TOPICAL PAPER #4

NFIP REGULATIONS: WHAT YOU'D CHANGE IF YOU COULD

By

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NFIP REGULATIONS: WHAT YOU’D CHANGE IF YOU COULD

A Report of Survey Results

For The Association of State Floodplain Managers

By Tim Keptner and John Hamill

Preface

In the twenty years since its inception, the National Flood Insurance Program (NFIP), flood hazard mapping and flood loss reduction regulations have undergone many changes. On the floodplain management side, Section 60.3 regulations have been expanded and refined to close loopholes and establish a full set of minimum regulations to achieve the flood loss reduction goals of the NFIP.

While the minimum requirements have evolved, many argue that they still do not go far enough in providing an adequate minimum national standard. Others claim that the regulations are sufficient for NFIP purposes, and that if communities desire further protection, they will adopt more stringent regulations on their own. The debate will and should continue as a measure of the vitality of floodplain management. But it signals more than that. It focuses attention on new and old ideas and opinions, successes and failures, facts and fallacies, values and hopes, that vary geographically, socially and politically across the country. The tug of war of public policy should never end; it only evolves in response to the times and to the influence of those who remain active in the debate. This report is dedicated to the debaters in the arena of floodplain management.
Introduction

To identify NFIP issues and policy alternatives, the Regulations Committee of the Association of State Floodplain Managers (ASFPM) surveyed local, state and federal officials as well as private parties. Better than 40% of survey recipients responded. The 66 responses included: 36 state officials; 20 local officials; seven federal officials and three private parties.

State and local officials will find the results a sound basis for developing effective regulatory approaches to reducing flood damage. The results of the survey, coupled with related work of the committee, will help ASFPM formulate positions to advocate for improving the NFIP.

This paper simply points out where there is clear agreement. Each reader should make his or her own assessment of the survey results. The variety of strategies and suggestions in the respondents' comments is the strength of the report.

The Highlights on page 1 outline the survey results. Details are presented in the Compilation of Survey Results on page 4.

Highlights

CHANGE NFIP REGULATIONS EVERY FIVE YEARS
Sixty two percent of respondents favored a five year interval between changes to NFIP regulations. Respondents suggest that five year intervals would lessen economic impacts, resentment and frustration caused by more frequent changes - while being more responsive than a longer period. Twenty four percent favored a ten year interval.

CURRENT MINIMUM REGULATIONS INADEQUATE
Over 60% of the respondents said that the minimum NFIP regulations were inadequate. Most mentioned that the regulations fail to address some key issues and that some regulations are not specific enough.

MIXED STATE AND LOCAL LEVEL OF WILLINGNESS TO TIGHTEN INDEPENDENTLY
Fifty three percent said that their state or community would adopt greater restrictions; 43% thought they would not.

FREEBOARD HEAVILY FAVORED
Eighty eight percent of the respondents felt that requiring freeboard for new construction would effectively reduce flood losses. Another 78% thought that a freeboard above the base flood elevation (BFE) should be the minimum NFIP standard. Many respondents suggested a one foot freeboard.
MORE RESTRICTIVE FLOODWAY REGULATION RECOMMENDED
More than 90% of the respondents thought that more restrictive floodway regulations would effectively reduce flood losses.

NO HAZARDOUS MATERIALS IN FLOODPLAIN
Respondents strongly agreed (90%) with prohibiting storage and disposal of hazardous materials in the floodplain. Fifty five percent of the respondents felt that not even floodproofed hazardous materials facilities should be allowed. Many who would allow floodproofed facilities still stressed the need for careful review and maximum design and construction precautions.

DON'T REMOVE FLOODPLAIN DESIGNATION FOR LAND FILLED TO BFE
Sixty eight percent of respondents would change the current practice of removing properties filled to BFE from floodplain maps. They say that filling to BFE doesn't provide adequate protection, citing erosion, ground settling, calculation errors, greater flood potential from debris jams and other causes, basements in filled areas, and one foot rise floodways as factors.
COMPILATION OF SURVEY RESULTS

QUESTION 1  If it becomes necessary for FEMA to periodically revise minimum NFIP requirements to an extent that communities would need to amend their floodplain management regulations, at what interval do you feel would be most satisfactory? (Please give reasons for your answer.)

Response:  2 years - 5; 5 years - 41; 10 years - 16; Other - 3 years

Comments: Frequent changes cause resentment and frustration at the local level; frequent changes require too much time in amending local ordinances and communities end up having too many amendments on the books; frequent changes are costly both in staff time and political support and often require considerable public input and discussion; it takes us (state) two to four years to work with communities to make necessary changes resulting from revisions to NFIP requirements; many communities are still working on 1986 rule changes; five to 10 years is an appropriate time frame for FEMA and states to complete the ordinance assistance and review cycle; sufficient time is needed for locals to learn new requirements before another set of revisions is introduced; most changes are not substantive and have limited effect on local floodplain management, therefore, changes at less than a five year interval are unnecessary; five year cycle seems to be a reasonable period of time; a five year interval may lessen the economic impact as compared to revisions every two to three years and would be more responsive than a 10 year interval to necessary changes; five year interval gives enough time to think through changes; floodplain development is occurring at such a rate that five years maybe too long; both maps and standards have an effective life of 10 years.

QUESTION 2a  Do you feel that existing NFIP minimum standards are adequate? Why or why not?

Response:  Yes - 26  No - 40

"Yes" Comments: Attainable standards; too strict; sufficient time has been devoted to development of standards; adequate where a study has been completed; in general, yes, but rules need further clarification; communities can enact more stringent regulations if they wish; because of enforcement difficulties with existing regulations; more stringent criteria will force noncompliance and withdrawal from NFIP; they work well in our community; adequate because they have been going through constant change over the past four years; they do not seem to create problems; we're going away from floodplain management or use toward complete flood loss prevention or no use.
"No" Comments: NFIP adequate in protecting insurable buildings but lacking in protection of public projects; standards excessive for well-drained and planned metropolitan areas located in semi-arid regions; definition of substantial improvement is too flexible; many standards are not clear or specific enough, therefore, difficult to administer; standards are adequate relative to studied areas; little being done to eliminate repetitive losses; some areas need clarification; effects of watershed development are not addressed nor hydraulic and hydrologic changes caused by encroachments; too many communities use minimum standards as the maximum standards; no consideration given to rising sea levels.

Regulatory Suggestions: Freeboard, fill setbacks and/or erosion protection standards; FEMA policy interpretations and exceptions should be incorporated into NFIP regulations; temporary encroachments (coffer dams, detour structures) should be addressed; floodways should be more stringently controlled; need some regulation of development adjacent to special flood hazard areas; establish consistency between floodway criteria and elevation/floodproofing requirement; regional differences and conditions need to be addressed; there should be a more restrictive approach taken in regard to building and filling in of floodway fringe.

Mapping and Engineering Suggestions: Need minimum standards for levees including repair and maintenance; four years; they do not seem to create problems; we're going away from floodplain management or use toward complete flood loss prevention or no use. Filling of floodplain should be based on "cumulative effects" instead of individual basis; consideration of areas below dams and dam safety; consider future watershed conditions in study process.

QUESTION 2b Which areas need the greatest attention?

Building and Design Standards: Mobile homes, substantial improvements, coastal high hazard areas, subdivision standards, establishment of a freeboard erosion protection standards relative to fill, definition of crawl space.

Mapping and Engineering Issues: Consideration of future watershed development, stormwater management, coastal erosion, hydrologic changes due to loss of floodplain storage, areas below dams and dam safety, specific guidelines and standards for arid regions, mudflows, levee maintenance, zero rise floodways, addressing sea level rise, updating maps, dike standards, LOMRs for fill, floodway determinations

Regulatory Issues: General NFIP standards need to be more specific, all participating communities should receive FIS's as basis for regulation, improper use of variances, granting of LOMA's and LOMR's and removing property from floodplain designation,
unnumbered A-Zones and need for regulating areas of known flooding not mapped by FEMA, placement of basements below BFE adjacent to base floodplain, Section 60.3(b)(3) should require floodway delineation in addition to BFE, inconsistency between elevation requirement to or above BFE and one foot rise floodway.

Other Concerns: Insurance incentives for individuals who implement floodproofing or response planning, dealing with repetitive losses, need more incentive for locals to comply, focus on communities with large percentage of floodprone areas, adequate planning needed for flood hazard reduction, addressing growth induction of structural flood control facilities.

**QUESTION 3a** Would your state or community be receptive to the adoption of new rules, which may include greater restrictions, that would be more effective in reducing flood losses? (If no, please explain).

Response: Yes - 33  No - 27  Maybe - 2

"No" Comments: The program already has adequate restrictions when a study has been done and the community enforces current regulations; our ordinance is considerably more restrictive and increased federal involvement is unnecessary and unwanted; the present standards are too restrictive; the initiative for more stringent regulations should come from states and locals - not from FEMA; the state experiences few flood events, as it is primarily arid; so that the additional cost and effort would be unjustified; flooding potential does not warrant having more restrictive regulations; greater restrictions may raise the "taking" issue.

Other Comments: Only if by doing so the regulations could be simplified; current standards still allow flood damages to occur; recognize state standards as FEMA standards; if they indicate a practical, concise way of reducing flood losses; communities are frustrated by people being able to skirt more restrictive local regulations in order to get to minimum NFIP requirements; receptive as long as changes are technically supported; for those local officials sympathetic to flood loss reduction goals, it is easier to adopt more restrictive regulations when required through NFIP; not if the changes were anti-growth in nature; depends on the cost to both the community and landowners.

**QUESTION 3b** What would be the biggest hurdle to overcome (i.e., political and developer pressure)?

Comments: Developers - would limit the amount of land for development, increase land development costs, lengthen permit process and "red" tape. Landowners - regulations are often viewed as oppressive, and conflict with personal property rights, restricts improvements to property and increases construction
costs; unnecessary governmental interference. Local officials and politicians - would hinder economic growth; "feds" telling locals what to do; greater restrictions would be politically unpopular; local officials would have to be convinced that there is a definite need. Miscellaneous - further changes would be more acceptable if the community has a flood history with some recent flooding; changes would necessitate amendments to the national codes which could take considerable time; most communities in the state support strong environmental legislation; since communities have had time to get use to the state’s more restrictive standards, they would be more receptive to NFIP changes.

QUESTIONS 4a and 4b What measures do your state’s or community’s standards contain that are more stringent than Section 60.3 of the federal regulations? Which of the more stringent standards do you feel are especially effective in reducing flood losses?

Standards in italics were noted as especially effective in reducing flood losses.

1. Setbacks from watercourses for erosion protection
2. No development in floodway (including fill)
3. No buildings or structures in floodway
4. No residential structures in floodway
5. No manufactured homes in floodway
6. No new construction in floodplain
7. No buildings in "A" Zones
8. No critical facilities in floodplain
9. No solid/hazardous waste storage/disposal in floodplain
10. No subdivision of land in floodplain
11. No fill in wetlands
12. No encroachments in floodplain
13. Structures must be elevated on fill
14. Dry land/all weather access
15. Fill restrictions (Compaction)
16. Freeboard for elevating/floodproofing structures
17. Freeboard (2') on fill as condition for map revision
18. Tougher definition of substantial improvement
19. Elevation of all utilities
20. Tougher variance criteria
21. One foot rise floodway
22. Floodplain based on "future conditions"
23. Floodplain based on 125% of base flood flows
24. Delineation of floodplains not shown on NFIP maps
26. More stringent map amendment requirements
27. Require development to identify floodway and BFE regardless of subdivision size
28. Require developer to evaluate cumulative effects of fill
29. Density restriction of one dwelling unit per 10 acres
QUESTION 4c  Can the losses prevented by more restrictive standards be estimated?

Response: Yes - 15  No - 25

QUESTION 5a  Many states and communities have adopted freeboard requirements above the NFIP minimum BFE standard. Do you feel a freeboard requirement for new construction would be more effective in reducing flood losses?

Response: Yes - 53  No - 7

QUESTION 5b and 5c  Do you feel a freeboard above the BFE should be established as minimum NFIP standard? If yes, what freeboard height would you suggest? Why?

Response: Yes - 48  No - 13

One foot freeboard was the most popular suggestion. The most frequent reason cited was that one foot of freeboard reflects the one foot allowable rise in the floodway. Two feet of freeboard was the second choice of the respondents. Other freeboards suggested were: 1 1/2'; 3'; 2' above lowest grade; 1' above "future conditions" BFE; 2' for non residential structures and 1' for residential structures; 3' in headwaters and 1' in lowlands; Velocity head; Lowest horizontal member.

Reasons for supporting a freeboard included: Hedge against "unkowns;" Uncertainty in modeling, topography and floodplain encroachments; Common and acceptable practice (1 ft); Offsets increases caused by ice jams and debris; Long-term margin of safety (2'); Flood insurance premium reduction; Minimal addition construction expense (1'); Discourages floodplain development by adding to construction cost (2'); Higher freeboards should be required where little or no historical flood data exists; Agrees with state standard (1'); Provides protection to crawl spaces (2'); Offsets future watershed conditions; Would reduce problems relative to inadequate storm sewer systems (1').

QUESTION 6  Many states have more restrictive floodway standards, either through a floodway based on something less than the federal one foot rise or through prohibition of new construction. Do you feel this can be effective in reducing flood losses?

Response: Yes - 55  No - 2  Uncertain - 3
QUESTION 7a  Do you feel that it would be appropriate to prohibit the disposal of sewage, i.e., via septic tank/drainfield installation, within the 100 year frequency floodplain? Why?

Response: Yes - 32  No - 27  Uncertain - 3

"Yes" Comments: State regulations prohibit this activity in 100 year floodplain; septic systems in floodplains encourage development; would lessen pollution potential and public health problems, state prohibits septic systems in alluvial soils and in 50 year floodplain along the coast; would protect infrastructure; especially in floodway; septic systems placed in floodplain may be subject to scour; tanks can become buoyant; problem with sewer backup; flooding of system can contribute to groundwater pollution; shallow groundwater fluctuations common to floodplains can cause system malfunctions; floodplain soils are often unsuitable for on-lot systems; septic systems are never floodproofed to NFIP standards.

"No" Comments: Studies indicate that septic systems are not a major source of pollution during a flood; short term flooding is not a problem to septic systems; there are alternate systems which would work; this could eliminate development in most areas of rural coastal counties; such systems when properly designed and installed are an appropriate use of floodplain; if development is allowed in the floodplain, support utilities should also be allowed; not practical in highly developed areas; existing systems may need to be replaced; economics; more of a problem in areas of frequent inundation; too restrictive if applied in 100 year floodplain, perhaps applicable to 10 year floodplain; should be done on case-by case basis; this has nothing to do with floodplain management.

QUESTION 7b  Inability to dispose of sewage on individual residential lots may prevent subdivision development where municipal sewage disposal systems are not available. Do you feel that this is a health/sanitation issue and not a floodplain management issue?

Response: Yes - 32  No - 15  Both - 15

QUESTION 8a  Do you feel it is appropriate to prohibit storage and disposal of hazardous materials within the floodplain? Why?

Response: Yes - 55  No - 6

Comments: Too risky; very dangerous; they don’t belong there; common sense to avoid floodplain location; no need to locate in floodplain - other sites available; presents significant risk to downstream environment and communities; susceptible to structural damage from flood debris; clean-up would be very costly and
difficult; threat to emergency response personnel; there is a history of failure to remove stored material prior to flooding; most sites do not have the material tied down making it susceptible to flotation; such uses receive enough public opposition, why exacerbate this by allowing them in floodplain; regulate it, but don’t prohibit it; prohibited by state statute and regulations; EPA prohibits the disposal of hazardous materials in floodplains; not in V zones; in the floodway, but not entire floodplain; not if the facility is properly designed to withstand flooding without the risk of contamination.

QUESTION 8b  What about allowing such facilities if floodproofed? Why?

Response:  Yes - 24  No - 33  Uncertain - 3

"Yes" Comments:  OK if elevated or floodproofed; only with maximum review by qualified state agency and with engineering certification; no human intervention; if adequately designed with freeboard; must be very careful; if certified, presumably floodproofing would work; on a case-by-case basis with maximum floodproofing; must be certified by engineer who would be held liable for failure; must balance economics with probable risk/consequences.

"No" Comments:  Flood conditions and design standards change; what is considered safe today may not be in 10-20 years; government moves too slowly to prevent disasters; there is no guarantee with floodproofing—-not necessarily reliable; design can be exceeded by catastrophic event; always vulnerable to flood debris and ice flows; not for disposal; accessibility problem during major floods; accidents do happen.

QUESTION 9a  Do you feel it is appropriate to remove a floodplain designation for land raised only to the base flood elevation by artificial placement of fill?

Response:  Yes - 16  No - 41  Uncertain - 3

"Yes" Comments:  If fill is properly compacted and raised above the BFE, it should be removed; it is consistent with mapping methods for fill prior to initial study; as long as the fill is stable; in my area 100 year floods are rare, therefore, fill to or slightly above BFE should be enough; in my state flooding is generally less than two feet so meeting BFE is adequate; meets intent of the regulations; as long as provisions are made for floodway; ideally, it should be at least three feet higher; should recognize excavation as a reason to put area in floodplain; it would be more logical to require one foot freeboard for everything; entire lot should be filled.
"No" Comments: Possible error in calculations, sea level rise, ground settlement and wave action necessitate use of a freeboard; land raised to BFE can be flooded if stream becomes clogged with debris or sediment; fill is not as stable as natural ground, in most cases; fill may wash under extremely wet conditions; not if the intent is to avoid floodplain management regulations; should require freeboard and compensatory storage; should be done through variance procedure; fill should come from floodplain; maintain flood status; flood insurance studies too broad, in general, for that level of precision; structures built on such land should be subject to elevation requirements; do not allow knolls or berms of filled land; state does not allow development of these areas unless lowest floor is above BFE; the one foot rise floodway does not ensure long term protection when fill is at BFE; creates false sense of security; floodplains are often considered environmentally sensitive areas for land use planning purposes, therefore, designation should be retained; undue burden on federal agency and locals to maintain updated maps; need to regulate the proposed use of reclaimed area.

QUESTION 9b This allows a property owner to construct a basement if he/she has raised the ground level to only tenths of a foot above the BFE. Do you feel that there should be a certain freeboard requirement for such placement of fill? What about a setback requirement from the shoulder of fill or requiring dryland access to minimize emergency rescue and relief efforts? What do you feel is appropriate and why?

Basements: Most of the respondents thought that basements or lowest floors below the BFE should be prohibited. Some suggested a freeboard be applied to the lowest floor.

Freeboard for Fill: Most of the respondents heavily favored the establishment of a freeboard for fill. Freeboards of one foot and two feet were the most frequently suggested followed by freeboards of three feet. The reasons for a freeboard are comparable to those expressed in response to question 9a. Other comments include: a freeboard is a safety factor to account for local storm sewer requirements; any fill over three feet should have a GEOTECH analysis to assure underlying soils can take load.

Setbacks: Many respondents favored a setback requirement from the shoulder of the fill. Minimum setbacks of 10, 15, and 25 feet were suggested. It was mentioned that a setback is a good idea to give some safety from erosion and seepage. One comment suggested that if the lowest floor is above the BFE, then the setback should be based on flow velocities and erosion potential and if the lowest floor is below the BFE, then setbacks should be based on soil permeability. Another comment stated that a setback doesn’t guarantee anything unless coupled with elevation.
Dry Land Access: Many respondents felt that dry land access was a good idea. However, a number of others expressed concern that is not practical for wide floodplains or for other topographic situations. Dry land access for critical facilities such as hospitals, nursing homes, etc. was suggested.

Other Comments: Map revisions for fill should only be allowed where it is contiguous to naturally high areas; basements below the BFE should be prohibited within 300 feet of the edge of the floodplain; fill should be compacted. No basement should be allowed in either A or B zones; filling of V zones should be discouraged since it can deflect flow and increase damage to adjacent properties; slope stabilization is important in velocity areas.

QUESTION 9c  Should insurance continue to be a requirement even if the floodplain designation is removed for filled areas?

Response:  Yes - 27  No - 37  Uncertain - 5

"No" Comments: A number of respondents qualified their answer by saying that flood insurance should not be required if the fill is above the BFE, preferably with a freeboard, and no floor level is below the BFE. Other comments were: it's up to the lenders; it would be too confusing to insurers to even consider this idea; unless required by everyone everywhere; only when fill ties into naturally high ground; designation should not be removed unless lowest floor is one foot above BFE while insurance could be waived if filled only to BFE.

"Yes" Comments: Discourage continued filling and loss of flood storage; fillers need to participate in sharing the risk they generate as well as the risk they avoid.

QUESTION 10  Significant flood insurance claims are the result of flood damages experienced in Zone B areas. Do you feel it would be appropriate to require floodproofing measures or elevation requirements in Zone B areas for new construction?

Response:  Yes - 31  No - 29

"Yes" Comments: We require one foot above grade; we require one foot above flood depths or two feet above high point of lot; should not allow lowest floors below BFE; should require lowest floors to be one foot above BFE; anything like this would be wise; if claims and damages dictate; local drainage problems should be identified.

"No" Comments: If B zone has flooding problems, it should be remapped A zone; more A zones such as around ponding areas or sewer junctions with known problems should be identified; treat drainage problem areas within B zones as A zones; flood losses in B zones
may be from poor or inadequate mapping; if this is so, study needs revised; drainage and runoff problems should be addressed; it isn’t practical because the hazards are not definable or documented due to diverse causes of the hazard; raise rates in B zones, instead; provide rate break for elevation/floodproofing above grade in B zones; however should be encouraged; could be at option of owner; people should be made aware of risk.

QUESTION 11  Are there any other specific standards that you feel can be especially effective in reducing or eliminating flood losses?

Comments: Establish a freeboard; establish a freeboard above grade in all zones; stronger floodway standards; "0" rise backwater; do not allow structures in floodways; total prohibition of floodplain occupation; stormwater management; include smaller streams with flooding problems; compensatory storage for all fill placed in A & B zones; no storage of unanchored material in floodplain; stiffer variance criteria; target the acquisition and removal of structures in floodway; tougher substantial improvement requirements; regulations for alluvial fans; community education of flood loss reduction strategies for home owners; education programs for builders and developers; public information activities; make flood history part of property titles; provide rate reduction incentives to floodproof/elevate structures in repetitive loss situations; lower density development through land use controls; loss of life-dry land access; stronger manufactured home regulations; more stringent regulations in coastal floodplains in regard to structure integrity, tie down, wind forces, etc.; floodplain acquisition/relocation projects most effective way; require a hazard mitigation plan; require cost/benefit justification; for all floodplain development; improved follow-up on variances; specific design criteria for flood control facilities is needed for those projects protecting against the 100 year flood; making the obtaining a LOMR a condition of a building permit and the obtaining a LOMR a condition of the certificate of occupancy; standards for wet floodproofing and retrofitting; subdivision standards requiring lots be filled above the BFE (at least the building pad).

QUESTION 12  Are there specific NFIP requirements, regulations, or procedures which you feel are contradictory or confusing and which should be clarified or modified? Which ones?

Response:  Yes - 30          No - 12

Comments:
1.  Allowing residential structures in floodway
2.  Allowing development in floodway
3. BFE doesn’t include one foot rise in floodway
4. Requiring communities to identify floodways without expertise and financial capability
5. Floodplain management regulations and flood insurance are not consistent in regard to enclosures below the BFE in V zones and to the floodproofing requirement and insurance rating of one foot
6. Interpretation of enclosure below the lowest floor
7. Storage areas below the lowest floor can be converted to habitable spaces unless properly regulated over the life of the structure
8. Substantial improvements and the disregard for requirements relative to "less than" substantial improvements
9. The community-wide basement exception
10. Development standards for water dependent uses
11. Accessory structures - detached garages
12. Requirement for on-lot systems should be clarified or rescinded
13. Definition of start of construction
14. Lack of specific standards for bridges and culverts
15. Section 60.3 (a)(?) is far too broad in scope and difficult to properly implement at local level
16. The elevation certificate is confusing
17. General conflict with commonly accepted dam safety standards
18. Regulations conflict with intent of E.O. 11988
19. LOMR’s not on published maps
20. LOMR’s, especially on individual lots
21. Special conversion program
22. Highest adjacent grade criteria is confusing and practically useless
23. Too much time spent redefining mobile homes and mobile home parks
24. More work needs to be done on manufactured home standards
25. Existing manufactured home park requirements are confusing
26. Usable definition of break away panelling
27. Need definition of first floor to minimize confusion caused by definition of basement
28. Consideration of future watershed development, stormwater management, coastal erosion, hydrologic changes due to loss of floodplain storage, areas below dams and dam safety, specific guidelines and standards for arid regions, mudflows, levee maintenance, zero rise floodways, addressing sea level rise, updating maps, dike standards, LOMR’s for fill, floodway determinations
APPENDIX
Subject: Committee Survey

To: State NFIP Coordinators
   Members ASFPM Regulations Committee

From: Tim Keptner, Chair, Regulations Committee

In the past, rule changes relative to the NFIP have generally occurred by FEMA initiative. The ASFPM has tended towards a reactive stance by commenting on proposed rule changes after publication for comment in the Federal Register. The Regulations Committee is interested in taking a more pro-active role regarding future regulatory changes. Many states and local governments now have twenty or more years of experience mitigating flood losses through floodplain management programs. By drawing from the knowledge of ASFPM members we may be in a position to suggest improvements or refinements to NFIP minimum standards that can be effective in further reducing flood losses.

Many states and communities have implemented greater freeboard requirements for new construction, more restrictive floodway standards, and other measures that are more stringent than NFIP minimum standards. Are any of these measures especially effective in keeping flood losses to a minimum? Are there specific NFIP requirements that are particularly confusing, contradictory or vague and in need of refinement?

To help us formulate future positions concerning the minimum NFIP requirements, we ask that you please complete the enclosed survey form. If everyone takes the time to do this, the results will provide the guidance we need to identify key issues and preferred regulatory approaches.
We encourage you to distribute the form to others who may have an interest in floodplain management regulations. You may either copy the form or contact John Hamill or myself for additional copies.

Please submit the completed form by March 30, 1990 to:

John Hamill  
Montana Dept. of Natural Resources and Conservation  
Floodplain Management Section  
1520 East 6th Avenue  
Helena, MT  59620  

Tel. #: 406-444-6646
1. If it becomes necessary for FEMA to periodically revise minimum NFIP requirements to an extent that communities would need to amend their floodplain management regulations, at what interval do you feel would be most satisfactory?

- 2 years
- 5 years
- 10 years
- Other: ____________

Please give a reason for your answer: __________________________

2a. Do you feel that existing NFIP minimum standards are adequate?

- Yes
- No
- Why or why not: __________________________

b. Which areas need the greatest attention: __________________________

3a. Would your state or community be receptive to the adoption of new rules, which may include greater restrictions, that would be more effective in reducing flood losses?

- Yes
- No
- (If no, please explain): __________________________

b. What would be the biggest hurdle to overcome (i.e., political/developer pressure)? __________________________

- Why: __________________________

4a. What measures do your state's or community's standards contain that are more stringent than 60.3 of the federal regulations?

- __________________________

b. Which of the more stringent standards do you feel are especially effective in reducing flood losses?

- __________________________

- Why: __________________________

C. Can the losses prevented by more restrictive standards be estimated?

- Yes
- No
- If so, how: __________________________

5a. Many states and communities have adopted freeboard requirements above the NFIP minimum BFE standard. Do you feel a freeboard requirement for new construction would be more effective in reducing flood losses?
b. Do you feel a freeboard above the BFE should be established as minimum NFIP standard?

Yes  No

c. If yes, what freeboard height would you suggest? __________________________

Why?  ____________________________________________

6. Many states have more restrictive floodway standards, either through a floodway based on something less than the federal one foot rise or through prohibition of new construction. Do you feel this can be effective in reducing flood losses?

Yes  No

7a. Do you feel that it would be appropriate to prohibit the disposal of sewage, i.e., via septic tank/drainfield installation, within the 100-year frequency floodplain?

Yes  No  Why?  ____________________________________________

b. Inability to dispose of sewage on individual residential lots may prevent subdivision development where municipal sewage disposal systems are not available. Do you feel that this is a health/sanitation issue and not a floodplain management issue?

Yes  No

8a. Do you feel it is appropriate to prohibit storage and disposal of hazardous materials within the floodplain?

Yes  No  Why?  ____________________________________________

b. What about allowing such facilities when floodproofed?

Yes  No  Why?  ____________________________________________

9a. Do you feel it is appropriate to remove a floodplain designation for land raised only to the base flood elevation by artificial placement of fill?

Yes  No

Regardless of your answer, please briefly explain: __________________________
b. This allows a property owner to construct a basement if he/she has raised the ground level to only tenths of a foot above the BFE. Do you feel that there should be a certain freeboard requirement for such placement of fill? What about a setback requirement from the shoulder of fill or requiring dryland access to minimize emergency rescue and relief efforts? What do you feel is appropriate and why?

__________________________________________________________________________________________________________________________________________________________

__________________________________________________________________________________________________________________________________________________________

__________________________________________________________________________________________________________________________________________________________

__________________________________________________________________________________________________________________________________________________________

c. Should insurance continue to be a requirement even if the floodplain designation is removed for filled areas?

Yes   No

10. Significant flood insurance claims are the result of flood damages experienced in Zone B areas. Do you feel it would be appropriate to require floodproofing measures or elevation requirements in Zone B areas for new construction?

Yes   No

11. Are there any other specific standards that you feel can be especially effective in reducing or eliminating flood losses?

__________________________________________________________________________________________________________________________________________________________

__________________________________________________________________________________________________________________________________________________________

__________________________________________________________________________________________________________________________________________________________

12. Are there specific NFIP requirements, regulations, or procedures which you feel are contradictory or confusing and which should be clarified or modified?

Yes   No Which ones? Why? ____________________________________________________________________________

__________________________________________________________________________________________________________________________________________________________

Why? ____________________________________________________________________________________________

Any further comments or suggestions you may have would be appreciated. Please use whatever additional pages as you need. Please provide your responses and/or comments to John Hamill, Montana Department of Natural Resources and Conservation, 1520 East Sixth Avenue, Helena, MT 59620-2301, (406) 444-6646, by March 30, 1990. An analysis of the survey results will be published in the News and Views.

Name ___________________________  Title ___________________________
Employer ___________________________  Address ___________________________
Phone ___________________________