



Adequate Progress on Flood Protection Systems

Zone A99 Requirements Summary for State and Local Officials

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 identifying the flood risk for levee-impacted areas is an important element of Map Mod and the NFIP in general.

FEMA is not responsible for constructing, maintaining, operating, or certifying levee systems. FEMA relies on Federal, State, and local agencies and private levee owners to provide them with the required data and documentation on levee systems so that the hazards and risks in levee-impacted areas may be presented accurately on maps and related products.

FEMA does, however, develop and enforce the regulatory and procedural requirements that are used to determine whether a completed levee system should be credited with providing 1-percent-annual-chance flood protection on a FIRM or DFIRM. 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 also develops and enforces regulatory and procedural requirements for levee systems that are being constructed for the first time or that are being restored to provide 1-percent-annual-chance flood protection.

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

When these new construction or restoration projects involve the use of Federal funds and reach certain completion milestones, community officials may choose to submit certain data and documentation and request that FEMA make an “adequate progress” determination. Information on regulatory requirements, procedural requirements, and benefits of FEMA making an adequate progress determination and changing the affected FIRM or DFIRM panel(s) to show the levee-impacted area as Zone A99 is presented below.

ELIGIBILITY REQUIREMENTS

In accordance with Section 61.12 of the NFIP regulations, FEMA may issue adequate progress determinations for flood protection system (i.e., levee system) construction or restoration projects involving Federal funds that may significantly limit the area of a community that will be included in the identified Special Flood Hazard Area (SFHA). The SFHA (also known as the high-risk area) is the area that will be inundated by the 1-percent-annual-chance flood, which is also referred to as the base, or 100-year, flood. Such projects reduce, but do not eliminate, the risk of flooding to people who live and work behind these levee systems and to the structures located in these levee-impacted areas.

The Chief Executive Officer (CEO) of the community or other responsible community official may request that FEMA make an adequate progress determination for a construction project and revise the effective FIRM or DFIRM panels to designate the SFHA in the impacted area as Zone A99. The CEO or other community official may request an adequate progress determination



when Federal funds are used for the project and certain project completion milestones, discussed below, are met.

APPLICATION AND SUBMITTAL REQUIREMENTS

In accordance with Paragraph 61.12(b) of the NFIP regulations, the FEMA Regional Office that serves the community or communities affected by the project must receive information from the sponsoring community indicating that the project meets *all* of the following requirements:

- 100 percent of the total financial project cost of the completed flood protection system has been authorized;
- At least 50 percent of the total financial project cost of the completed flood protection system has been expended;
- At least 60 percent of the total financial project cost of the completed flood protection system has been appropriated;
- All critical features of the flood protection system, as identified by FEMA, are under construction, and each critical feature is 50 percent complete, as measured by the actual expenditure of the estimated construction budget funds; and
- The community has not been responsible for any delay in the completion of the system.

Each request must contain a complete statement of all relevant facts relating to the flood protection system, including, but not limited to, the following:

- Supporting technical data (e.g., U.S. Army Corps of Engineers project data);
- Cost schedules;
- Budget appropriation data;
- Extent of Federal funding of system construction;
- Full and precise statement of purpose of system;
- Information sufficient to identify all persons affected by system/project;
- Carefully detailed description of project, including construction completion target dates; and
- True copies of *all* contracts, agreements, leases, instruments, and other documents.

Relevant facts reflected in the submitted documents must be included in the statement, and not merely incorporated by reference, and must be accompanied by an analysis of their bearing on the requirements of

Paragraph 61.12(b) of the NFIP regulations, specifying the pertinent provisions.

The request must contain a statement whether, to the best of the knowledge of the person responsible for preparing the application for the community, the project is currently the subject matter of litigation before any Federal, State, or local court or administrative agency, and the purpose of that litigation.

The request must also contain a statement as to whether the community has previously requested an adequate progress determination for the project from FEMA, detailing the disposition of such previous request.

Documents submitted to FEMA become part of the file and cannot be returned; therefore, community officials should not submit the original documents with their application.

FEMA REVIEW AND RESPONSE

FEMA will review all data and documentation submitted in support of the community's application for the adequate progress 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 an adequate progress determination, they will prepare new or revised FIRM or DFIRM panels that designate the temporary flood hazard areas as Zone A99.

MAINTAINING ZONE A99 DESIGNATION

To maintain the Zone A99 designation on the affected FIRM or DFIRM panel(s), the CEO or other responsible official of a community who receives an adequate progress determination from FEMA must certify that no present delay in completion of the project is attributable to local sponsors of the project. The community official also must certify that a good faith effort to complete the project is being made.

The community must submit this certification to the FEMA Regional Office that serves the community *annually*, on the anniversary date of receipt of the adequate progress determination.



FLOOD INSURANCE REQUIREMENTS

The following flood insurance requirements apply in areas designated Zone A99 on an effective FIRM or DFIRM:

- The mandatory flood insurance purchase requirements of the NFIP apply.
- Properties located in Zone A99 will be charged the same flood insurance premium rates that would be applicable once the project is complete.
- The flood insurance premium rates go into effect on the date that FEMA issues its final determination to the community CEO, in writing, that adequate progress has been made toward completion of the flood protection system.

FLOODPLAIN MANAGEMENT AND BUILDING REQUIREMENTS

The following floodplain management and building requirements apply in areas designated Zone A99 on an effective FIRM or DFIRM:

- Residential buildings do not have to be elevated to or above the elevation of the 1-percent-annual-chance flood (i.e., the Base Flood Elevation).
- Nonresidential buildings do not have to be elevated or floodproofed to or above the 1-percent-annual-chance flood elevation.
- Unlike the requirements in other SFHAs that are based on detailed studies, the community only needs to meet the standards of Subparagraphs 60.3(a)(1) through (5) and Subparagraphs 60.3(b)(5) through (9) for Zone A99 areas.

REMOVING ZONE A99 DESIGNATION

A community that has received an adequate progress determination from FEMA must notify the FEMA Regional Office that serves the community if, at any time, all progress on the completion of the project has been halted or if the project has been canceled. In such cases, FEMA will revise the affected FIRM or DFIRM panel(s) to present flood hazard and risk information based on the levee or levee system not providing 1-percent-annual-chance flood protection. The levee-impacted area would be shown as Zone A or Zone AE, depending on the type of engineering study that had been performed for the flooding source.

Otherwise, when the project has been completed, the community CEO or another community official will likely choose to request that FEMA accredit the levee system and revise the affected FIRM or DFIRM panel(s) to show the impacted area as a medium-risk area with a Zone X (shaded) flood insurance risk zone designation.

FEMA will review all data and documentation submitted by the community to show compliance with Section 65.10 of the NFIP regulations. Upon completion of the review, FEMA will issue its determination, in writing, to the community CEO and will make the appropriate changes to the affected FIRM or DFIRM panel(s).

WHERE TO GET ADDITIONAL INFORMATION

The resources cited throughout this fact sheet provide more detailed information on regulatory requirements, procedural requirements, and benefits of adequate progress determinations and the Zone A99 flood insurance risk zone designation. These levee resources and other useful FEMA, NFIP, and Map Mod resources are now located in the FEMA Library located at www.fema.gov/library/index.jsp.

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. A page on this portion of the FEMA Web site is dedicated to Zone A99; that page is located at www.fema.gov/plan/prevent/fhm/lv_a99.shtm.

State and local officials who have questions about the requirements included in this document or who would like to discuss specific projects should contact their FEMA Regional Office. Regional Office contact information is available through the FEMA Web site at www.fema.gov/about/regions/index.shtm.