

ENVIRONMENTAL REQUIREMENTS FLOODPLAIN

The regulations at 24 CFR Part 50 and 24 CFR Part 58 require that HUD-funded projects not take place in a 100 year floodplain unless: (1) there are no practical alternative sites outside the floodplain and (2) flood insurance is obtained through the National Flood Insurance Program. Compliance with these requirements is often complicated in HUD's Indian programs because most reservations have not been mapped for special flood hazards by the Federal Emergency Management Agency (FEMA) nor do they participate in the National Flood Insurance Program. The list of communities, including Indian reservations, that have been mapped by FEMA can be found on the Internet at www.fema.gov/fema/csb.shtm.

If an Indian reservation has not been mapped by FEMA, the environmental review process still requires that a determination be made regarding project activities within a floodplain. Alternative sources to assist in this determination include the U.S. Corps of Engineers, U.S. Geological Survey maps, the USDA Natural Resource Conversation Service, state departments of water resources, community flood administrators, and local flood control or levee districts. An appropriate, qualified source should be identified in the environmental review record to support the floodplain determination.

If the proposed activity is located in a floodplain and the Indian reservation has not been mapped by FEMA, then the formal insurance requirements of the Flood Disaster Protection Act do not apply. However, for safety reasons and to ensure the long term viability of HUD-assisted projects, recipients should use discretion in proceeding with project activities in areas that are informally known to be flood prone. In addition, it is advisable to explore the viability of elevating the first habitable floor of residential structures above the flood zone level. Finally, the recipient should determine the availability of private flood insurance if it is determined there are no practical alternatives to occupying and developing in the floodplain. Indian tribes can also request that FEMA map their reservations and, thus, be eligible for the National Flood Insurance Program, but there is generally an extensive delay in the mapping process.

There is an important exception to the floodplain requirements for single family (1-4 unit) properties. The Floodplain Management regulations at 24 CFR 55.12(b)(2) exempt from the eight step decision making process "minor" rehabilitation of one- to four-unit family properties. The term "minor" rehabilitation is defined at 24 CFR 55.2(b)(8) as not exceeding 50 percent of the market value of the structure before rehabilitation.