



FLOODWAY DEVELOPMENT REVIEW STANDARDS

POLICY | REG_09.2026

NORTH
Dakota | Water Resources
Be Legendary.

Effective Date 05/14/2026

OUTLINE

1	<i>POLICY STATEMENT</i>	3
2	<i>FLOODWAY DEVELOPMENT REVIEW PROCESS</i>	4
3	<i>FLOODWAY DEVELOPMENT REVIEW REQUIREMENTS</i>	6
4	<i>HYDRAULIC MODELS</i>	8
5	<i>HISTORY</i>	12

1 POLICY STATEMENT

The Department of Water Resources (DWR) Regulatory Division is responsible for the review of any Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) participating community's review of proposed development within a FEMA NFIP-identified regulatory floodway. Floodway development is reviewed to ensure any proposed floodway development complies with 44 CFR 60.3(d)(3) and North Dakota Century Code (N.D.C.C.) ch. 61-16.2, allowing the NFIP-participating community to remain in good standing with the NFIP.

1.1 POLICY AUTHORITY OR IMPLEMENTATION

This policy garners authority from [44 CFR 60.3\(d\)\(3\)](#) and North Dakota Century Code (N.D.C.C.) [§ 61-16.2-14](#). The governing FEMA document for Floodway Development Review analysis is the FEMA publication, [Guidance for Flood Risk Analysis & Mapping, MT-2 Requests](#).

1.2 ACCEPTANCE OR ENFORCEMENT

The DWR reserves the right to change this policy as necessary to ensure the DWR fulfills its statutory duties.

1.3 APPEALS

Decisions may be appealed per the process outlined in [N.D.C.C. § 61-03-22](#).

1.4 POLICY DEVIATIONS

As DWR's review is based on federal guidelines and requirements, no policy deviations will be granted.

1.5 DWR CONTACT

Contact the DWR's Regulatory Division at (701) 328-4956 or dwrregpermits@nd.gov for questions regarding this policy or the NFIP.

2 FLOODWAY DEVELOPMENT REVIEW PROCESS

Local communities are the entity responsible for managing development in the floodway. Per N.D.C.C § 61-16.2-14, “the community responsible for permitting or authorizing the use shall notify the department of the proposed use.”

Upon receiving a complete Floodway Development Review submittal (Section 3), DWR will assess the submittal using guiding federal (44 CFR § 60.3) and state (N.D.C.C. ch. 61-16.2) laws. The DWR review will determine any areas needing additional justification, adjustments, or improvements relating to the modeling techniques or adherence to FEMA and DWR guidelines. DWR will coordinate with the project’s engineer, when necessary, to communicate findings from the technical review or seek clarification.

2.1 PROJECTS SUBJECT TO FLOODWAY DEVELOPMENT REVIEW

While many projects within FEMA-identified regulatory floodways are reviewed through the Floodway Development Review process, certain projects fall outside its scope. In general, projects involving only limited disturbance within a FEMA-identified regulatory floodway are subject to a Floodway Development Review. Limited disturbance is determined by the community and does not include large-scale projects involving changes in floodway delineation, changes in base flood elevations (BFEs), or other significant modifications.

Communities must pursue the appropriate FEMA pathway to ensure compliance with NFIP requirements. Consultation with DWR is recommended if a project sponsor or project engineer is unsure if a proposed project is appropriate for a Floodway Development Review.

2.2 FLOODWAY DEVELOPMENT REVIEW TIMELINE

Per [N.D.C.C. § 61-16.2-14](#), the DWR has 30 days to complete a Floodway Development Review. The DWR will begin its review once all technical documentation items in Section 3 are submitted. If the DWR needs further information or support materials from the project sponsor or engineer, the DWR review will cease and the relevant party will be notified of the need for information or additional support materials.

If the DWR does not receive the requested information, materials, continued communication, or an extension request within 90 days of DWR notice, the review request will be void. The DWR will return the materials, along with a letter noting inability to complete the review, to the floodplain administrator of the community where the project is located.

Upon completion of the Floodway Development Review, the DWR will notify the community, in writing, the results of the review. The DWR’s response will focus on whether the proposed project will result in an increase in the BFE of 0.00 feet or more.

If the notification letter indicates the no-rise criteria were met and the proposed work in the floodway is not contrary to 44 CFR 60.3(d)(3), the community may issue a floodplain development permit.

If any increase in BFE is found, the notification letter may indicate an alternate federally-compliant path.

3 FLOODWAY DEVELOPMENT REVIEW REQUIREMENTS

Per [44 CFR 60.3\(d\)\(3\)](#), “communities shall prohibit encroachments, including fill, new construction, substantial improvements, and other forms of development, within an adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase (greater than 0.00 feet) in flood levels during the occurrence of the base (100-year) flood discharge.” This demonstration is commonly called a no-rise analysis. The no-rise analysis must be documented through a Floodway “No-Rise” Certification prepared and sealed by a qualified professional engineer.

Local communities are the entity responsible for managing development in the floodway. Per N.D.C.C. [§ 61-16.2-14](#), “the community responsible for permitting or authorizing the use shall notify the department of the proposed use.” The NFIP-participating community must forward to the DWR an Application for Floodway Development Review, along with all necessary supporting materials. The application and supporting documentation must confirm the proposed development is compliant with N.D.C.C. § 61-16.2-14 and 44 CFR 60.3. The DWR’s review will assess if the proposed development will impact the BFEs, floodway elevations, or floodway delineations at any cross-section in the model.

3.1 SUBMITTAL REQUIREMENTS

To confirm an Application for Floodway Development Review complies with the requirements of [44 CFR 60.3\(d\)\(3\)](#), DWR requires a complete Floodway Development Review submittal. Additional information may be requested by the DWR during the review process.

A complete Floodway Development Review submittal includes the following:

- a. **Application for Floodway Development Review, [SFN 61171](#)**
The floodplain administrator with jurisdiction over the project area must sign the completed Application for Floodway Development Review before submission to the DWR. Language such as “see attachments” will not be accepted.
- b. **Floodway “No-Rise” Certification, [SFN 61173](#)**
- c. **Project Narrative**
This narrative must provide a concise yet comprehensive narrative of the project and analysis that was conducted.
- d. **Design Construction Plans**
- e. **Plan View of Project Area**
Include a plan view showing:
 - *The current effective floodplain and floodway boundaries,*

- *Location of effective and additional cross sections,*
- *Location of inline structures, such as bridges, dams, culverts, etc.,*
- *Location of lateral structures, such as levees or floodwalls, and*
- *Current topographic map.*

f. **Hydraulic Models**

See Section 4 for details. Models typically include:

- *Current Effective Model*
- *Duplicate Effective Model*
- *Corrected Effective Model (if needed to correct errors in the model)*
- *Existing Conditions (Pre-Project) Model*
- *Proposed Conditions (Post-Project) Model*

g. **Identify Effective Letters of Map Revision (LOMRs), if applicable**

Identify any approved LOMRs in the project area reach or provide a statement that there are none.

3.2 INCOMPLETE SUBMITTALS

If a Floodway Development Review submittal is deemed incomplete, the DWR will notify the applicant and detail what information is missing. An applicant is not restricted from submitting a new application for review.

4 HYDRAULIC MODELS

For the modeling process to be compliant with [44 CFR 60.3\(d\)\(3\)](#), follow the processes below.

Models must be submitted in a FEMA-approved hydraulic modeling format found at: <https://www.fema.gov/flood-maps/products-tools/numerical-models>.

The FEMA publication, [Guidance for Flood Risk Analysis & Mapping, MT-2 Requests](#) should be consulted when questions arise. Include citations in the project narrative of specific FEMA Guidance, where appropriate.

4.1 CURRENT EFFECTIVE MODEL

The project engineer may obtain a copy of the Current Effective Model by doing one of the following:

1. Obtain the model directly from the FEMA Engineering Library: <https://hazards.fema.gov/flood-maps/archived-flood-data/home>. Expected response time from FEMA is approximately 3 weeks. If no response has been received, contact the state NFIP Coordinator or a FEMA representative for assistance.
2. If the model is not available from the FEMA Engineering Library, or its use is inappropriate, it is permissible to use an alternative hydraulic model. The alternative hydraulic model must be calibrated to reproduce the Flood Insurance Study (FIS) profiles within 0.5 feet.

Reconstruction of the Current Effective Model is considered development of the Duplicate Effective Model (Section 4.2).

If the project engineer determines that any LOMRs applicable to the project reach are not incorporated in the Current Effective Model, a Corrected Effective Model (Section 4.3) must be developed.

4.2 DUPLICATE EFFECTIVE MODEL

The project engineer duplicates the results of the Current Effective Model (Section 4.1) to create the Duplicate Effective Model.

The Duplicate Effective Model is generated by running the Current Effective Model (Section 4.1) on the project engineer's computer without altering any modeling parameters (i.e., n-values, encroachments, expansion/contraction coefficients, topography, etc.). Results should be identical to the Current Effective Model to confirm the correct version has been obtained.

If an effective HEC-2 model is converted to HEC-RAS, this is considered a Duplicate Effective Model.

When creating the Duplicate Effective Model, the project engineer should consider truncating the Current Effective Model (Section 4.1) to the project reach to focus the analysis on the portion of the reach affected by the proposed development. The modeled project reach should extend a sufficient distance upstream and downstream of the development site. Engineering judgment must be applied to determine the appropriate extents of the project reach, with a minimum requirement of one mile beyond the project limits in both directions.

Comprehensive documentation of the project reach must be provided, including the model extent, boundary conditions, cross-section locations, and justification for the selected reach limits. If the analysis is performed using the full Current Effective Model (Section 4.1), the entire model will be subject to applicable review requirements.

4.3 CORRECTED EFFECTIVE MODEL

The Corrected Effective Model is the model that corrects any technical errors in the Duplicate Effective Model (Section 4.2) or incorporates any floodplain changes that occurred **prior to** the date of the Current Effective Model (Section 4.1). The Corrected Effective Model must not reflect any man-made physical changes that have occurred **after** the date of the Current Effective Model (Section 4.1).

Thorough documentation of all modifications is required. If the project engineer determines a Corrected Effective Model is not needed, the project engineer must provide a statement confirming that the Duplicate Effective Model (Section 4.2) is sufficient for the proposed analysis.

Failure to comply with this requirement may result in the rejection of the model for no-rise certification and the need to resubmit the analysis using a properly prepared Corrected Effective Model.

4.4 EXISTING (PRE-PROJECT) CONDITIONS MODEL

The project engineer revises the Duplicate Effective Model (Section 4.2) or the Corrected Effective Model (Section 4.3), as applicable, to produce pre-project conditions for the project reach.

Use the following guidance for the Existing Conditions Model:

- a. The Existing Conditions Model reflects any modifications that have occurred within the floodplain **since** the date of the Current Effective Model (Section 4.1) but prior to the construction of the project. The Existing Conditions Model should also incorporate any man-made changes **since** the Current Effective Model (Section 4.1) was created.
- b. Add additional cross-sections, as needed, to accurately model the project, including at least one cross-section both upstream and downstream of the

development site, and one cross-section at the development site. The cumulative reach lengths of the stream should remain unchanged.

- c. Cross-sections should accurately portray the existing conditions at the project site and should not be duplicated or interpolated, but should be based on field survey. This includes the updating of any cross-sections to reflect the current channel elevations throughout the project reach.

4.5 PROPOSED (POST-PROJECT) CONDITIONS MODEL

The Proposed Conditions Model demonstrates the post-project conditions. Use the following guidance for this model:

- a. The Existing Conditions Model (Section 4.4) is modified to reflect post-project conditions.
- b. The Proposed Conditions model should have cross-sections in the exact same locations as the Existing Conditions Model (Section 4.4) for appropriate comparisons.
- c. The overbank roughness coefficients should remain the same as the Existing Conditions Model (Section 4.4) unless a reasonable explanation of how the proposed development will impact Manning's "n" values is included in the supporting data.

4.6 REQUIRED COMPARISONS

The results of this analysis will establish the water surface elevations for proposed conditions and must demonstrate no rise (0.00 feet) in BFEs at all cross-sections.

The no-rise analysis involves two primary comparisons:

a. Existing Conditions Model compared to Effective Model

The Existing Conditions Model (Section 4.4) results are compared to the Duplicate Effective Model (Section 4.2) or Corrected Effective Model (Section 4.3) results, as applicable, to demonstrate appropriate upstream and downstream tie-ins to the effective BFEs. If tie-ins to the effective BFEs cannot be achieved, the engineer must document this and provide technical justification that the discrepancy is not caused by the project.

Any changes identified that occurred since the Current Effective Model but prior to the project may require the community to submit a LOMR.

b. Existing Conditions Model compared to Proposed Conditions Model

The Existing Conditions Model (Section 4.4) is compared to the Proposed Conditions Model (Section 4.5) to demonstrate the project does not cause any (0.00 feet) rise in BFE.

The project sponsor or project engineer must submit a functioning hydraulic model and any other applicable information to the DWR per [N.D.C.C. § 61-16.2-14](#), except in unique situations where the proposed condition matches the existing condition.

The supporting technical data must be based on hydraulic analyses that utilize the same hydraulic model used to prepare the effective FIS report and Flood Insurance Rate Map (FIRM), unless it is demonstrated that the effective hydraulic model is unavailable or its use is inappropriate. The effective hydrology must be applied in all Floodway Development Review analyses.

5 HISTORY

Policy Adopted: 05/14/2026

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Previous Revision(s): No Revisions Available