lending institution. The lender or insurance agent **must use** the boundaries of the SFHAs shown on our maps to determine if mandatory flood insurance applies. Thus, even though a site survey may indicate the homesite is **above** the **Base Flood Elevation (BFE)** and is technically outside the floodplain, if the homesite is within the gray shaded area [the SFHA] on the map, flood insurance must be required.

WHY?? (Are the flood maps wrong?)

The general lack of detailed topographic mapping throughout this nation means that the floodplain boundaries in most communities cannot be accurately mapped. Since, FEMA cannot afford to field check all floodplain boundaries, many areas of high ground are shown as floodplain, and some low areas are not. **Or** FEMA does not know that your new subdivision or building site has been elevated above flood elevation on compacted dirt fill.

WHAT?? (Is FEMA going to do about it?)

FEMA created the **Letter of Map Amendment and Revision (LOMA/R)** process to correct or change our flood maps [FIRMs and FHBMs] to reflect actual ground surveys or better topographic mapping. **Letters** are issued by FEMA officially removing lots or portions of lots (by legal description) from the SFHA or changing the boundaries of the SFHA. These are dated and sent to the homeowner applicant and are also filed with the municipality or county within which the property is located. The building site is removed from flood zone **AE, A1-30, A, etc** and placed in flood zone **B, C, or X**, which are not part of the SFHA [Special Flood Hazard Area].

When a LOMA/R is issued removing a building site from the SFHA, **the mandatory flood insurance purchase requirement is lifted**. However, the lender always has the option of requiring flood insurance anyway. For example, the homesite might be just a few inches above BFE, so the lender feels that there is still a threat of flood damage to their "secured property". On the plus side, once the flood zone has been changed to **B, C, or X**, the building qualifies for a **PREFERRED RISK POLICY**, the least expensive flood insurance available.

Letter of Map Amendment (LOMA): This is used to revise the SFHA boundary based on detailed elevation surveying and/or topographic mapping of *natural conditions*. If the homesite and the lowest floor of the building (including basement or garage) is above the BFE, FEMA can amend the map to remove the homesite and other land area from the SFHA.

Letter of Map Revision, based on fill (LOMR-F): When FILL dirt is placed on property to raise the building site above the BFE, FEMA can remove the raised area from the boundaries of the SFHA, thus revising the FIRM. This is a man-made change to the floodplain.

HOW?? (Do I get one?)

A homeowner applicant may apply for a LOMA/R-F using FEMA Form MT-1. These forms are available from all FEMA Regional Offices. A quick call to our Region 4 Mitigation Division at:

(770) 220-5400 or -5442

and the application package will be on its way to you.

HOW MUCH?? (Does it cost?)

A **LOMA is FREE!** because it is based on natural conditions and *corrects* the FEMA map. However, a **\$400** fee is charged for a **LOMR-F** because the placement of fill is a man-made change to the floodplain. The fee is considered part of the cost of developing in a floodplain.

WHO?? (Can apply?)

A homeowner may apply for a LOMA or LOMR-F. However, a ***Site Plan & Boundary Survey and Elevation Information Form, Elevation Data Sheet, or Elevation Certificate*** must accompany each application. These must be prepared, sealed and certified by a ***Registered Land Surveyor***. The applicant is responsible for paying for this survey information.

HOW LONG DOES IT TAKE?

Brace yourself! The LOMA/R business is **booming!** But, we can't hire more staff to help. So, it normally takes 6-8 weeks from the time an application is received until a letter of determination is issued. Applications are processed on a ***first come, first served*** basis. Just because the application is Federal Expressed to our office, ***doesn't mean it will be processed the next day.*** [We **really** wish we could!] It just means it will get in the queue ahead of an application that is mailed in the same day.

WHAT DO I DO IN THE MEANTIME?

Buy the flood insurance! If you want to close without waiting 6-8 weeks for the LOMA or LOMR-F to be issued, buy the flood insurance.

ISN'T THAT JUST A BIG WASTE OF MONEY?

No!! Usually, you can get a complete 100% REFUND! Please read this quote from the **Flood Insurance Manual**, Pages CN 1 and 2:

9. **“INSURANCE NO LONGER REQUIRED BY MORTGAGEE BECAUSE PROPERTY IS NO LONGER LOCATED IN A SPECIAL FLOOD HAZARD AREA-**
- Flood insurance was initially required by the mortgagee or other lender because the property was determined to be in a SFHA. ***Following a map revision***, the property was no longer located in a SFHA. A policy can be **cancelled** provided that the mortgagee confirms in writing that:
(1) the insurance was required as part of the mortgage; and
(2) the mortgagee requirement for flood insurance no longer applies.

Providing no [flood insurance] claim has been paid or is pending, ***the full premium shall be refunded*** for the current policy year, and for an additional policy year in those cases where the insured had been required to renew the policy during the period when a revised map was being reprinted. IF A CLAIM HAS BEEN PAID OR IS PENDING, NO REFUND IS ALLOWED.”

OK, YOU'VE TALKED ME INTO IT, HOW DO I APPLY?

Simply fill out, ***sign and date***, the:

1. **PROPERTY INFORMATION FORM** (page 13 of MT-1 Form).

Include a:

2. **SITE PLAN SURVEY** (showing the location of buildings) and
3. **ELEVATION DATA SHEET, ELEVATION INFORMATION FORM or ELEVATION CERTIFICATE**

*Both of these must be filled out, signed, and certified by a **Registered Land Surveyor**.*

Also include:

4. **COPY OF DEED AND/OR LEGAL DESCRIPTION**
5. **COPY OF TAX APPRAISERS PLAT MAP** (which shows where the lot is located with respect to neighboring parcels, streets, roads, etc. In other words, it helps us accurately locate the lot.)
6. **PHOTOCOPY OF FIRM OR FHBM PANEL IDENTIFYING LOCATION OF LOT**
7. **PHOTOCOPY OF ROAD MAP IDENTIFYING LOCATION OF LOT**

[NOTE: This is small print you should read! We cannot begin processing an application without a COMPLETE SUBMITTAL OF NECESSARY DOCUMENTATION. We will send you a letter telling you what is missing. We then wait until the missing information is received. This will delay issuance of your LOMA or LOMR-F!!]

ANYTHING ELSE?

If the building site has been elevated above BFE by the placement of earth fill, we need confirmation from the municipality or county that the building was constructed in compliance with local floodplain management regulations. So, the applicant must request the local building or zoning office to sign and approve:

8. **COMMUNITY ACKNOWLEDGEMENT** form (MT-1 Form 4, page 17)

This may be submitted with the application or sent in directly by the community.

WHERE DO I SEND IT?

LOMA: The MT-1 application package, ***with accompanying documentation 2. through 7. or 8. above,*** is submitted to:

**Ms. Janice Mitchell
FEMA Region 4 - Mitigation Division
3003 Chamblee-Tucker Road, Suite 270
Atlanta, Georgia 30341**

LOMR-F: The MT-1 application package, ***with accompanying documentation 2. through 7. or 8. above, and check for \$400 made payable to the "National Flood Insurance Program"*** is submitted to:

**FEMA LOMA Depot
PO Box 3713
Merrifield, Virginia 22116-3713**

WHO CAN HELP??

To get help with filling out the forms, or to check on the status of your application **[Remember now, don't expect anything for 6-8 weeks!!]**, please call:

Mr. Paul Manno (Ms. Mitchell's assistant), at:
(770) 220-5442

Or, only if you are really desperate, because she has to process 2000 applications each year, you may contact Ms. Janice Mitchell, at: **(770) 220-5446**

WHAT IF THERE IS NO FLOOD ELEVATION ON THE FLOOD MAP?

If the property is in ***Flood Zone A***, without a letter or number after the "A", the flood zone is "approximate". [We call it an "unnumbered A Zone"] No Base Flood Elevation (BFE) has been determined for the area. ***However, FEMA can only approve a LOMA/R if a BFE has been established using standard engineering methodology.*** What to do?

Well, sometimes, another government agency has actually done a flood study and determined flood elevations. Or, maybe the lot is in a fairly recent subdivision for which flood elevations were determined as part of the land development process. In any case, check with your local building, zoning, or stormwater management office. ***If a BFE has been developed, your local government will have to send us a letter confirming the unofficial BFE and how it was developed.***

If there is no existing flood study, one will have to be developed in order to process a LOMA/R. There is a short-cut technique called the **Quick2 program**, which a registered engineer can use to develop an estimated BFE. But that will cost you extra money to pay for the engineer and for additional surveying work. The **Quick2 program** diskette and instructions are found in the publication **FEMA 265**, which is available *free of charge* from our office.

In short, ***LOMAs or LOMR-Fs in Flood Zone A are usually more complicated. Be prepared!***

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March 10, 2004

Federal Emergency Management Agency

Region IV, Mitigation Division
3003 Chamblee-Tucker Road, 2nd Floor
Atlanta, GA 30341

"COBRA" ZONE FACT SHEET

(Coastal Barrier Resources System - CBRS)

The Coastal Barrier Resources Act of 1982 (CBRA, Public Law 97-348), removed the Federal government from financial involvement associated with building and development in *undeveloped portions* of hazardous coastal areas. These areas were mapped and designated as Coastal Barrier Resources System units (CBRS) or, as they are also colloquially called, "COBRA Zones". Alarmed by rapid development of coastal barrier islands, Congress established the CBRS units to minimize:

1. loss of human life,
2. wasteful expenditure of Federal revenues, and
3. damage to fish, wildlife, and other natural resources.

The CBRA restricts any Federal program that may have the effect of encouraging development on coastal barrier islands. For example, Federal disaster assistance for individuals is limited to emergency relief. Funds for permanent reconstruction are available only for publicly owned or non-profit structures and infrastructure. The CBRA also banned the sale of federally backed flood insurance by the National Flood Insurance Program (NFIP) for structures built or substantially improved after October 1, 1983. The NFIP is administered by the Federal Emergency Management Agency (FEMA).

The Coastal Barrier Improvement Act of 1990 (CBIA, Public Law 101-591) expanded many existing CBRS units and added more units. The NFIP flood insurance ban affects structures built or substantially-improved after November 1, 1990, in CBRS areas added by the CBIA.

The CBIA also recognized "Otherwise Protected Areas" (OPAs), which are primarily lands already protected from development due to ownership by public agencies or conservation groups, such as the Nature Conservancy or Audubon Society. However, some OPAs included adjoining strips of privately held lands. Only flood insurance restrictions were applied to OPAs, and these became effective on November 16, 1991. Structures built in OPAs to support conservation or public recreation functions are exempted and therefore eligible for flood insurance coverage.

Congress has twice enacted legislation to make minor technical revisions to the boundaries of CBRS and OPA units:

1. The Wild Bird Act of 1992 (PL 102-440), effective 10/23/92, revised units in Virginia and North Carolina.
2. PL 103-461, referred to as the "Technical Corrections Bill", effective 11/2/94, removed all known private lands from OPA areas and revised ten units in Florida, and single units in Alabama, Michigan, New York, and Virginia.

"COBRA ZONE" FACT SHEET
(Coastal Barrier Resources System - CBRS)

Page 2

FACT 1: FEMA did not delineate the CBRS units or OPAs. Congress did this. The U.S. Department of Interior, Fish and Wildlife Service, was given the responsibility for administering certain provisions of the CBRA and CBIA, including interpreting the boundaries of the CBRS units and OPAs. For assistance in this regard, please contact Kevin Moody, U.S. Fish & Wildlife Service, in Raleigh, NC, at (919) 856-4520 ext.162.

FACT 2: FEMA is required by Congress to illustrate the CBRS units and OPAs on our Flood Insurance Rate Maps (FIRMs), so that insurance agents know where NOT to sell flood insurance for buildings constructed or substantially improved after the effective date of the particular CBRS unit or OPA. Most of the new or expanded CBRS units and OPAs, created by the CBIA, were plotted on our FIRMs in 1992.

FACT 3: FEMA cannot alter the boundaries of the CBRS units or OPAs through the Letter of Map Amendment or Revision (LOMA/R) process. The CBRS Units and OPAs on our FIRMs can only be revised by the following:

1. Congressional action,
2. interpretation of boundaries by the USFW, or
3. cartographical modifications by FEMA to clarify transcription of the Dept. of Interior maps onto our FIRMs.

FACT 4: NFIP flood insurance may be sold in CBRS Units or OPAs if the building is "grandfathered". This means a building must have been constructed or permitted and under construction prior to the effective date of the CBRS or OPA unit.

FACT 5: If a grandfathered building with flood insurance is substantially damaged or improved, the policy will be cancelled. Substantial improvement occurs when the total costs of remodeling, renovation, and/or construction of an addition equals or exceeds 50% of the market value of the structure only (ie. property value less the value of the land and other site improvements). Substantial damage occurs when the total costs to fully repair a structure to its before-damage condition equals or exceeds 50% of its market value.

FACT 6: If a NFIP policy is issued in error, it will be cancelled and the premium refunded. No claim can be paid, even if the mistake is not found until a claim is made.

FACT 7: Federally backed loans are not available in a COBRA Zone. Federal law allows conventional loans to be made in floodplain portions COBRA Zones without being secured by flood insurance, subject to borrower notification. However, many banks are reluctant to lend without protecting their loan security with flood insurance. Private flood insurance for residential property is limited in availability and is quite expensive. The vast majority of flood insurance sold by private companies are policies written on the NFIP through an arrangement called "Write Your Own".

12/97-NC

FIA Contractors

The FIA contracts out three major functions to the following organizations:

1. Computer Services Corporation of America (CSC), serves as the “Bureau and Statistical Agent” of the NFIP. CSC is responsible for collecting data from the Write Your Own companies, assisting them with underwriting, and for providing them with general technical assistance. CSC publishes financial reports and various research projects on behalf of the FIA, and provides nationwide training for flood insurance adjusters. CSC also staffs ten regional offices, which provide training workshops and technical assistance to insurance agents and lenders with regard to the NFIP. After a major flood, CSC establishes a Flood Recovery Office to coordinate flood insurance claims to promote equitable adjusting of combined wind/flood claims and to encourage consistency between the various WYO companies and the direct side.
2. National Con-Serve Inc. (NCSI) is the servicing agent for the “direct” side of the NFIP, i.e., those policies written by independent insurance agents directly to the federal government. A significant majority of flood insurance policies are written through the WYO companies, so this function is not as large as it once was. NCSI processes all applications, change endorsements, renewals, and claims for the direct side.
3. Aspen Corporation operates the Map Service Center for the FIA, which is responsible for printing and distributing Flood Insurance Studies and accompanying flood maps. The Center also distributes NFIP brochures and publications.