

MT DNRC

Floodplain Resource Seminar 2012

NFIP Minimum Federal Standards

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Minimum Federal Standards

- Ordinance language
 - 44 CFR 60.3
- Mapping
 - 44 CFR parts 65, 66, 67, and 72



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What we are going to address today...

Understanding your ordinance/ordinance requirements and using map data

- ORDINANCE

- Permit requirements/necessary permits
- Elevations/lowest floor
- Floodproofing
- Reasonably safe from flooding
- Water supply/sanitation
- 5 acres/50 lots
- Best available data
- Alteration of watercourse
- Mobile homes
- SD/SI
- Changing the BFEs
- Approx A zones
- AO zones
- Enclosures/Crawlspaces
- Floodways
- RVs
- Enforcement

- Mapping

- LOMR-Fs
- CLOMRs/ESA
- LOMRs
- Community Acknowledgement Form



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5 acres/50 lots

- 44 CFR 60.3(b)(3)
 - In approximate A zones, a proposed project or development which is greater than 5 acres or 50 lots (whichever is lesser) must develop BFEs
 - It is **recommended** that the community should require (as part of the permitting process) that a LOMR be submitted.
 - Why? B/c the flood risk may have been changed as a result of the project actions (re-grading, filling, channel realignment, etc)
 - NOTE: insurance requirement will still be based on the current effective (Approximate A zone) map if the detailed study is not submitted.
 - Who should pay for the LOMR? The developer.
 - Community Acknowledgement Form is required.
 - Depending on project, MT-1 or MT-2 form is used.



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Approximate A zones

- All development, including structures, must be constructed to be “reasonably safe from flooding”
 - Adequately anchored
 - Materials resistant to flood damage
 - Be constructed to minimize flood damage
 - Utilities
 - Electrical, heating, ventilation, plumbing, air conditioning equipment
 - Sewer, gas, water, and electrical systems
 - Designed or located to prevent water from entering/accumulating during flood event in order to minimize/eliminate flood damage



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Floodway

- A “no-rise” certification by a P.E. is required for ANY development in the floodway.
 - FEMA does not have a “no-rise” form to provide
 - No rise = 0.00 feet
- Determining the location of the floodway
- Increases to the BFE as a result of development in the floodway are possible; both a CLOMR (pre-construction) and a LOMR are required.



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Changing the map

- Through a process collectively called a Letter of Map Change, a property owner, developer, or other entity **may** or **must** (depending on type of project, map information, and other factors) submit a record of those changes to FEMA.
 - **MAY**: LOMAs and LOMR-F are voluntary (due to inadvertent inclusion)
 - **MUST**: LOMRs are required within 6 months of completion of project when BFEs are provided on the FIRM
- A LOMC is a letter which reflects an official revision to an effective FIRM or FHBM. **LOMCs are issued in place of the physical revision and republication of the effective map.**
- **BTW, all LOMRs, PMRs, and new/re- studies will have a 90-day appeal period. Period. Even Approximate A zone studies. Any change to the effective map will require an appeal period.**



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Changing BFEs on the FIRM

- Requires a LOMR (MT-2)
 - For increases or decreases to the BFE
 - Reporting natural changes or more detailed studies would be fee exempt
- 44 CFR 65.6 addresses the requirement
- If there is an increase to the BFE and/or the SFHA, impacted property owners must be notified by the requestor
- When the determination letter is issued, it identifies:
 - the newspaper publication dates (2x, one week apart)
 - when the LOMR becomes effective
 - includes 90-day appeal period and 30-day resolution
- Publication in the FR



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When is a CLOMR Required

- When proposed project would result in increase to BFE by more than 1 foot
 - 44 CFR 60.3 (c)(13)
 - BFEs on FIRM, no floodway defined
- When proposed project would result in ANY increase to the BFE
 - 44 CFR 60.3 (d)(4)
 - BFEs and floodway defined
- MT-2 form



Compliance with the Endangered Species Act (ESA) for CLOMOCs

- The guidance (provided as a separate handout) is for the compliance with the Endangered Species Act (ESA) for Letters of Map Change. The purpose of the ESA is to conserve threatened and endangered species and the ecosystems upon which they depend.
- **CLOMR-Fs, CLOMRs**
 - ESA compliance **MUST BE DOCUMENTED** to FEMA **PRIOR** to issuance of CLOMR-F or CLOMR.
 - FEMA **MUST** receive confirmation of a completed consultation (may be conducted with USFWS by phone, email, or letter) of ESA compliance from the U.S. Fish and Wildlife Service. In some circumstances, FEMA may have to participate in the consultation between the CLOMR-F/CLOMR applicant and USFWS.



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WHEN IS A LOMR REQUIRED?

44 CFR 65.3

- A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Administrator of the changes by submitting technical or scientific data in accordance with this part. *Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.*



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LOMR-s

- MT-2 form
- LOMRs are limited in size to a full panel or four 11x17 attachments (as a rule of thumb) and will be typically printed on 8.5x11 or 11x17 sheets.
 - For LOMRs with large revisions to the SFHA, affecting several panels, FEMA may issue a Physical Map Revision (PMR) – in other words, the panels are reprinted.
 - LOMR versus PMR – advantages/drawbacks
- H&H models required:
 - Original model
 - Duplicate effective
 - Existing conditions
 - Proposed conditions
- Modeling must extend upstream/downstream until BFEs match the FIS profile to within 0.5 foot.



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Community Acknowledge Form

- Required for MT-1 and MT-2 forms
- Provides written assurance by the participating community that they have complied with the appropriate minimum floodplain management requirements of 44 CFR 60.3(a)(3) – reasonably safe from flooding.
 - That is, any existing or proposed structures within the area to be removed from the Special Flood Hazard Area are (or will be) reasonably safe from flooding.
- The form is required when fill has been placed and MT-1/MT-2 is being submitted.
- “WAIT! - my property is in an Approximate A zone where fill has been placed – do I hafta get a signed Community Acknowledgement Form?”
 - If you want a determination that your property/structure can be removed from the SFHA, yes, you do.



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Approximate A zones and the LOMCs

- LOMAs, LOMR-Fs
 - Property owners engineer should develop BFE thru Quick-2 or FEMA 265 methods
 - FEMA can develop BFEs, but will be based on best available information and thus could be more conservative (i.e. higher)
- LOMRs
 - Are RECOMMENDED for Approximate A zones if the 5 acre/50 lot requirement is met
- CLOMRs/LOMRs
 - **ARE STRONGLY SUGGESTED FOR LARGE OR COMPLEX PROJECTS!!**
 - Examples: levee construction, bridge/culvert replacement, stream realignment/restoration, some mitigation projects



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LOMR-s

- What if I want to do a CLOMR/LOMR in an Approximate A zone – what models would be required?
 - Develop an existing conditions model and a proposed conditions model.
 - IF THERE IS AN INCREASE TO THE BFE OF MORE THAN ONE FOOT, BOTH A CLOMR AND A LOMR IS RECOMMENDED (referencing 44 CFR (c)(13))



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Best Available Data

- Most typically used for Approximate A zones when more detailed information is available such as thru a private study or unpublished study, but not adopted on the FIRM.
- Example: private study on Approximate A zone that developed BFEs. Not submitted to FEMA.
- Should the data be consistent with FEMA methods? Ideally, yes.
- **What happens if the detailed study shows the property to be out.**
 - **Is a permit still required? Yes, b/c the FEMA map is still effective and shall be used for floodplain administration, lender hazard determinations, and flood insurance requirements.**
 - **Is the structure required to be elevated? Unless a LOMA/LOMR-F provides a determination for removal and thus the structure is out by FEMA standards, then the structure would still be considered in and therefore would have to be elevated.**
- If using BAD, ordinance should adopt study to be legally enforceable.



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Alteration to a Watercourse

- Alterations (man-made changes) are often made to the channels of rivers, stream, or drainageways, usually to improve drainage, relocate the channel, or to increase its flood carrying capacity.
- The altered or relocated watercourse must have the same or greater capacity as the original watercourse.
- How do you prove maintained or increased capacity?
 - A detailed study would have to be been done PRIOR to the work being performed to establish the current carrying capacity and a second study done with proposed new conditions to verify the carrying capacity is being maintained or increased. IN ADDITION, the permit must address how the carrying capacity will be maintained over time.



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Natural changes to channel/floodplain

- Reporting natural changes to channel/floodplain can be done thru the MT-2 form.
 - If no structural changes occur, submittal would be fee exempt
 - Would a detailed study have to be performed to report change or can re-delineation be done instead.
 - Depends on degree of change.
- Natural changes can and do occur and can be confusing about what to do for an Approximate A zone.
 - The channel/floodplain in an Approximate A zone has clearly moved when compared to current effective map.
 - For minor departures from the current effective, re-delineation could be done.
 - For more severe departures, a new detailed study would be recommended to be submitted.



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SD/SI

- Definitions found in 44 CFR 59.1
- Community should develop detailed procedures on how to identify and determine a SD or SI structure
- Determining value
 - Market value by CERTIFIED general real estate appraisers versus assessed value
 - Exclude value of land
- SD: cause of damage can be from any source – fire, flood, etc.
- SI: includes improvements to the interior



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