

**EVOLUTION
OF THE
“URBAN LEVEL OF FLOOD PROTECTION CRITERIA”
DOCUMENT**

August 28, 2013

BACKGROUND INFORMATION

- Senate Bill 5 was approved in 2007
- Applies to cities and counties in California's Central Valley
- Requires these cities and counties to provide a higher level of flood protection than required by FEMA (200-year vs. 100-year)
- Cities and counties must amend their general plans (by July 2015) and their zoning ordinances (within 12 months thereafter)
- Upon amendment of their zoning ordinance, but no later than July 2, 2016, cities and counties must make an "SB 5 finding" before certain types of land use applications can be approved.
- Finding must be made for land use applications received for properties within Urban and Urbanizing areas located in 100-year and 500-year FEMA flood zones.

BACKGROUND INFORMATION (CONT.)

- SB 5 requires that cities and counties comply with criteria “consistent with, or developed by, DWR.”

California Government Code Section 65007(n):

*“Urban level of flood protection” means the level of protection that is necessary to **withstand** flooding that has a 1-in-200 chance of occurring in any given year **using criteria consistent with, or developed by, the Department of Water Resources**. “Urban level of flood protection” shall not mean shallow flooding or flooding from local drainage that meets the criteria of the national Federal Emergency Management Agency standard of flood protection.*

- DWR has developed levee design criteria – ULDC (Urban Levee Design Criteria)
- DWR is in the process of developing procedures for the processing of land use applications - ULOP (Urban Level of Protection) Criteria
- DWR “intends” to convert both documents into regulations

“ULOP CRITERIA” DOCUMENT

- In 2011, DWR began holding workshops with stakeholder groups to receive input in drafting of the ULOP
- City and county staff involved in the workshops objected to how DWR was interpreting SB 5
- Drafting of document was put on hold in 2012 to allow for “clean-up” legislation
- Clean-up legislation was approved in September 2012 (SB 1278 - Wolk and AB 1965 - Pan)
- SB 1278 resolved some but not all “implementation problems” with the ULOP
- Drafting of document resumed in June 2013

SB 1278 AND AB 1965 REVISIONS

- Added “Shallow Flooding” and “Local Drainage” exemptions (but did not include definitions)
- Added “Undetermined Risk Area”
- Required DWR to prepare 200-year Floodplain maps
- Extended deadline by 12 months for amendment of general plans and zoning ordinances (July 2, 2015 and July 2, 2016, respectively)
- Delayed trigger date when SB 5 findings must be made (no later than July 2, 2016)

CHANGES IN “CURRENT” DRAFT ULOP DOCUMENT

- New format – Separates Criteria (Section 2) from Guidance (Section 3)
- Incorporates definitions for “Shallow Flooding” and “Local Drainage”
- Generally, less prescriptive (e.g. Road Map vs. Flow Chart)
- “Punts” on some difficult issues (e.g. “comma issue” and “geographic scope”)

REMAINING CHALLENGES WITH ULOP

- Regulation vs. Guidance
- Applies to all discretionary permits (i.e. no resolution of “comma issue”)
- Requires hiring of expert panels to make findings of compliance
- Expiration of findings
- Unable to rely on SB 1278 maps

NEXT STEPS

- Completion of ULOP Criteria Document
- SB 5 Legislative Relief
- General Plan/Zoning Ordinance Amendments
- Develop 200-Year Floodplain Maps
- Participate in Regional Flood Management Planning Efforts
- Develop 200-Year Improvement Plans
- Be especially nice to your LMA

QUESTIONS?