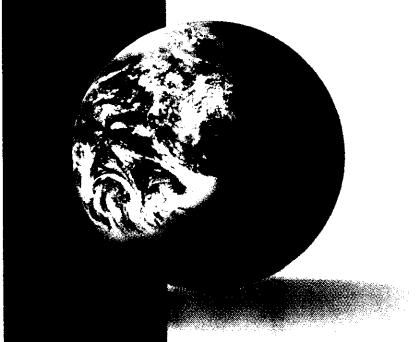
The National Flood Insurance Program ...

... Made Easy!

A guide for borrowers, lenders, and real estate professionals



An Overview...

The National Flood Insurance Program is a series of local and federal laws designed to reduce the exposure of new and existing buildings to flood damage, as well as safeguard the mortgage lending industry. This series of laws can be broken down into two basic sets.

The 1st set of laws falls under the heading of floodplain management. These laws, drafted & administered by local government, put conditions on the construction of buildings in flood prone areas. These are laws that builders encounter when applying for permits.

The 2nd set falls under the heading of flood insurance. Drafted by federal government and administered by lenders, these laws place conditions on the financing of buildings in pre-identified areas. These are laws that borrowers encounter when applying for loans.

There are subtle differences between these sets of laws which occasionally cause confusion. This guide is an effort to clarify the differences, relieve confusion, and when feasible, provide options for those encountering the most common types of problems.

Floodplain Management

Floodplain management laws vary from community to community but are primarily designed to limit new construction in the central portion of the floodplain and ensure that the 1st floors of new buildings will not be inundated during a 100-year (1% annual chance) flood; this effort takes place in the local permit process.

When a builder applies for a permit, local codes normally require that an official determine whether any portion of the tract plots in a 100-year floodplain shown on the local Floodway Maps, published by the Federal Emergency Management Agency (FEMA).

If the tract infringes on one of these areas, the official must look up the projected water elevation at the site during a 100-year flood, known as the base flood elevation (BFE). The official must also determine which areas of the tract lie in the floodway (central portion of the floodplain) and the floodway fringe (outer portion of the floodplain).

At this point an important fact must be noted about FEMA's maps... namely, that not all floodplains are created equal. Some are the result of detailed studies in which hydraulic modeling was used. Others are based on approximate studies in which a best guess floodplain was simply drawn on a map. These variations in the level of study affect the accuracy of the depicted floodplain and the complexity of determining the BFE, floodway, and floodway fringe. They also affect lenders assessing the need for flood insurance.

If the floodplain is the result of a detailed study, the task of determining the BFE, floodway & floodway fringe is easy. The BFE will be readily available in the community's Flood Insurance Study (FIS), the master source of hydraulic data used to generate the community's Floodway Maps. In addition, the floodplain shown on the Floodway Map will already be split into areas of floodway & floodway fringe.

If the floodplain is the result of an approximate study, the BFE, floodway, and floodway fringe must be determined from scratch, a task often beyond the means/jurisdiction of local government. In such cases, the plans are forwarded to a designated state agency for recommendation. State

recommendations are very helpful, so much so that many local officials request state recommendations even when proposed developments lie in detailed study areas.

The state agency, upon receiving the local official's request, assigns an engineer to perform a hydraulic analysis. The engineer starts by calculating the discharge associated with a flood having a 1% chance of happening in a given year then analyzes stream cross sections near the development to estimate the elevation to which water will rise during a 1% annual chance flood. This is the BFE for the site.

Once the BFE is known, the engineer obtains the best available topographic map and traces a line on both sides of the stream corresponding to the BFE (the outer limits of the 100-year floodplain). Due to differences in the level of study, this 100-year floodplain line may be significantly different from that shown on FEMA's Floodway Map.

Next, the engineer analyzes the hydraulic data and divides the floodplain into areas of floodway and floodway fringe. The floodway has a precise statistical definition but may be thought of as the central, moving water portion of the floodplain needed for the conveyance of floodwater. The floodway fringe is the outer, standing water portion of the floodplain needed for temporary floodwater storage.

After completing these analyses, the state issues a written recommendation, typically including a map showing areas of floodway and floodway fringe, the base flood elevation, a list of regulations affecting the project, and minimum first floor elevations for proposed buildings. Some states also note the 2nd set of floodplain regulations - those involving flood insurance - along with a caution that flood insurance determinations are the responsibility of lending institutions and beyond the jurisdiction of state and local government.

The local official, upon receiving the recommendation, decides whether to grant the permit, and if so, drafts permit restrictions. Restrictions vary but generally require that new buildings be constructed outside the floodway and that the first floors of new buildings be constructed at or above the BFE. Some states go on to require a first floor buffer. Indiana, for instance, requires that the first floor of new buildings be at least two vertical feet above the BFE.

"Floodplain" (floodplain management definition)
For floodplain management purposes, the term floodplain refers to land elevation - the land that is vertically below the base flood elevation, BFE (100-year flood elevation). Local officials are encouraged to use the best available hydraulic and elevation data in determining the BFE and implementing local floodplain management.

Flood Insurance

Flood insurance laws are the same in all communities nationally, regardless of local floodplain management. The laws do not address restrictions on construction, but rather financing of buildings in identified areas, specifically, the federal flood insurance requirement. This effort occurs during the loan approval process.

When a borrower applies for a loan secured by real estate, lenders are required to determine whether the buildings securing the loan plot in an identified Special Flood Hazard Area (SFHA) and, if so, to require flood insurance as a condition of the loan. The law applies to all lenders subject to federal oversight, as well as unregulated lenders making federally guaranteed loans or loans through Fannie Mae and Freddie Mac.

SFHA's are depicted on a set of FEMA published maps, called Flood Insurance Rate Maps (FIRM's). FIRM's look much like Floodway Maps used for floodplain management, except that they may not distinguish floodway vs. floodway fringe and may not depict cross section locations used in the flood insurance study.

To make a flood zone determination, the lender plots the horizontal positions of buildings on the local FIRM. Any insurable building that plots partially or entirely in an identified SFHA triggers the requirement, regardless of the building's flooding history. Due to the expertise needed and the federal requirement for life-of-loan tracking, most lenders outsource this task to specialized flood zone determination companies. The publisher of this guide, Floodplain Consultants Inc., is such a firm, specializing in Indiana and the surrounding states.

"Floodplain" (flood insurance definition)
For flood insurance uses, the term floodplain refers to the shaded Special Flood Hazard Area depicted on FEMA's Flood Insurance Rate Map (FIRM). Lenders must use the FIRM as the sole source of flood zone determinations, even if more accurate information is legally being used for local floodplain management.

The Most Common Problem

By far, the most common problem encountered by the public is the home which appears to be elevated but still requires flood insurance as a condition of financing. This happens because lenders are required to use the FIRM as the sole basis of flood zone determinations, and the FIRM's have varying degrees of accuracy in depicting the 100-year flood.

Recall that not all floodplains on FEMA's maps are created equal. Some are based on detailed studies. Others are best guesses. Some studies are 2 years old, others 20 or more. Some were drawn onto contour maps with 1-foot intervals, others 10-foot intervals. All involve engineering assumptions, and are, at best, attempts to depict extreme (1% annual chance) events.

For this reason, lenders are often asked to consider other information in making their determinations (i.e., floodplain maps prepared by private firms, elevation certificates from land surveyors, statements from local officials, recommendation letters from state officials, local knowledge...). However, as the law is written, if the building plots in the SFHA shown on the FIRM, lenders must require flood insurance, even if the other information is technically more accurate, even if it is used for floodplain management. The exception is a FEMA approved Letter of Map Amendment/Revision.

FEMA's position on this reads as follows:

(Mandatory Purchase of Flood Insurance Guidelines)

"In theory, the area on a map in which a building is located should reflect its susceptibility to flood; yet, in practice, flood insurance maps cannot reflect every nuance in the physical geography of an area.... there will be instances of 'natural islands' of high ground that are inadvertently included in the SFHA's. Nevertheless, until the map is changed, lenders are bound by information shown on FEMA maps unless a valid Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) exists for the property."

LOMA & LOMR-F

LOMA, Letter of Map Amendment, is a federal procedure for changing a FIRM to remove a naturally elevated parcel or building from an identified Special Flood Hazard Area. LOMR-F, Letter of Map Amendment based on Fill, is a similar procedure for properties that have been elevated on fill. The LOMA & LOMR-F themselves are letters from the Federal Emergency Management Agency recognizing that parcels & buildings are properly elevated; however, unlike letters from other sources, the LOMA/LOMR-F officially changes the flood zone of a property, giving lenders the option of waiving the flood insurance requirement.

To qualify for a LOMA/LOMR, the applicant must prove that the parcel or building meets the elevation requirement. If the application is for a parcel, the entire described parcel must be above the BFE. If the application is for a building, the elevation requirement depends on the building's age.

For buildings constructed prior to the FIRM Date, the date the FIRM was first published for the community, applicants must prove that the lowest adjacent land grade is above the BFE; the lowest adjacent land grade is the lowest point on the building where adjacent land touches the foundation. For buildings constructed after the FIRM Date, applicants must prove that both the lowest adjacent land grade and the first floor are above the BFE; the first floor is simply the top surface of the lowest floor (basement, if applicable).

To request a LOMA/LOMR, the interested party fills out an application, attaches supporting materials, and submits the request to the regional LOMA depot. Most supporting materials are readily available (legal description, plat map, tax map, copy of FIRM, property survey, etc.). However, assistance is normally required on two key items. First, elevation data must be certified on a standard FEMA form, an elevation certificate, signed by a licensed surveyor or professional engineer. Second, the BFE must come from a reliable source (FEMA's flood insurance study, state coordinating agency, licensed professional engineer, etc.). Once received, FEMA reviews all materials and generally responds by letter to the applicant in four to eight weeks.

Additional Sources of Help

This guide is an effort to clarify the basics of the National Flood Insurance Program, particularly items that cause the most confusion. It is, however, just an overview - and no substitute for guidance from program officials. Fortunately, for those needing help on specific issues, there are many sources of free information:

NFIP Web Site	www.fema.gov/nfip/
NFIP General Information	800-427-4661
Flood Insurance Rate Maps	800-358-9616
Bureau and Statistical Agent	630-577-1407
NFIP Forms by Fax Line	202-646-3362
FEMA Region 4 Office (AL,FL,GA,KY,MS,NC,SC,TN)	770-220-5400
FEMA Region 5 Office (IL,IN,MI,MN,OH,WI)	312-408-5548

State Coordinating Agencies

Illinois, Dept. Natural Resources 217-782-3862

Indiana, Dept. Natural Resources 317-232-4164

Kentucky, Dept. Natural Resources 502-564-3410

Michigan, Land and Water Mgmt. 517-335-3182

Ohio, Dept. of Natural Resources 614-265-6750

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