



By Rebecca Quinn, CFM

It's been a while since someone asked this question: the NFIP regulations allow enclosures below elevated buildings if used solely for parking of vehicles, storage or building access. But what about crawlspaces—they're not any of those uses, so how can they be accepted as enclosures?

Well, turns out FEMA addressed this in the Federal Register years ago, in supplementary information explaining a proposed rule. See the bullets below for a little history lesson. And while I'm at it, I'll identify when openings first appeared in the Code of Federal Regulations. Get in touch if you're interested in details and I'll send the Federal Registers with both the proposed rules and final rules. The agency's explanations for proposed changes, and the responses to public comments, are interesting reads.

- **Aug. 24, 1984**, final rule. FEMA adopts a definition for “basement” for the first time, prompted by a new definition for “lowest floor” (paired with deletion of the definition for “habitable floor” – who knew!?). For the first time, the use limitations for enclosures is established as part of the definition of “lowest floor.”
- **Aug. 25, 1986**, final rule. FEMA clarifies the basic performance statement in Section 60.3(a)(3)(i) to specifically state the concern is that flotation, collapse or lateral movement (which was the extent of the original language) would occur due to the effects of hydrostatic and hydrodynamic loads, including the effects of buoyancy. Also on this date, FEMA adopts a requirement to achieve that performance through the use of openings in enclosure walls to allow for entry and exit of floodwater to automatically equalize hydrostatic flood forces on exterior walls. This is the first appearance of flood openings, and it provides both current options: engineered (certified openings) and non-engineered (1 square inch/square foot).
- **Aug. 15, 1989**, final rule. FEMA adopts modification to re-state limitations on use of enclosures in Section 60.3(c)(5), explaining it is “strictly for convenience purposes and eliminates the need to refer back to the definition of ‘lowest floor’.” Supplementary information in the published final rule offers clarification about crawlspaces: “It has always been FEMA’s interpretation that the inclusion of unusable enclosed areas below the lowest floor such as crawl spaces is implicit in the definition of “lowest floor.” The lowest floor definition contains a clause, which limits use for enclosures. Not using a space meets this limitation on use.

Last year I suggested ASFPM get all the old Federal Registers and prepare a concise history of the evolution of the NFIP land use regulations found in 44 CFR Section 60.3. One reason I suggested it is because there are people who see a post-Flood Insurance Rate Map building without openings and

AN IMPORTANT TERM

“Habitable” is a term generally understood to mean suitable for living. It is specifically defined in building codes. As floodplain managers, we need to be very careful to avoid using this word. It's close, but not precise, to say that all habitable spaces must be elevated to or above the required elevation. Why? Because as defined in the International Codes®, the definition for “habitable space” includes the statement that, “Bathrooms, toilet rooms, closets, halls, storage or utilities spaces and similar areas are not considered habitable spaces.” What do we know about the NFIP (and code) limitations on use of space below the BFE? Uses are limited to building access, storage and parking of vehicles (and crawlspaces). Thus, saying all habitable spaces must be elevated leaves the impression that any space that does not meet the code definition may be permitted below the BFE. And we can easily see that's not correct.

immediately assume it's a violation. When a building lacking openings (or any other noncompliant element) is identified as part of Community Assistance Visit, usually there are discussions about whether the community must pursue corrective action.

Let's keep in mind the difference between nonconforming and noncompliant. Obviously, if a building was built after the openings requirement was adopted and lacks openings, then there's a compliance problem and corrective action may be warranted. But if a building was built before the openings requirement was adopted by the community, it is nonconforming with current requirements, but there is no basis to require corrective action. Of course, the owner of such a nonconforming building may be happy to discover retrofitting could result in lower NFIP flood insurance premiums.

There are still plenty of old, and now out-of-date, local floodplain management regulations. I occasionally still find communities that haven't updated their ordinances since 1986! It's also common to find ordinances that don't define "substantial damage," which was added to the CFR Aug. 15, 1989. I vaguely recall at the time FEMA said local ordinances didn't have to be revised right away, perhaps because the substantial damage concept (but not the term) was embedded in the definition for substantial improvement. Obviously, it's a massive undertaking to revise floodplain management regulations of more than 22,000 communities. My guess is the scale of that task is one reason FEMA hasn't revised Section 60.3 in more than 25 years.

From last issue: In the November *Insider* I wrote about the value of interlocal agreements or MOUs when small communities rely on another community or a private sector provider to administer all or part of their floodplain management regulations. Shortly after publication I got confirmation from ISO that the Building Code Effectiveness Grading Schedule (BCEGS) has a requirement for such agreements to be in writing.

Submit your own items or suggestions for future topics to column editor Rebecca Quinn, CFM, at rcquinn@earthlink.net. Comments welcomed!

Grant Opps...

Grant opportunities are being offered from the National Science Foundation for "[Interdisciplinary Research in Hazards and Disasters](#)."

Just a reminder to bookmark the Florida Climate Institute's website for a comprehensive list of [funding opportunities](#). It's a fabulous resource.

Floodplain Management Training Calendar

For a full nationwide listing of floodplain management-related training opportunities, visit [ASFPM Online Event Calendar](#). Looking for training opportunities to earn CECs for your CFM? Check out our event calendar with LOTS of training opportunities listed for 2016! Search the calendar by state using the directions below, or use the category drop down menu to search by event category. Go to the calendar and click on the search feature icon at the top of the calendar. Type your state's initials in parenthesis (for example (WI)) into the search field and it will pull all the events that are currently listed on the calendar for your state. The only events without a state listed in the event title are EMI courses, which are listed with their FEMA course number and are all held in Emmitsburg, MD.