

By Rebecca Quinn, CFM

When Community Boundaries Change.

When communities decide to meet the requirements for participation in the National Flood Insurance Program, they must make certain commitments. The NFIP regulations are found in 44 Code of Federal Regulations, Part 59 (General Provisions) and Part 60 (Criteria for Land Management and Use), and other parts not pertinent to this topic.

Most of what floodplain managers focus on are the requirements for development and buildings in special flood hazard areas, which are in 44 CFR Sec. 60.3 (Floodplain management criteria for flood-prone areas). The regulations that lay out community commitments are in Sec. 59.22 (Prerequisites for the sale of flood insurance), and Sec. 60.2 (Minimum compliance with floodplain management criteria). Some of those commitments to the NFIP are made in original resolutions of intent to participate.

Some commitments are included in local regulations, such as the responsibility to “maintain for public inspection and furnish upon request” documentation of building elevations and dry floodproofing certifications (Sec. 59.22(9)(iii)).

Another community commitment that usually is not found in local regulations caught my eye recently, and that is the requirement in Sec. 59.22(9)(v) to “Upon occurrence, notify the Administrator in writing 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 floodplain management regulations for a particular area. In order that all FHBM's and FIRM's accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority” (emphasis added).

Why is this important? Think about what happens when cities and towns annex land – the responsibility for land use transfers to those municipalities. When a new municipality incorporates – the new entity must adopt all sorts of regulations, including its own floodplain management regulations. And the inverse applies when towns become unincorporated or dissolve – the county is responsible for regulating development in the land area reverted to its jurisdiction.

OK, so all of that land use stuff is taken care of under state statutory authorities. But why is it important to report boundary changes to FEMA? Long ago, when the NFIP produced studies and paper maps for each community, those paper maps sometimes were republished to show boundary changes. More often, the community assuming responsibility was told to adopt the maps of the ceding community. That changed when FEMA started producing countywide maps. Still, community boundaries are part of the data sets and appear when you open digital FIRMs and the National Flood Hazard Layer.

Now, drill down a little more and consider the Community Rating System (CRS). Out of nearly 22,700 counties, cities, towns, tribes, and villages that participate in the NFIP, about 1,500 participate in the CRS. Policyholders in those communities enjoy discounts on NFIP flood insurance premiums, ranging from 5% to

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Your Community's Commitments to the NFIP

Do you have a copy of the resolution adopted by your elected officials when your community joined the NFIP? It's likely in an old file of hardcopy documents because most communities joined decades ago. Some NFIP State Coordinators may have copies, and FEMA Regions should be able to dig up old files.

Why look for those resolutions? Sometimes it's valuable to be able to remind people of commitments that aren't captured in local ordinances.

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45% in the top-tier, Class 1 communities. What happens:

- When a CRS city annexes land from a county that isn't in the CRS (or is CRS but with lower percentage savings)? In theory, the policyholders in the annexed area should benefit from the city's higher discounts.
- When a city that isn't in the CRS annexes land from a county that is in the CRS? In theory, the policyholders in the annexed area should lose their discounts.

Why do I say "in theory"? Well, consider how policyholders get the CRS discount. Most NFIP flood insurance policies are sold and serviced by private insurance companies that participate in the NFIP Write-Your-Own program. How do those companies determine where each policyholder's building is physically located for the purposes of determining whether to apply the CRS discount? It can't be based on mailing addresses, because many properties in unincorporated areas use nearby incorporated cities and towns as the mailing address.

I don't actually know how the insurance companies do it. Presumably somebody (or a GIS function) has to determine the physical location of each building and which NFIP community it is located in, and then determine whether CRS discounts apply. That can only be done with some form of map that delineates legal corporate boundaries. By the way, my guess is this is routine for insurance companies, especially those that might price regular insurance policies (usually called "fire coverage" although other perils usually are covered) based on scores communities achieve through the Building Code Effectiveness Grading Schedule (BCEGS).

So, where does this leave us in terms of how communities satisfy the commitment to notify FEMA when boundaries change? The Florida State Floodplain Management Office advises communities to send updated boundaries to the FEMA Region IV Risk Analysis Branch. Check with your NFIP State Coordinator or FEMA region for details about how you should notify FEMA in your part of the country.

Defining market value

The NFIP doesn't define "market value." The definition for "substantial damage" calls for "market value of the structure before the damage occurred," and the definition for "substantial improvement" calls for the "market value of the structure before the 'start of construction' of the improvement." Does that mean we all know what "market value" means? Not at all! That's why Ray Carroll has written his Market Value Supplement since March 2020.

While I was poking around in several state model ordinances recently, I noticed that none of them define the "market value." In the past I've indicated my growing support for use of Actual Cash Value. I'll share the definition many Florida communities are adopting to remove emphasis on the "traditional" appraisal method:

Market value. The value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the Actual Cash Value (like-kind replacement cost) depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

Please notice the use of "in-kind replacement cost." Like-kind means the appraiser starts with the cost to replace the building not to current code, but to replace it exactly as it is today. This is important for community officials to check when they get documentation for ACV determinations. Why? The appraiser might have determined what it would cost to replace the building to today's code (which would include an elevated foundation!). Of course, the cost to replace to today's code would be much greater than the "in-kind" replacement cost. And that would lead to an incorrect SI/SD determination because the denominator in the calculation would be much larger, and the resulting percentage much lower.

Submit your own items or suggestions for future topics to column editor Rebecca Quinn, CFM, at rcquinn@earthlink.net. Comments welcomed! Explore back issues of the [Floodplain Manager's Notebook](#).

By Ray Carroll, MAI, SRA, CFM

Market Value Dates

This month we'll talk about important dates that apply any time a building is valued to estimate the "market value" for the purpose of making substantial improvement and substantial damage determinations. It's important to understand that appraisers use different terms for those dates.

Date terminology

For SI/SD determinations, "market value" is always as of a specific date. The date is either immediately **prior to damage**, or **prior to the start of work on improvements**. Appraisers call this the "appraisal effective date," or sometimes the "date of value." An appraisal effective date must be established whether the appraisal is a "whole property" value estimate (called a "professional appraisal" in FEMA P-758, SI/SD Desk Reference), or an appraisal of Actual Cash Value.

The Uniform Standards of Professional Appraisal Practice (USPAP) requires appraisers to report at least two dates, the "appraisal effective date" and the "report date." Sometimes the date the appraiser inspected the building is reported, called the "inspection date." Knowing the inspection date is important because an inspection date that is out of context with the appraisal effective date requires explanation of what the appraiser did to assure that she knew what the building conditions were on the date of value.

The report date is the date the report is transmitted to the client. The report date establishes which version of the Uniform Standards of Professional Appraisal Practice that applies to the appraisal assignment. USPAP is normally updated on a 2-year cycle. As USPAP changes, I update the Appraisal Checklist I developed to assist local officials in making SI/SD Determinations. Look for the October Insider, when I'll give you a link to download the checklist.

Retrospective appraisals

Appraisals made as of a date in the past are identified as "retrospective." Retrospective refers to the appraiser's point of view. A retrospective appraisal is complicated by the fact that the appraiser already knows what occurred after the appraisal effective date. If local officials find themselves evaluating a retrospective appraisal report, make sure the descriptive information about the building, and the cost or market data on which the analysis is based, is in the same context as the retrospective appraisal effective date.

Specifically:

- Cost estimating systems should be set to historically-correct cost data sets.
- If a whole-property market value is estimated, then the comparable sales used should not have been sold later than the appraisal effective date, and the deductions made for land value and other

Key Terminology

Appraisal Effective Date or **Date of Value** means the date immediately prior to damage or before improvements are started.

Report Date is the date the appraisal report is delivered to the client.

Inspection Date is the date the appraiser inspects the building.

Actual Cash Value means like-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction.

"Like-kind" is important – it means the appraiser starts by estimating the cost to replace not to current code, but what it would cost to replace it just like it is today, so the end result would look "like" the building today. If replacement cost to current code is used, the result would not meet the requirement that market value be the value of the existing building.

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- improvements must also be time-appropriate.
- The building age (actual age or effective age) should be calculated as of the appraisal effective date.
- Depreciation, no matter how it is estimated, should reflect the building age and condition as of the appraisal effective date.

The same attention should be given to a retrospective building value derived by using the adjusted tax assessment method. When local officials ask for the under-roof assessment for the building, be sure to ask for the tax assessment value that applied prior to damage or prior to the start of work on improvements.

Valuations prior to damage (always retrospective)

When the NFIP “market value” is estimated in connection with the repair of damage, no matter what valuation method is used, the date of value is supposed to be immediately prior to the event that caused damage.

Appraisers must establish the date of value, and then do whatever is necessary (and possible) to determine what were the conditions prior to damage. This is accomplished by:

- Making an in-person inspection to observe the building, particularly the undamaged portions, which gives the appraiser an indication of what the damaged portion was like before the damage occurred.
- Obtaining images of the building taken prior to damage, from sources possibly including the property owner, tenants, contractors, other appraisers, or multiple listing systems (MLS).
- Interviewing people who saw the building before or immediately after damage.
- Reviewing building inspection reports or other reports related to the building.
- Documenting in the appraisal report the process followed, and the information relied on, to establish the building condition.

Extraordinary assumption is an assumption regarding uncertain information used in the analysis which, if found to be false, could alter the appraiser’s opinions or conclusions.

Hypothetical condition is a condition contrary to what is known by the appraiser to exist on the appraisal effective date, but is used for the purpose of analysis [often in litigation].

Post-damage building inspections are very helpful for interpreting pre-damage images and building reports. Interviews with people familiar with the building, and building inspection reports, usually help fill knowledge gaps.

With the passage of time, an unrepaired building continues to depreciate, often at an accelerated rate, making it difficult to determine what the building was like before damage occurred. In practice, especially after large-scale events that damage many buildings, it can be months or years before damage is repaired.

If the pre-damage building condition can’t be established with reasonable accuracy, then an appraisal with a “before damage” effective date can’t be made without invoking extraordinary assumptions. In general, an appraisal based on extraordinary assumptions is inappropriate for SI/SD determinations. Local officials should not accept such an appraisal because it involves assumptions that might prove untrue (and probably is intended for use in pending litigation). [Rebecca Quinn’s Note: my advice for local officials is to talk to the property appraiser about the tax assessed value assigned to the building, the date of that assessment, and whether the assessment already takes unrepaired damage into consideration.]

When a building is neglected

When a building is not maintained over time and falls into disrepair, it has been neglected. When damaged buildings are not repaired in a timely manner, then some communities consider the building effectively abandoned, and unrepaired damage is considered neglect.

In those cases, the appraisal effective date is the current date or inspection date. Neglected maintenance and unrepaired damage are treated the same as physical depreciation. [Rebecca Quinn’s note: the SI/SD Desk

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Reference doesn't clearly address this. When buildings have been neglected, market value should be determined as of the date of the community's inspection or the date an application is submitted (if not prompted by inspection).]

Valuations prior to start of work on improvements (alterations, renovations, remodels and additions)

When the NFIP "market value" is estimated "before the start of construction of the improvement," no matter what valuation method is used, the appraisal effective date is usually the same as the appraiser's inspection date.

Sometimes an appraiser shows up to inspect a building and discovers it's been gutted, or worse, unpermitted new construction has been performed. When that happens, best appraisal practice is to contact the floodplain administrator, describe the situation, and get advice on how to proceed. Local ordinances and policies govern, and the appraiser should not be responsible for deciding how to proceed.

If the local official agrees to let the appraisal process proceed, then the appraiser must follow steps 1-5 above (under Prior to Damage Valuations) to establish conditions before the start of work.

Candidates Wanted for 2021 CRS Award for Excellence

Nominations are now being accepted for the 2021 CRS Award for Excellence. The deadline for receiving nomination forms is October 31, 2021.

A nominee could be an insurance agent, real estate professional, local official, floodplain manager, or other community leader—someone who has provided leadership in raising awareness about the dangers of flooding, implementing floodplain management programs, and promoting the purchase of flood insurance through the CRS and the NFIP. Other individuals may be nominated, but it must be clearly shown how they have affected the CRS or a CRS community.

All nomination forms should clearly describe how the nominee meets the criteria listed below. Clear and detailed information will enable the review panel to do a thorough evaluation of the nominee. The criteria for evaluating nominees are listed below:

- Active involvement in a CRS community and knowledge of the risk of local flooding
- Demonstrated promotion of using flood insurance as a key tool for helping individuals prepare for the contingency of flood damage to their properties
- Activities to encourage community leaders to continually improve the community's safety and resilience to flooding and other disasters
- Noteworthy achievements in the area of alerting residents and businesses to potential flood dangers and promoting the purchase of flood insurance

Please read the [2021 award announcement letter](#), and download either a [PDF](#) or [Word](#) version of the 2021 nomination form.

September is National Preparedness Month!

Join the campaign to raise awareness about the importance of preparing for disasters and emergencies. Visit ready.gov/september to download information, social media graphics, and videos you can use with outreach efforts in your area. Each week in September, the campaign will focus on a different aspect of preparedness for individuals, families, and communities.

