
WATERLINES

News affecting the management and use of Indiana's water resources

DIVISION OF WATER
INDIANA DEPARTMENT OF NATURAL RESOURCES
WINTER 2013

BIGGERT-WATERS FLOOD INSURANCE REFORM ACT OF 2012

Excerpted from summary compiled by the Association of State Floodplain Managers

“The Biggert-Waters Flood Insurance Reform Act of 2012” was signed by the President on July 6, 2012. This legislation extended the authority of the National Flood Insurance Program (NFIP) for five years, until Sept. 30, 2017. As the title implies, the legislation also includes many reforms and changes to modernize the NFIP.

The five-year extension not only provides time for the changes to be put in effect but also provides a measure of confidence in the program as well. The string of short-term extensions in recent years resulted in several problematic lapses in the program. During those periods, no flood insurance policies could be written. These lapses had impacts on real estate sales (delays and cancellations) in which flood protection for the property was required but not available.

As demonstrated by the debt incurred by Hurricane Katrina and the yet to be fully calculated debt from Hurricane Sandy, risk-based pricing is necessary for the long-term stability of the program. The reforms include phasing out subsidies for many properties, increasing the limit for annual

rate increases from 10 percent to 20 percent, increasing lender penalties for non-compliance with mandatory flood insurance purchase requirements, requiring a 10-year repayment plan for the current insurance fund debt and requiring FEMA to establish a National Flood Insurance Reserve Fund.

Owners of vacation homes and second homes will no longer enjoy the premium subsidies (pre-FIRM) that were available before this bill. (Pre-FIRM means pre-Flood Insurance Rate Map, meaning the structure was built before the flood risk was identified and before the community had specific standards requiring buildings in high flood risk areas to be protected against flood damage.) Property owners have been accustomed to paying subsidized rates for these structures. Rates for these structures will be brought up rapidly, increasing by 25 percent per year until actuarial rates are realized. Other classes of structures will also face rate increases in certain situations.

Also in this issue

Training Opportunity	4
Congratulations	4
Preferred Risk Policy Eligibility Extension ..	5
Conference Corner	6
FAQ	7

Certainly these changes will catch attention over the next several months and years as they are interpreted and implemented, and as the full impacts are felt. Below are highlights of the Reform Act:

Flood Insurance

Removes subsidized rates (pre-FIRM rates) for the following classes of structures and allows rates to increase by 25 percent per year until actuarial rates are achieved: The effective date is July 1, 2012.

- Any residential property that is not the primary residence of an individual
- Any severe repetitive loss property
- Any property that has incurred flood related damages that cumulatively exceed the fair market value of the property
- Any property that after the date of the bill has incurred substantial damage or has experienced substantial improvement exceeding 30 percent of the fair market value of the property
- Any policy for which the owner has refused a FEMA mitigation offer under the Hazard Mitigation Grant Program (HMGP), or for a repetitive loss property or severe repetitive loss property

Other Flood Insurance Changes

- Increases the limit for annual rate increases within any risk classification of structures from 10 percent to 20 percent. Effective date is July 1, 2012.
- Defines Severe Repetitive Loss properties for single family residences as four or more claims, each for more than \$5,000 and cumulatively more than \$20,000. For multi-family residences, the Director may provide a definition by regulation.
- Allows for premium payments either annually or in more frequent installments.
- Places limits on a bank's force placement of flood insurance. Force placed insurance would be canceled and premiums refunded upon proof of a borrower's existing flood insurance coverage.
- When flood maps change, a property that has higher rates as a result of a new map shall have

the new rates phased in over a five-year period at 20 percent per year. Premium rate adjustments due to map changes take effect on the effective date of the new map.

- Lender penalties for non-compliance with mandatory flood insurance purchase requirements is increased from \$350 to \$2000 per violation, and the limit of fines for any lending institution over a calendar year is removed. It was \$100,000.
- Minimum annual deductibles on claims are changed to \$1500 for coverage up to \$100,000 and \$1,000 for coverage more than \$100,000 for pre-FIRM properties, and \$1,000 and \$1,250 for below and above \$100,000 coverage for post-FIRM properties.
- Rates must be set to cover the average historical loss year, including catastrophic loss years, in accordance with generally accepted actuarial principles.

Mapping

The bill establishes a Technical Mapping Advisory Council with membership coming from a wide range of professions, including federal agencies and state and local mapping partners. The Council would advise FEMA on improving accuracy, on standards that should be adopted for flood maps, data and map maintenance, and on funding needs and strategy. It would also develop recommendations for future conditions mapping within one year.

FEMA will be required to notify property owners when their properties are included in, or removed from an area covered by mandatory insurance purchase requirements. Also requires notification of Senators and House Members whose states or districts are affected by map changes. (This requirement will not be new to Indiana. The Indiana Department of Natural Resources adopted a policy nearly six years ago to notify affected property owners.)

There is an authorization of \$400 million for flood mapping per year for fiscal years 2013-2017. (This is an authorization level—not to be confused with actual annual appropriations.)

The bill formalizes a Scientific Resolution Panel to arbitrate when a community has received an unsatisfactory ruling with respect to an appeal of a revised flood insurance rate map.

The previous limit of 50 percent for state contributions to update flood mapping has been removed. This resolved a problem in which some states developed mapping data but FEMA was unable to use the data to produce new maps.

The bill requires a study on federal interagency coordination of flood mapping, including collection and utilization of data among all governmental users.

Mitigation Programs

The bill consolidates NFIP funded mitigation programs (Repetitive Flood Claims, Severe Repetitive Loss Properties, Flood Mitigation Assistance) into a single program. The combined National Flood Mitigation Fund is to be funded at \$90 million per year. While the old Flood Mitigation Assistance and Pilot Severe Repetitive Loss program were funded at up to \$40 million per year each and the Repetitive Flood Claims program at up to \$10 million, the Severe Repetitive Loss program has never been fully used, due in part to its complexity. The new program simplifies and combines the three previous programs and includes the following:

- Flood Mitigation Plan is allowed to be part of a community's multi-hazard mitigation plan.
- Removes beach nourishment as an allowed mitigation activity.
- Adds elevation, relocation or floodproofing of utilities as allowed mitigation activities.
- Adds demolition and rebuild as an allowed mitigation activity.
- Specifically notes the capacity for "direct" grants if the Administrator, after consulting with the State and community, determines that neither has the capacity to manage the mitigation grant.
- Caps the use of mitigation grant funds for state mitigation plan development at \$50,000 and at \$25,000 for a community.
- Restructures federal share requirement:

- Up to 100 percent for severe repetitive loss structures.
- Up to 90 percent for repetitive loss structures.
- Up to 75 percent for other approved mitigation activities.

Levees

Establishes a Flood Protection Structure Accreditation Task Force in cooperation with the Corps of Engineers. The Task Force is charged with better aligning the information collected by the Corps' Inspection of Completed Works Program with FEMA's flood protection structure accreditation requirements.

Allows for flood insurance premiums to reflect premiums in fully protected areas in communities that are deemed to have made adequate progress in the reconstruction or improvement of a flood protection system.

Studies

An assortment of studies are required including:

- Analysis of increasing the maximum coverage limits and the availability in the private market place of flood insurance in amounts that exceed current NFIP coverage limits.
- Annual program financial reports, including efforts to purchase substantially damaged properties and detailed analyses of the nature of losses.
- A Government Accountability Office (GAO) report on Pre-FIRM structures, including length of ownership, income of owners, comparison of flood losses to those of post-FIRM structures, the cost of subsidies to pre-FIRM structures, and options for eliminating subsidies.
- A GAO report on the three largest contractors FEMA uses to administer the NFIP.
- A study by the National Academy of Sciences on graduated risk behind levees.
- A separate FEMA and GAO study of reinsurance and privatization of the NFIP.
- A GAO study on business interruption and additional living expenses coverage.
- A FEMA study of amending the legislation to

use nationally recognized building codes as part of the floodplain management criteria.

- A FEMA-National Academy of Sciences study of encouraging maintenance of flood insurance and methods for establishing an affordability framework for flood insurance, including targeted assistance.
- A Federal Insurance Office study of the current market for natural catastrophe insurance in the United States, including issues of affordability.

Building Code Enforcement

Allows use of Community Development Block

Grants for increasing staffing and training for local building code enforcement, and to provide flood hazard and flood insurance information to residents.

For more information on the Biggert-Waters Flood Insurance Reform Act of 2012, go to the Association of State Floodplain Managers (ASFPM) website, floods.org. On the website, under National Policy and Programs (National Flood Insurance Program), you can download a summary of contents, compiled by ASFPM vice chair Bill Nechamen and Washington liaison Merrie Inderfurth, from which the information for this article was primarily excerpted, as well as the actual bill text. ☞

TRAINING OPPORTUNITY

The Division of Water will start the year with a workshop called “Community’s Responsibilities under the NFIP.” The focus will be on basics such as floodplain mapping, proper permitting procedures, elevation requirements and elevation certificates. The workshop will include examples of properly permitted structures. Community officials (i.e., floodplain administrators, zoning administrators, surveyors, planners, building officials, commissioners, council members or mayors) who are new or just want a refresher are encouraged to attend. Other indi-

viduals involved in floodplain management are also welcome to participate.

This workshop will be held Wednesday, Jan. 23, at the Indiana Government Center South Conference Center, 302 West Washington Street in Indianapolis. The workshop will be held from 9:30 a.m. until 3:30 p.m. (Indianapolis time) in Conference Room B. There is no fee.

To register, contact Anita Nance at anance@dnr.IN.gov or (317) 234-1110 (direct) or 877-928-3755 (toll free). Please register by Jan. 12. Seating is limited to the first 80 registrations. ☞

CONGRATULATIONS TO NEW CFMS



The number of Certified Floodplain Managers (CFMs) in Indiana continues to grow. Four people passed the CFM exam given at the Indiana Association for Floodplain and Stormwater Management (INAFSM) Annual Conference held this past September. The state’s newest CFMs are Samuel Booth of Shelbyville, Charles Campbell of Lebanon, Russell Waid Dillon of Schererville and Dennis Nail of Martinsville.

This is a national certification program established

by the Association of State Floodplain Managers. The program recognizes continuing education and professional development that enhance the knowledge and performance of local, state, federal and private-sector floodplain managers.

The next offering of the exam in Indiana will be March 21 at the Indiana Government Center South in Indianapolis. For more information, contact Anita Nance, (317) 234-1110 or [anance@dnr/IN.gov](mailto:anance@dnr.IN.gov). To learn more about the certification program or to apply for the exam, go to floods.org.

Currently there are 93 Indiana CFMs. ☞

PREFERRED RISK POLICY ELIGIBILITY EXTENTION

From FEMA Fact Sheet, November 2012



FLOOD MAPS CHANGE – FLOOD RISKS CHANGE

Since 2003, FEMA has led a major effort to update the nation's flood maps to reflect current flood risks. FEMA is continuing to provide new maps through a program known as Risk MAP (Risk Mapping, Assessment & Planning). The new maps are digital, easily accessible, and represent the most accurate flood risk data available.

As new maps have been issued, many property owners have learned that their risk of flooding has changed. And for some, the change has meant new flood insurance requirements. If a building in a moderate- to low-risk flood zone is mapped into a high-risk Special Flood Hazard Area (SFHA), most lenders will require flood insurance.

Before January 2011, a property owner could buy a lower-cost Preferred Risk Policy (PRP) before the new flood maps became effective, but the policy converted to a more expensive standard-rated policy at subsequent renewals. On January 1, 2011, FEMA extended PRP eligibility, allowing the lower-cost PRP to be written for two years after a revised flood map's effective date.

Beginning January 1, 2013, FEMA continues to make the PRP available for properties that were newly mapped into an SFHA since October 1, 2008, even after the two-year extension ends. The PRP option will continue until FEMA completes its analysis and implementation of premium rate revisions put in place by the Biggert- Waters Flood Insurance Reform Act of 2012.

ELIGIBILITY FOR THE PRP EXTENSION

To be eligible for the PRP, the building must meet certain loss-history requirements. If there have been two disaster relief payments, or claims for

flood losses of \$1,000 or more, or three losses of any amount, the structure is ineligible for a Preferred Risk Policy.

Owners of buildings that meet the loss history requirements and were newly mapped into a high-risk flood zone (shown on a flood map as a zone beginning with the letter "A" or "V") since October 1, 2008, are eligible for a PRP. Property owners should contact their insurance agent to obtain or renew their insurance using this low-cost option.

Insurance agents will be required to provide documentation to their insurance company showing that the



building is eligible for the PRP extension, including the current and prior map information. Both historic and current flood maps can be found on FEMA's mapping website (<http://msc.fema.gov>). The community's floodplain manager also should have the maps on file.

STAY PROTECTED AND SAVE

Property owners need to understand that they still are at a high risk for flooding. This extension provides them additional time to save and prepare for paying for the full risk premium when it is implemented. The extension also provides more time for the community to upgrade or mitigate flood control structures to meet FEMA standards and reduce the flood risk.

For additional information about flood insurance and the PRP Extension, visit www.FloodSmart.gov and www.FloodSmart.gov/PRPExtension or call the NFIP Help Center at 1-800-427-4661. ☰

FLOOD FACT

In a high-risk area, your home is more than twice as likely to be damaged by flood than by fire.

FloodSmart.gov

CONFERENCE CORNER

2012 INAFSM CONFERENCE

The term “packed house” comes to mind when describing the 2012 Annual Indiana Association for Floodplain and Stormwater Management (INAFSM) conference held at Brown County State Park, Sept. 12-14. The conference drew more than 200 attendees and sessions were full. There were several new faces along with many of those who never miss the opportunity.

Along with the informational sessions in the areas of floodplain management, stormwater and MS4, attendees heard about people and projects that were outstanding and worthy of recognition.

2012 Awards were presented to Marta Moody of Delaware-Muncie Plan Commission (Chair Award for Service to INAFSM), Tonya Cottrell of Hendricks County (Excellence in Floodplain Management Award), Oak Park Conservancy District (Outstanding Stormwater Project Award

#1), Matt Lake of Town of Merrillville (Excellence in Stormwater Management Award), Stantec Consulting (Outstanding Stormwater Project Award #1), Randall Miller Associates (Outstanding Stormwater Project Award #2), Delaware County (Outstanding Stormwater Project Award #2), Muncie Delaware Stormwater Department (Outstanding Stormwater Project Award #2), and Indianapolis Museum of Art (Outstanding Floodplain Project Award).

For more information about INAFSM or to download/view presentations from the 2012 conference, go to inafsm.net. ☺



Front Row, 1 to r: Marta Moody of Delaware-Muncie Plan Comm., Siavash Beik of CBBEL, Tonya Cottrell of Hendricks County. Middle Row, 1 to r: Charlie Milburn and Bryan Wallace, both with Oak Park Conservancy Dist., Matt Lake of Town of Merrillville. Back Row, 1 to r: Rob Huckaby of Stantec Consulting, Aaron Briles of Randall Miller Assoc., Jason Donati of Delaware County, Shareen Wagley of Muncie Delaware Stormwater Dept., and Mark Zelonis of Indianapolis Museum of Art. Photo by Robert Bullock.

NEW YEAR – NEW PEOPLE?

As communities across Indiana welcomed in the New Year, several welcomed in newly elected officials. It is a likely time for change in several communities within our state. Sometimes those changes include duties and/or staff.

The DNR Division of Water is the State Coordinating Office for the National Flood Insurance

Program (NFIP) in Indiana. In this capacity, we want to keep our contact information for Indiana communities participating in the NFIP up to date.

If the CEO or the person responsible for Floodplain Management in your community has changed recently, and your community has not responded to a recent request for updated information, please contact **Anita Nance** at anance@dnr.IN.gov or (317) 234-1110. ☺

Frequently Asked Questions



FEMA is launching a new way to submit a request to change a property's flood zone designation: the Online Letter of Map Change (LOMC). These FAQs are taken from the new FEMA Fact Sheet, December 2012.

Q: What is a Letter of Map Change (LOMC)?

A: If a property owner thinks their property has been inadvertently mapped in a Special Flood Hazard Area, property owners or their representatives may submit a request to FEMA for a Letter of Map Change (LOMC). A LOMC reflects an official revision/amendment to an effective Flood Insurance Rate Map (FIRM). FEMA issues LOMCs instead of physically revising and republishing the effective FIRM.

Q: What is the Online LOMC?

A: The online LOMC is an internet-based tool

that allows applicants to easily request a LOMC. It is a convenient way for applicants to upload all information and support documentation, including fees if applicable, and check the status of their application online. Users can submit LOMC requests through this tool instead of filing the MT-1 or MT-EZ paper form via US mail.

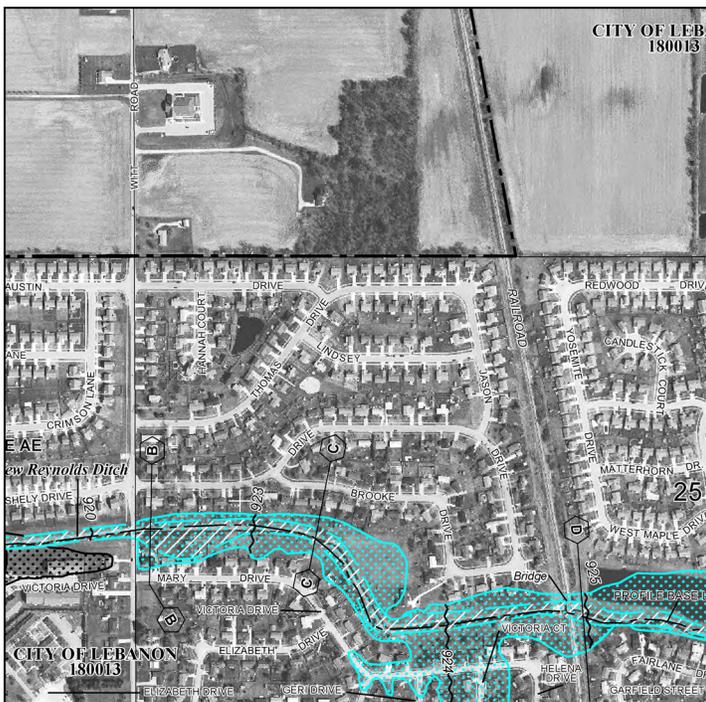
Q: Who can use the Online LOMC?

A: Anyone, including home or property owners, their representatives, and professional surveyors and engineers, may submit a LOMC request using the Online LOMC. Certification by licensed engineering or surveying professionals is required for some supporting documentation, which may be scanned and uploaded by the applicant.

Q: What are the benefits?

A: Applicants may save information online and finish applying at their convenience

- Clear and intuitive interface makes applying user-friendly
- Eliminates time associated with the paper-based submission
- Frequent applicants can manage multiple LOMC requests online
- More efficient communications with LOMC processing staff
- Applicants can check their application status in real-time



For more information about the Online LOMC tool, go to fema.gov/online-lomc. For questions or troubleshooting, please call the FEMA Map Information eXchange (FMIX) at 1-877-336-2627. For general LOMC information, visit fema.gov/letter-map-amendment-letter-map-revision-based-fill-process. ☞



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