

Rule 4 Definitions

ADD - Agricultural Structure - For floodplain management purposes, “agricultural structures” are structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures used for human habitation and those that are places of employment or entertainment and structures with multiple or mixed purpose do not satisfy the “exclusive use” requirement and are not agricultural structures.

ADD – Special Flood Hazard Area - means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH.

OR ALTERNATIVELY ADD SFHA to an existing definition.

DELETE - Substantial Change

ADD - Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damaged occurred.

ADD - Substantial Improvement – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

ADD – Violation - the failure of a structure or other development to be fully compliant with these rules. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Rule 6 Critical Facilities – B. Identification of Critical Facilities

This is the reference to mineral extraction, including oil and gas activities, being exempt as Critical Facilities. The language is fine, but I would like to see a sentence clarifying they are not completely exempt from local floodplain management requirements and are subject to local permitting procedures. I'm not sure how this may or may not conflict with COGCC rules but think its worth exploring. Here is my suggested language:

“.....shall be encouraged in the floodplain, and are exempt as Critical Facilities unless provisions within Rule 6(A)(2) apply. **These activities may still require coordination with the local jurisdiction and be subject to other local, state, and federal requirements or permits.**”

Rule 11 Floodplain Management Regulations

CHANGE - B. (1) Residential Structures. New and Substantially Changed ~~Changed~~ **Improved** residential....

CHANGE - B. (2) Non-residential Structures. New and Substantially Changed **Improved** non-residential structures, and Additions to existing non-residential structures shall be constructed with the lowest floor, including basements, placed with a minimum of one foot of freeboard above the Base Flood Elevation or advisory BFE, **or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to an elevation at least one foot above the Base Flood Elevation or advisory BFE with walls substantially impermeable to the passage of water and with structural component having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.** be flood-proofed to an elevation at least one foot above the Base Flood Elevation or advisory BFE. Agricultural structures shall be exempt from this requirement **but shall meet requirements set forth in FEMA Policy #104-008-03: Floodplain Management Requirements for Agricultural Structures and Accessory Structures.**

Rule 12 Effects of Flood Mitigation Measures and Stream Alteration Activities on Regulatory Floodplains

D. Not sure where we landed on the issue of “public and private flood control structures” but Kevin made the comment it causes confusion. 44 CFR 60.3 (b)(6)&(7) state:

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Insurance Administrator;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

I think language from these two requirements could be added into D to clarify minimum NFIP requirements, but this is only a suggestion.

J. We talked extensively on this and I think the language Kevin added helps clarify federal requirements may be different. Pursuant to 44 CFR 65.3 any change must be submitted to FEMA but think the 0.3' designation by the state is a good line in the sand. FEMA Region 8 will likely not actively pursue compliance actions to small changes in BFE resulting from projects unless there are other issues in the community.

Rule 14 Designation and Approval of Changes to Regulatory Floodplains:

Do communities need to adopt draft/prelim data to use it for regulatory purposes? It may be different for each community but would be worth mentioning at the end of the introductory paragraph to this rule. There is also the issue of only using more restrictive information than what is show on the effective. Suggest adding:

In the event that a community is aware of and has access to better available information on a previously designated flooding source, then the CWCB allows for that undesignated information to be used for regulatory purposes. **Communities may need to formally adopt this information through its local adoption process and should consult with appropriate staff such as the jurisdiction's attorney prior to using it for regulatory purposes. A community may also not use data or information that is less restrictive than what is depicted on the effective Flood Insurance Rate Map, Flood Insurance Study, or Flood Hazard Boundary Map in conformance with FEMA Policy #104-008-2 Guidance on the Use of Available Flood Hazard Information.**