

Flood Protection Restoration

Zone AR Requirements Summary for State and Local Officials

LEVEES
IDENTIFYING
THE RISK
ZONE X

INTRODUCTION

As the Federal agency that is responsible for administering the National Flood Insurance Program (NFIP), the Federal Emergency Management Agency (FEMA) identifies flood hazards, assesses flood risks, and provides appropriate flood hazard and risk information to communities nationwide. This information is provided to communities in the form of maps, called Flood Insurance Rate Maps (FIRMs).

FEMA is updating and modernizing the FIRMs nationwide through its Flood Map Modernization (Map Mod) effort. Levee systems have been identified in over one-quarter of the counties for which modernized FIRMs—called Digital Flood Insurance Rate Maps (DFIRMs)—are being prepared. Therefore, accurately assessing flood risks for “levee-impacted” areas is important for Map Mod and the NFIP in general, and FEMA cannot accomplish this alone.

FEMA is *not* responsible for building, maintaining, operating, or certifying levee systems. FEMA does, however, develop and enforce the regulatory and procedural requirements that are used to determine whether completed levee systems should be credited with providing 1-percent-annual-chance flood protection on FIRMs or DFIRMs. These requirements are documented in Section 65.10 of the NFIP regulations, in Appendix H of *Guidelines and Specifications for Flood Hazard Mapping Partners*, and in Procedure Memorandums issued to clarify the regulatory and procedural requirements for FEMA contractors and mapping partners. FEMA relies on Federal, State, and local agencies and private levee owners to provide them with the required data and documentation on levees and levee systems so that flood hazard and risk information may be presented accurately on the maps and in related products for levee-impacted areas.

FEMA also develops and enforces regulatory and procedural requirements for levee systems that are planned or are in the progress of being built for the first time or being restored to provide 1-percent-annual-

chance flood protection. These requirements are presented in Sections 61.12 and Section 65.14 of the NFIP regulations, in the previously referenced Appendix H, and in the previously referenced Procedure Memorandums. As with completed levee systems, FEMA relies on Federal, State, and local agencies to provide data and documentation regarding new and restored levee systems that are planned or in progress.

When a community is engaged in the process of restoring a flood protection system that was constructed using Federal funds, recognized as providing 1-percent-annual-chance flood protection on an effective FIRM or DFIRM, and decertified by a Federal agency responsible for flood protection design or construction, a community may choose to submit certain data and documentation and request that FEMA issue a “flood protection restoration” determination and revise the affected FIRM or DFIRM panel(s) to show the levee-impacted area behind the levee system as Zone AR. Information on regulatory and procedural requirements as well as benefits of Zone AR is presented below.

APPLICATION AND SUBMITTAL REQUIREMENTS

To apply for the Zone AR designation, the Chief Executive Officer (CEO) of the community or another community official must submit a formal written request to the Administrator of the FEMA Regional Office that serves the community. That formal written request is to be accompanied by a legislative action by the community requesting the designation and by supporting information and documentation that complies with *all* requirements of Section 65.14 of the NFIP regulations, and any additional information or documentation requested by FEMA, if necessary. FEMA will not initiate any action to designate flood protection restoration zones without receiving a formal written request from the community.

The required information and documentation are listed below. FEMA reserves the right to request additional information and documentation from the community to support or further document the community’s formal request.



Community Receiving Federal Funds

If a community receives Federal funds for the purpose of designing or constructing the restoration project, or both, the following are the minimum information and documentation to be included with the formal request:

1. A statement whether, to the best of the knowledge of the community CEO, the flood protection system is currently the subject matter of litigation before any Federal, State or local court or administrative agency, and if so, the purpose of that litigation;
2. A statement whether the community has previously requested a determination from FEMA with respect to the same subject matter, and, if so, a statement that details the disposition of the previous request;
3. A statement from the community and certification by a Federal agency responsible for flood protection design or construction that the existing system, as shown on the effective FIRM or DFIRM, was originally built using Federal funds, that it no longer provides 1-percent-annual-chance flood protection, but that it continues to provide at least a 3-percent-annual-chance flood protection during any year;
4. An official map of the community or legal description, with supporting documentation, that the community will adopt as part of its floodplain management measures, which designates “developed areas” as defined in Section 59.1 of the NFIP regulations and as further defined in Paragraph 60.3(f) of the NFIP regulations;
5. A restoration plan to return the system to a 1-percent-annual-chance level of flood protection;
6. A statement identifying the local project sponsor responsible for restoration of the flood protection system;
7. A copy of a study, performed by a Federal agency responsible for flood protection design or construction in consultation with the local project sponsor, which demonstrates a Federal interest in restoration of the system and which deems that the system is restorable to a 1-percent-annual-chance level of protection; and
8. A joint statement from the Federal agency responsible for flood protection design or construction involved in the project and the local project sponsor certifying that the design and construction of the system involves Federal funds, and that the restoration of the system will provide a 1-percent-annual-chance level of protection.

At a minimum, the restoration plan submitted with the community’s determination request must:

- List all important project elements, such as acquisition of permits, approvals, and contracts and construction schedules of planned features.
- Identify anticipated start and completion dates for each element, as well as significant milestones and dates.
- Identify the date on which “as-built” drawings and certification for the completed restoration project will be submitted. This date must provide for a restoration period not to exceed the maximum allowable restoration period for the system.
- Identify the date on which the community will submit a request for a finding of adequate progress that meets all requirements of Section 61.12 of the NFIP regulations. This date may not exceed the maximum allowable restoration period for the system.

Community Not Receiving Federal Funds

If a community does not receive Federal funds for its work on the restoration project, the following are the minimum information and documentation to be included with the formal request:

- Items 1-6 above;
- A copy of a study, certified by Registered Professional Engineer, that demonstrates that the flood protection system is restorable to provide 1-percent-annual-chance flood protection;
- A statement from the local agency responsible for restoration of the system certifying that the restored system will meet the applicable requirements of Part 65 of the NFIP regulations; and
- A statement from the local agency responsible for restoration of the system that identifies the source(s) of funding for the project and the percentage of the total funds contributed by each source to demonstrate, at a minimum, that 100 percent of the total financial project cost of the completed system has been appropriated.

The requirements for the restoration plan that must be submitted are the same as those cited above, with one exception. Because the project does not involve Federal funds, it does not meet the minimum qualifications for an adequate progress determination. Therefore, the restoration plan does not need to identify the date on which the community will submit a request for such a determination from FEMA.

LIMITATIONS AND COMPLETION REQUIREMENTS

The following limitations and completion requirements apply:

- A community may have a flood protection restoration zone (Zone AR) designation only once while restoring a flood protection system. This limitation does not preclude future flood protection restoration zone designations should a fully restored, certified, and accredited system become decertified for a second or subsequent time.
- A community that *does receive Federal funds* for the purpose of designing or constructing the restoration project, or both, must complete restoration or meet the adequate progress requirements of Section 61.12 of the NFIP regulations within 10 years from the date of submittal of the community's application for the Zone AR designation.
- A community that *does not receive Federal funds* for the restoration project must complete restoration within a specified period, not to exceed a maximum of 5 years from the date of submittal of the community's application for the Zone AR designation. As mentioned above, such projects do not qualify for adequate progress determinations.

The designated restoration periods may not be extended for any reason.

EXCLUSIONS

The provisions of Section 65.14 of the NFIP regulations do not apply in a "coastal high hazard area" as defined in Section 59.1 of the NFIP regulations. This exclusion includes areas that would be subject to coastal high hazards as a result of the decertification of a levee system that is shown on the effective FIRM or DFIRM as providing a 1-percent-annual-chance level of flood protection.

FEMA REVIEW AND RESPONSE

FEMA will review all information and documentation submitted in support of the community's application for the flood protection zone determination. Upon completing this review, FEMA will respond, in writing, to the community CEO in accordance with the procedures specified in Section 65.9 of the NFIP regulations.

If FEMA issues a flood protection restoration determination, they will prepare new or revised FIRM or DFIRM panels that designate the temporary flood hazard areas as Zone AR. Existing SFHAs shown on the effective FIRM or DFIRM panel(s) for the areas that are further inundated by Zone AR flooding will be designated as one of the following flood insurance risk zones:

- Zone AR/AE or AR/AH with Zone AR Base (1-percent-annual-chance) Flood Elevations (BFEs);
- Zone AE or AH with BFEs;
- Zone AR/AO with Zone AR BFEs;
- Zone AO with base (1-percent-annual-chance) flood depths;
- Zone AR/A with Zone AR BFEs; or
- Zone A without BFEs.

Zones AR/AE, AR/AH, AR/AO, and AR/A are referred to collectively as "dual flood zones."

MAINTAINING ZONE AR DESIGNATION


To maintain the Zone AR designation, the following requirements must be met:

- During the restoration period, the community and the cost-sharing Federal agency, if any such agency is involved, must certify annually to the FEMA Regional Office that serves the community that the restoration project will be completed in accordance with the previously submitted restoration plan within the time period specified by the plan.
- The community and the cost-sharing Federal agency, if any, must update the restoration plan and identify any permitting or construction problems that will delay the project completion from the previously submitted restoration plan and submit it to the FEMA Regional Office that serves the community.

The FEMA Regional Office that serves the community will make an annual assessment as to the viability of the restoration plan and will conduct periodic onsite inspections of the system under restoration.

REMOVING ZONE AR DESIGNATION DUE TO ADEQUATE PROGRESS

At any time during the restoration period, a community that does receive Federal funds for the restoration project may submit a formal request to the FEMA Regional Office that serves the community for an adequate progress determination by submitting the information



and documentation required in Section 61.12 of the NFIP regulations. If a community does not receive Federal funds, that community is not eligible to apply for an adequate progress determination.

If FEMA determines that adequate progress has been made, FEMA will issue a written determination to the community CEO and will revise the affected FIRM or DFIRM panel(s) to change the flood insurance risk zone designation in the affected area to Zone A99.

Detailed information on the Zone A99 flood insurance risk zone designation is provided in a separate FEMA document titled “Adequate Progress on Flood Protection System: Zone A99 Requirements Summary for State and Local Officials.”

REMOVING ZONE AR DESIGNATION DUE TO PROJECT COMPLETION

At any time during the restoration period, the community that does receive Federal funds for the restoration project must provide written evidence of certification from a Federal agency having flood protection design or construction responsibility to the FEMA Regional Office that the necessary improvements have been completed and that the system has been restored to provide a 1-percent-annual-chance level of flood protection.

Likewise, at any time during the restoration period, a community that receives no Federal funds for the purpose of designing or constructing the restoration project must provide written evidence that the restored system meets the requirements of Part 65 of the NFIP regulations.

After the project has been completed and the submitted information and documentation has been reviewed by FEMA, FEMA will revise the affected FIRM or DFIRM panel(s) to reflect the effects of the completed system on the flood hazard and risk information for levee-impacted areas behind the system.

REMOVING ZONE AR DESIGNATION DUE TO NON-COMPLIANCE

If, at any time during the restoration period, the FEMA Regional Office that serves the community determines that the restoration project will not be completed in accordance with the timeframe specified in the restoration plan, or that satisfactory progress is not being made to restore the system to provide the level of protection cited in the restoration plan, the FEMA Regional Office will notify the community CEO and any

Federal agency sponsor, in writing, of its determination and the reasons for the determination. FEMA will also notify the community CEO and Federal agency sponsor that the affected FIRM or DFIRM panel(s) will be revised to remove the Zone AR designation.


Within 30 days of such notice, the community CEO may submit written information to the FEMA Regional Office that provides assurance that the restoration project will be completed in accordance with the timeframe specified in the restoration plan; that satisfactory progress is being made to restore protection in accordance with the restoration plan; or that, with reasonable certainty, the restoration project will be completed within the maximum allowable restoration period. On the basis of this information, FEMA may suspend its decision to revise the affected FIRM or DFIRM panel(s) to remove the Zone AR flood insurance risk zone designation(s).

If the community does not submit any information or if, based on a review of the information submitted, FEMA has sufficient cause to find that the restoration project will not be completed as provided for in the restoration plan, FEMA will revise the affected FIRM or DFIRM panels, in accordance with Part 67 of the NFIP regulations, to remove the Zone AR flood insurance risk zone designations and redesignate those areas as Zones A1-30, AE, AO, AH, or A as appropriate based on the levee system not providing a 1-percent-annual-chance level of protection. The flood insurance risk zone designation would be based on the type of engineering study that had been performed for the impacted area.

FLOOD INSURANCE REQUIREMENTS

The flood insurance requirements below apply in areas designated Zone AR on an effective FIRM or DFIRM:

- The mandatory flood insurance purchase requirements of the NFIP apply in Zone AR and in dual flood zones.
- The flood insurance premium rates go into effect on the effective date of the new or revised FIRM or DFIRM showing Zone AR designations.
- The NFIP grandfathering rules apply to structures in Zone AR and dual flood zones; this is important after the restoration project is completed.
- If a property owner purchases a policy and maintains continuous coverage and is later determined to be in an SFHA after the restoration project is completed, the original flood insurance rate would apply.



For more information on flood insurance purchase requirements, including requirements in Zone AR and dual flood zones, please visit the FEMA FloodSmart Web site at www.floodsmart.gov.

FLOODPLAIN MANAGEMENT AND BUILDING REQUIREMENTS

The floodplain management and building requirements below apply when FEMA has issued a Letter of Final Determination for a new or revised FIRM or DFIRM and has identified flood protection restoration areas by designating the areas as Zones AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A on the FIRM or DFIRM. These requirements also apply in areas designated as Zone AR on an *effective* FIRM or DFIRM. The floodplain management and building requirements below are in accordance with Paragraph 60.3(f) of the NFIP regulations.

- The community must adopt an official map or legal description of those areas within Zone AR and dual flood zones that are designated as “developed areas,” as defined in Section 59.1 of the NFIP regulations.
- For all new construction of structures in areas within Zone AR, the community must determine the applicable Zone AR BFE and use that BFE to apply the requirements of Subparagraphs 60.3(c)(1) through (14) of the NFIP regulations.
 - a. For areas that are inside the designated developed areas, the community must use the elevation that is 3 feet above the highest adjacent grade (i.e., the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure) or the Zone AR BFE, whichever is lower, regardless of flood depth.
 - b. For areas outside the designated developed areas where the Zone AR flood depth is 5 feet or less, the community must use the elevation that is 3 feet above the highest adjacent grade (or the Zone AR BFE, if that is lower).
 - c. For areas outside the designated developed areas where the Zone AR flood depth is more than 5 feet, the community must use the Zone AR BFE.
 - d. For dual flood zones, the community must use the higher of the applicable Zone AR BFE or the BFE or 1-percent-annual-chance flood depth for the underlying flood insurance risk zone (i.e., A1-30, AE, AH, AO, A).

- For all substantial improvements to existing construction within dual zones, the community must use the BFE or 1-percent-annual-chance flood depth for the underlying flood insurance risk zone (i.e., A1-30, AE, AH, AO, A) to apply the requirements of Subparagraphs 60.3(c)(1) through (14) of the NFIP regulations.
- The community must notify any permit applicant that the area has been designated as Zone AR, Zone AR/A1-30, Zone AR/AE, Zone AR/AH, Zone AR/AO, or Zone AR/A and whether the structure will need to be elevated to or above the Zone AR BFE.

BENEFITS OF ZONE AR DESIGNATION

The following are some benefits of the Zone AR flood insurance risk zone designation being shown on the effective FIRM or DFIRM for a community:

- The Zone AR designation helps eligible communities establish restoration plans that, when implemented properly, will allow the communities to reduce the flood risk to people and structures living and working behind the levee system.
- The flood insurance premium rates are likely to be significantly lower in SFHAs designated Zone AR than the premium rates in SFHAs with other flood insurance risk zone designations.
- The structure elevation requirements in SFHAs designated Zone AR are more relaxed than the elevation requirements in other SFHAs.
- The designation of Zone AR areas encourages communities to expeditiously restore the 1-percent-annual-chance or greater level of flood protection in at-risk areas.

WHERE TO GET ADDITIONAL INFORMATION

The resources cited in this fact sheet and other useful FEMA, NFIP, and Map Mod resources are now located in the FEMA Library at www.fema.gov/library. The levee resources are also accessible through the levee-dedicated pages on the FEMA Web site. The gateway to the FEMA-provided levee information is www.fema.gov/plan/prevent/fhm/lv_intro.shtm.

State and local officials who have questions about the requirements herein should contact their FEMA Regional Office. The Regional Office addresses are accessible through the FEMA Web site at www.fema.gov/about/regions/index.shtm.