



*National Flood Insurance Program (NFIP)*

# Floodplain Management Requirements

A Study Guide and Desk Reference for Local Officials -

FEMA 480

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**FEMA**

## D. COMMUNITY PARTICIPATION

The NFIP is based on a cooperative agreement between the community and FEMA. FEMA can only make flood insurance available in those communities that agree to regulate future development in the floodplain.

### JOINING THE NFIP

Participation in the NFIP is voluntary. There is no Federal law that requires a community to join, although some states have requirements. However, as discussed later in this section, a nonparticipating community faces sanctions, such as loss of Federal aid for insurable buildings in the floodplain. These make participation a very important decision for many communities.

To join, a community must adopt a resolution of intent to participate and cooperate with FEMA. The community agrees to “maintain in force...adequate land use and control measures consistent with the [NFIP] criteria” and to:

- (i) Assist the Administrator in the delineation of the floodplain,
- (ii) Provide information concerning present uses and occupancy of the flood plain,
- (iii) Maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards, elevation and floodproofing records on new construction,
- (iv) Cooperate with agencies and firms which undertake to study, survey, map, and identify flood plain areas, and cooperate with neighboring communities with respect to the management of adjoining flood plain areas in order to prevent aggravation of existing hazards;
- (v) Notify the Administrator whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area.

The community must also adopt and submit a floodplain management ordinance that meets or exceeds the minimum NFIP criteria. These criteria are explained in Unit 5 of this course.

As shown in Figure 2-1, most communities joined in the 1970's. At that time they were provided with a Flood Hazard Boundary Map which showed only the approximate boundaries of the floodplain. Generally, they entered the “Emergency Phase” whereby their regulatory responsibilities were limited because of the limited flood hazard data provided on the map.

Participating communities receive a Flood Insurance Rate Map (FIRM) and most get a Flood Insurance Study with more detailed flood hazard data. After a period to review and appeal the draft map and study, the community is given six months to adopt the new data in a more comprehensive ordinance.

The FIRM takes effect at the end of the six month period. If the ordinance has been adopted in time, the community is converted to the “Regular Phase” on that date. That is also the date that differentiates “pre-FIRM” buildings from “post-FIRM buildings.”

If the ordinance is not adopted in time, the community is suspended from the NFIP. The FIRM still goes into effect on the same date and is used by lenders and Federal agencies for determining where loans can be issued and federal assistance can be provided.

As of the end of August 2003, 97% of the NFIP communities were in the Regular Phase.

## COMPLIANCE

The community’s floodplain management program and permit records are reviewed periodically by the FEMA Regional Office or state NFIP coordinating agency. Either agency may inspect records as part of a community assistance visit (CAV) or community assistance contact (CAC).

If a community doesn’t uphold its part of the agreement and fails to adequately enforce its floodplain management regulations, FEMA has recourse through three approaches:

- ◆ Reclassification under the Community Rating System
- ◆ Probation
- ◆ Suspension from the program

### Reclassification under the Community Rating System



The Community Rating System (CRS) provides a discount in the flood insurance premiums for properties in communities that participate in the CRS and implement floodplain management programs that exceed minimum NFIP requirements. The CRS is explained in Unit 9, Section C. As of May 1, 2004, 1,002 communities participate in CRS. This represents 66% of policies in force.

CRS Communities that are deemed to no longer be in full compliance with the NFIP requirements can be reclassified to Class 10. Should that happen, residents would lose their CRS flood insurance premium discounts.

### **Probation**

Probation represents formal notification to the community that FEMA regards the community's floodplain management program as non-compliant with the NFIP criteria.

Prior to imposing probation, FEMA provides the community a 90-day written notice and lists specific deficiencies in its program and violations. FEMA also notifies all policy holders of the impending probation, telling them that an additional \$50 premium will be charged on policies sold or renewed during the probation period. The objective of this surcharge is to bring the policy holders' attention to the fact that their community is not compliant and failure to correct the problems may lead to suspension.

The community has 90 days to avoid this sanction by correcting the program deficiencies and remedying the identified violations. Probation may be continued for up to one year after the community corrects all program deficiencies. This ensures that the community has truly changed its ways and become compliant and that all policies holders are advised of the situation when their policies are renewed.

### **Suspension**

If, after a period of probation, a community fails to remedy its violations and program deficiencies, it will be suspended from the NFIP for failure to enforce its floodplain management regulations. Suspension means the community is no longer in the NFIP. It is subject to the sanctions for non-participation that are explained in the next section.

FEMA grants a community 30 days to show why it should not be suspended and then sends it a 30-day suspension letter. FEMA may also conduct a written or oral hearing before suspension takes effect.

A community suspended under the NFIP may apply to the FEMA Regional Office for reinstatement by submitting the following:

- ◆ A local legislative or executive measure reaffirming the community's intent to comply with the NFIP criteria.
- ◆ Evidence that all program deficiencies have been corrected.
- ◆ Evidence that any violations have been remedied to the maximum extent possible.

FEMA may reinstate the community to full program status, bring it to a probationary status, or withhold reinstatement for up to one year after a satisfactory submission from the community.

A community will also be suspended if, following due notice, it fails to adopt revisions to its floodplain ordinance in response to flood map revisions or amended minimum NFIP criteria. Communities have a 6 month period after a new or revised map is issued to update their floodplain management regulations to incorporate the new data and make any other necessary changes. If at the end of the 6 months the community has not adopted a compliant ordinance, it is automatically be suspended.

It is not uncommon for communities to be suspended for failure to adopt compliant ordinances. Sometimes communities get a late start revising their ordinance and cannot complete the ordinance adoption process in the allotted 6 months. These communities are reinstated into the NFIP upon adoption of the ordinance provided no non-compliant development has taken place during the suspension.

## **SANCTIONS FOR NON-PARTICIPATION**

A community that does not join the NFIP, has withdrawn from the program, or is suspended from it faces the following sanctions:

- ◆ Flood insurance will not be available. No resident will be able to purchase a flood insurance policy.
- ◆ If the community withdraws or is suspended, existing flood insurance policies will not be renewed.
- ◆ No Federal grants or loans for the acquisition or construction of buildings may be made in identified flood hazard areas under programs administered by Federal agencies such as HUD, EPA, and SBA.
- ◆ No Federal disaster assistance may be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
- ◆ No Federal mortgage insurance or loan guarantees may be provided in identified flood hazard areas. This includes policies written by FHA, VA, and others.
- ◆ Federally insured or regulated lending institutions, such as banks and credit unions, must notify applicants seeking loans for insurable buildings in flood hazard areas that:
  - There is a flood hazard and
  - The property is not eligible for Federal disaster relief.

These sanctions can be severe on any community with a substantial number of buildings in the floodplain. Most communities with a flood problem have joined the NFIP and are in full compliance with their regulatory obligations.