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Federal Emergency Management Agency
Washington, D.C. 20472

JUL 22 1993

IA-RA

MEMORANDUM FOR: SEE ADDRESSEES BELOW

FROM: 
John L. Matticks, Assistant Administrator
Office of Risk Assessment

SUBJECT: Proposed Policy Issuance for Your Review

This memorandum transmits a proposed policy clarification for your review. It also outlines a proposed course of action for the development of a new FIA publication that is related to, and will reinforce, the policy clarification.

Background. 44CFR, Subpart 60.3(d)(3) of the National Flood Insurance Program regulations requires that the community shall, "Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during occurrence of the base flood discharge."

This regulation does not prohibit development in floodways, but rather prohibits development that causes increases in flood levels during the occurrence of the base flood discharge. A problem results in application of this regulation, because it is subject to differing interpretations and applications by knowledgeable FEMA staff with years of program experience. The problem experienced by the Office of Risk Assessment is that we are requested by the FEMA regions to review technical materials that are developed to demonstrate compliance with the subject regulation. Unfortunately, what constitutes an acceptable technical analysis demonstrating no increase in flood level varies among the ten regions. Probationary actions have actually been initiated in one region for construction in the floodway that would have been deemed permissible in another.

Proposed Course of Action.

1. The attached policy clarification will be issued by memorandum under the FIA Administrator's, or Deputy Administrator's, signature, to the FEMA regions.

3. Because of the lack of consistently enforced requirements for development in floodways, some of the regions will have to revise their enforcement requirements to be consistent with the new guidance.

Thank you for your attention to this matter. I will appreciate your comments before August 16, 1993. I would like to distribute the policy clarification and floodway regulation compliance booklet for comment at that time to the FEMA regions.

Attachments: 2

- Draft Policy Statement
- "Procedures for Compliance with Floodway Regulations"

ADDRESSEES

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FLOODWAY COMPLIANCE POLICY CLARIFICATION

In accordance with Subparagraph 60.3(d)(3) of the NFIP regulations, the community shall:

Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during occurrence of the base flood discharge.

This subparagraph does not prohibit development in floodways but prohibits development that causes increases in flood levels during the occurrence of the base flood discharge. No increase in flood levels has previously been defined as less than 0.00 foot. These increases shall be measured using the "with floodway" profile (the encroached flood profile). Use of the "with floodway" profile will assist in providing consistency with the following:

- LOMRs based on fill that do not require modeling to reflect any increases in 100-year water-surface elevation caused by fill in the floodway fringe (the increase is pre-determined to be less than 1.0 foot given its location in the floodway fringe).
- Conveyance replacement calculations, which require the use of the "with floodway" profile for performing computations.

In addition, for projects that include modifications both in and out of the floodway, which result in an increase in 100-year water-surface elevations, using the "with floodway" profile allows the effects of the encroachment in the floodway to be analyzed separately from the modifications in the floodway fringe.

Mitigating Increases

For projects where there is an increase in the "with floodway" profile, the following options are available to mitigate the increase.

1. Perform physical changes, such as channel modifications, to eliminate any increase.
2. Meet the criteria of Section 65.12 of the NFIP regulations. Since there is inconsistency regarding the application of Section 65.12, additional policy guidance for it is being developed.

3. Request a floodway revision to narrow the floodway such that all proposed encroachments are outside the revised floodway.
4. Widen the floodway such that the reduced surcharge plus the increase caused by the encroachment is less than the allowable maximum. For the purposes of tracking these increases, a note will be added to the floodway data table in the published flood insurance study at each lettered cross section for which there is an increase to indicate that a portion of the surcharge has been utilized.
5. Contain any 100-year flood elevation or floodplain increases entirely within an engineered channel.

Other Considerations

To measure the effects of a project located along a particular stream, the "with floodway" profile from the hydraulic model for that particular stream should be utilized, even if the project is located in an area controlled by 100-year backwater flooding from another stream.

Furthermore, Executive Order 11988 states:

Each agency shall provide leadership and shall take action to reduce the risk of flood loss to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities . . .

Consideration should be given to these criteria when providing guidance to communities for methods to offset increases in flood elevations, such as channel modification projects.