

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL INSURANCE ADMINISTRATION

NOTICE FIA-79-3



July 9, 1979

TO: FIA Flood Insurance Staff

EXPIRES: January 9, 1980

SUBJECT: More Restrictive Floodways

A state or local community may enforce a stricter floodway than the 1-foot rise floodway required by the Federal Insurance Administration. Section 1910.1 (d) of our regulations states that more restrictive floodway standards will take precedence over our minimum standards. This Notice outlines: (1) the policy FIA will follow when state agencies or local communities have established criteria for floodway delineation that differ from FIA's; (2) the policy on subsequent encroachment in states and communities that have more restrictive floodway standards; and (3) the rule and/or policy of those states that have submitted supporting documents which show us the basis for determining the more restrictive floodway.

State Criteria

If a state has established more stringent regulations for a maximum allowable rise in water surface elevation through legally enforceable statutes or regulations, then this rise will be used in computing the regulatory floodway presented in the flood insurance study.

If a state does not have legally enforceable statutes or regulations requiring a more restrictive floodway, then the Federal standard of 1.0 foot rise will be used for the floodway presented in the flood insurance study. At the state's request, however, one additional floodway, meeting state criteria, may be computed and mapped. This floodway map would be given to the state for its use.

If a state decides to enforce a more restrictive floodway that has not yet been recognized by FIA, it must submit the legally enforceable state law or state regulation requiring the more restrictive floodway to the Flood Plain Management (FPM) Division, with a copy to the region. The FPM Division will then work closely with the region to evaluate the supporting documents for adequacy. The Federal Insurance Administrator will inform the community by letter when a final decision is made.

* NOTE: Substitute Program Policy And Compliance Division, OLR or FPM Division.

Local Criterion

Even if a community has established more stringent requirements for a maximum allowable rise in water surface elevation, the Federal criterion of a 1-foot rise will be used for the floodway presented in the flood insurance study. Upon the community's request, however, one additional floodway, meeting local criteria, may be computed and mapped. This floodway map and a corresponding floodway data table will be given to the community for its use. Communities are treated differently from states because it is more likely that a new community administration would change the more restrictive floodway adopted by a previous administration.

Subsequent Encroachment in States and Communities with More Restrictive Floodway Standards

Some states require more restrictive floodways so that they have the discretion to use a part of the wider floodway for projects allowed by the state on a case-by-case basis. Our regulations provide that, as a minimum, a community must adopt a 1-foot floodway (Section 1910.3(d)(2)) and permit no encroachment within this floodway that would cause any increase in base flood elevations (Section 1910.3(d)(3)). When a state enforces a more restrictive floodway, the minimum requirement of Section 1910.3(d) (2) has been exceeded.

Consequently, Section 1910.3(d)(3), which applies to a 1-foot floodway, need not be strictly adhered to. In no case, however, may the sum of the rise included in the floodway calculations and the rise caused by subsequent encroachments in the floodway exceed 1 foot. For example, if a state has a 0.5-foot floodway, encroachments may not cause more than an additional 0.5-foot increase.

A community with a more restrictive floodway could also allow for subsequent encroachment, provided the ordinance makes it clear that the total rise would not exceed 1 foot.

States with More Restrictive Floodways That Have Been Recognized by FIA

The following states do not need to submit material supporting their more restrictive floodways. In these states, more restrictive floodways, meeting the approved criteria listed below, will appear in the flood insurance studies.

<u>State</u>	<u>Rule, Regulation, and/or Policy</u>
Illinois	0.1 foot rise or less
Indiana	0.1 foot rise or less

* NOTE: This list is only current as of 7/9/79 and additional states may have adopted more restrictive floodway regulations. If the status of a state floodway requirement is in doubt it should be verified by contacting the State NFIP Coordinator.

3

<u>State</u>	<u>Rule, Regulation, and/or Policy</u>
Michigan	0.1 foot rise or less unless special request for greater rise is approved by the Water Resources Commission
Minnesota	0.5 foot rise or less
Montana	0.5 foot rise or less for those streams regulated by the State in identified communities (in all other cases, 1.0 foot rise)
New Jersey	0.2 foot rise or less
Wisconsin	0.1 foot rise or less

In Maryland, communities may rely on compliance with State regulations for Program participation purposes. The FIA 1-foot rise standard will be used for the floodway presented in the flood insurance study, even though the State may enforce a more restrictive encroachment standard in particular situations.

This material will be included in the proposed National Flood Insurance Program Policy Handbook.