



Board of County Commissioners

Kevin Ruane
District One

April 11, 2024

Cecil L. Pendergrass
District Two

Robert D. Samaan
Regional Administrator
Federal Emergency Management Agency,
Region IV
Koger Center - Rutgers Building
3003 Chamblee-Tucker Road
Atlanta, GA 30341

Ray Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Dave Harner, II
County Manager

Re: April 8, 2024, NFIP Minimum Floodplain Management Standards Findings Reports & April 11, 2024, FEMA Meeting with Impacted Communities

Richard Wm. Wesch
County Attorney

Dear Administrator Samaan:

Donna Marie Collins
County Hearing Examiner

Thank you for taking time to meet with us on April 11, 2024, to discuss FEMA Region 4's determinations that Unincorporated Lee County, Bonita Springs, Cape Coral, the Village of Estero and the Town of Fort Myers Beach are no longer in compliance with the National

Floodplain Insurance Program's (NFIP) Minimum Floodplain Management Standards, as stated in your April 8, 2024, letters to each of our jurisdictions. We appreciate your willingness to reevaluate the information used to reach these determinations given the many problems identified in the communication between FEMA and our communities. The intent of this letter is to summarize the conclusions reached at the April 11 meeting, including how these clarify the requirements of the April 8 letters.

The April 8 letters identify four alleged reasons your office reached the determinations of noncompliance: a large amount of unpermitted work in the Special Flood Hazard Area (SFHA), failure to maintain permit records for development in the SFHA, failure to make substantial damage and substantial improvement (SI/SD) determinations and calculations for development in the SFHA, and failure to maintain SI/SD records for development in the SFHA. These letters also provided a *Findings Report* for each community, which details the alleged specific program deficiencies and substantive violations for individual properties that are the basis for the noncompliance determinations and corresponding retrogrades to CRS Class 10. However, these letters state that each community has until May 9, 2024, (30 days from the date of the letters) to submit new information related to the identified deficiencies and substantive violations, and clarify any factual misunderstandings related to the *Findings Report*. FEMA will review this additional information to determine its completeness and whether it addresses the noted deficiencies and violations.

Since the communities were verbally informed on March 28, 2024, of the determinations of noncompliance and the corresponding CRS retrogrades, there has been significant discussion regarding documentation that was requested by FEMA and submitted by the communities, yet was either not reviewed or not indicated to be insufficient. While some of the requests from FEMA stated that a failure to provide the data could result in a CRS retrograde, the lack of response from FEMA after the communities submitted the information conveyed that it was sufficient.

Much of this documentation was specifically related to the individual properties identified in the *Findings Report*, and thus appears to have been extremely relevant to FEMA's conclusion. Based on statements at the April 11 meeting, one reason the April 8 letters provided the 30-day period was due to the identified breakdown in communication that resulted in these factual misunderstandings and these critical data not being part of FEMA's evaluation of NFIP compliance.



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Since the April 8 letters were received, various guidance has been provided to us by FEMA staff regarding what is required for each community to satisfy the conditions of the April 8 letters in order to certify NFIP compliance and retain their current CRS classification. During the April 11 meeting, you and your staff confirmed that if a community fully addresses the purported deficiencies and violations identified in the *Findings Report*, this will remove the determination of noncompliance and the resulting CRS retrograde. You also confirmed that by April 12, your staff would provide a list of the required deliverables and expectations, as well as the necessary format, and a list of the additional data FEMA would be providing that was used in the noncompliance determinations.

To facilitate this process, we have itemized our understanding of the data required to address the issues in the *Findings Report*, based on the discussions during the April 11 meeting.

1. Documentation for all properties in *Findings Report*.
2. A narrative of the community's compliance procedures and processes used in the SFHA after Hurricane Ian to identify and stop unpermitted work, maintain permit records, make SI/SD determinations and calculations, and maintain SI/SD records, including the following:
 - a. Community Outreach/Communication
 - b. SOPs for post-disaster floodplain management, including staff trainings on SOPs
 - c. List of properties determined to be substantially damaged as of April 8, 2024
 - d. List of permits issued in SFHA as of April 8, 2024
 - e. Copies of elevation certificates received as of April 8, 2024
 - f. List of Demolition Permits issued in SFHA as of April 8, 2024
 - g. List of Code Violations/Stop Work Orders as of April 8, 2024

In addition to discussions regarding the necessary documentation, the reasonableness of the provided 30 days was discussed extensively. Compiling the necessary information within this timeframe would be unrealistic under an ideal scenario and is even more problematic given the current situation. Furthermore, a week of that time has already passed, and we are currently awaiting additional data and guidance from your office. An important training event is also scheduled for April 23-26, 2024, at the Florida Floodplain Managers Conference. For months, both our floodplain management staff as well as several of your key staff have been scheduled to attend this vital training. The current deadline would make this impossible and would negatively impact the overall floodplain management programs of our communities. Based on these details and the discussion at the April 11 meeting, we officially request an extension of this deadline to one that allows sufficient time for the required documentation to be compiled to accurately reflect each community's efforts since Hurricane Ian.

To further complicate matters, the annual CRS Recertification deadline for all five of our communities is May 1, 2024. As you know, the effort to prepare for this submittal is significant, and requires the effort and expertise of the same staff who are preparing the response to the April 8 letters. Given that the current priority is addressing the *Findings Report*, we officially request that the annual CRS Recertification deadline be postponed until after this effort is concluded.



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We continue to believe that FEMA's primary goal in the wake of a catastrophic disaster such as Hurricane Ian is to compassionately assist victims and help affected communities rebuild resiliently. Our communities have been model NFIP participants and partners with FEMA in resilient floodplain management for decades. We have diligently responded to FEMA's multiple requests for information concerning Hurricane Ian-related issues during the past 18 months and will continue to do so. Our hope and expectations are that this commitment to the NFIP, and the CRS program will be met with the collaborative goodwill and assistance necessary to resolve any factual misunderstandings, as well as issues that may have been caused by the practical realities of recovering from one of this country's worst natural disasters on record.

Thank you again for your time and consideration. We implore your continued active participation in resolution of these issues to ensure there is no disconnect. We look forward to a successful collaboration that helps those devastated by Hurricane Ian to rebuild their lives and homes, so that when the next storm comes, yesterday's lessons are tomorrow's successes.

Sincerely,

Dave Harner
County Manager

Arleen Hunter
City Manager, Bonita Springs

Andrew Hyatt
Town Manager, Town of Fort Myers
Beach

Michael Ilczyszyn
City Manager, City of Cape Coral

Steve Sarkozy
Village Manager, Village of Estero

CC: FEMA Administrator Criswell
Congressional delegation Scott, Rubio, Donalds, Steube
Gov. DeSantis
Jason Hunter, FEMA Region IV
Jacky Bell, FEMA Region IV
Lee Board of County Commissioners
Bonita Springs City Council
Cape Coral City Council
Village of Estero Council
Town of Fort Myers Beach Council
Lee County State Legislative Delegation