

(f) For a structure located in an area identified as an "otherwise protected area" where the start of construction of the structure took place prior to November 16, 1990, the documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure, dated prior to November 16, 1990.

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A written statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own knowledge or from official community records, that:

(i) The start of construction took place prior to November 16, 1990; and

(ii) The structure has not been substantially improved since November 16, 1991.

(g) For a structure located in an area identified as an "otherwise protected area" where the start of construction of the structure took place after November 15, 1990, but construction was completed with the walls and a roof permanently in place no later than November 16, 1991, the documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure, dated prior to November 16, 1991.

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this

effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own knowledge or from official community records that:

(i) The structure constituted an insurable building, having walls and a roof permanently in place, no later than November 16, 1991; and

(ii) The structure has not been substantially improved since November 16, 1991; and

(3) A community issued final certificate of occupancy or other use permit or equivalent proof certifying that the building was completed (walled and roofed) by November 16, 1991.

(h) For a structure located in an area identified as an "otherwise protected area" for which the documentation requirements of neither paragraph (f) nor paragraph (g) of this section have been met, the documentation shall consist of a written statement from the governmental body or qualified organization overseeing the "otherwise protected area" certifying that the building is used in a manner consistent with the purpose for which the area is protected.

(Approved by the Office of Management and Budget under control number 3067-0120)

[48 FR 37039, Aug. 16, 1983, as amended at 57 FR 22662, May 29, 1992]

§ 71.5 Violations.

(a) Any flood insurance policy which has been issued where the terms of this section have not been complied with or is otherwise inconsistent with the provisions of this section, is void *ab initio* and without effect.

(b) Any false statements or false representations of any kind made in connection with the requirements of this part may be punishable by fine or imprisonment under 18 U.S. Code section 1001.

PART 72—PROCEDURES AND FEES FOR PROCESSING MAP CHANGES

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AUTHORITY: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

SOURCE: 57 FR 29038, June 30, 1992, unless otherwise noted.

§ 72.1 Purpose of part.

The purpose of this part is to provide administrative and cost-recovery procedures for the engineering review and administrative processing associated with FEMA's response to requests for Conditional Letters of Map Amendment (CLOMAs), Conditional Letters of Map Revision (CLOMRs), Conditional Letters of Map Revision Based on Fill (CLOMR-Fs), Letters of Map Revision Based on Fill (LOMR-Fs), Letters of Map Revision (LOMRs), and Physical Map Revisions (PMRs). Such requests are based on proposed or actual man-made alterations within the floodplain, such as the placement of fill; modification of a channel; construction or modification of a bridge, culvert, levee, or similar measure; or construction of single or multiple residential or commercial structures on single or multiple lots.

[61 FR 46332, Aug. 30, 1996]

§ 72.2 Definitions.

Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part. For the purpose of this part, the products are defined as follows:

CLOMA. A CLOMA is FEMA's comment on a proposed structure or group of structures that upon construction, will be located on existing natural ground above the base (1-percent annual chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

CLOMR. A CLOMR is FEMA's comment on a proposed project that upon construction will affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing effective base flood elevations, the Special Flood Hazard Area (SFHA), or the regulatory floodway.

CLOMR-F. A CLOMR-F is FEMA's comment on a proposed project that upon construction will result in a modification of the SFHA through the placement of fill outside the regulatory floodway.

LOMR. A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), or both, based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

LOMR-F. A LOMR-F is FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the regulatory floodway.

Physical Map Revision. A Physical Map Revision (PMR) is FEMA's revision and republication of an effective FIRM, FBFM, or FIS report based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA.

[61 FR 46332, Aug. 30, 1996]

§ 72.3 Fee schedule.

(a) For requests for CLOMRs, LOMRs, and Physical Map Revisions based on structural measures on alluvial fans, an initial fee subject to the provisions of § 72.4, shall be paid to FEMA before FEMA begins review of the request. The initial fee represents the minimum cost for reviewing these