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The Honorable Henry S. Reuss, Chairman  
Committee on Banking, Finance  
and Urban Affairs  
House of Representatives

Dear Mr. Chairman:

As part of our continuing audit effort in the area of flood insurance and flood plain management, we have reviewed H.R. 10051, which was introduced on November 4, 1977. Following are our comments on this bill.

H.R. 10051 proposes to amend the National Flood Insurance Act of 1968 by permitting communities which are participating in the flood insurance program to waive land use and management requirements with respect to any structure without losing their eligibility for participating in the program. In order to do this, however, a community must notify the applicant for a building or development permit that the property

- is in a flood plain,
- is recommended by a flood elevation study, if any, for construction at a given height or in other appropriate fashion,
- is not eligible for flood insurance unless it meets flood plain management requirements, and
- is not eligible for disaster relief in case of a flood unless it meets flood plain management requirements.

In addition, the above information must be required by State or other law to be on the land title record of that property in a manner prescribed by the Secretary of Housing and Urban Development.

Two objectives of the 1968 act were to (1) encourage State and local governments to make appropriate land use adjustments which would constrict the development of land

exposed to flood damage and minimize damage caused by flood losses and (2) guide the development of proposed future construction, where practicable, away from locations threatened by flood hazards. The Congress, in amending the 1968 act in 1973 (Flood Disaster Protection Act), found that annual losses throughout the Nation from floods were increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood hazards.

H.R. 10051 appears contrary to the objectives of the 1968 act and 1973 amendments. Depending on its implementation, H.R. 10051 could result in further development of flood plains if potential developers and buyers were willing to forego eligibility for flood insurance and flood-related disaster assistance.

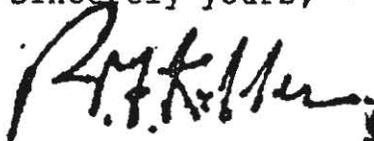
At present, Department of Housing and Urban Development (HUD) regulations allow communities to grant variances from flood plain management regulations, generally for lot sizes of one-half acre or less which are contiguous to and surrounded by lots with existing structures constructed below the base flood level. The applicant for a variance must show (1) that there is good and sufficient cause for the variance, (2) that failure to grant the variance would result in exceptional hardship, and (3) that granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflicts with existing local laws or ordinances. Variances can only be issued after a determination that it is the minimum necessary, considering the flood hazard, to afford relief. Variances, however, cannot be issued within the floodway if any increase in flood levels would result during the base flood discharge.

H.R. 10051 may result in increased development of flood plain areas. Such increased development would present some potential problems. First, it would be contrary to the philosophy of the flood insurance/flood plain management program. Second, even though applicants waived their rights to flood insurance and disaster assistance related to a flood, the increased flood plain development could result

in increasing flood heights with increased risk to life and property. Finally, in the event of losses from flooding, an applicant would be entitled to offset his losses against income, thereby achieving some relief through the income tax laws.

We agree with the objectives set forth in the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. In addition, we believe that there are probably certain situations where waivers of flood plain management requirements are necessary and justified. Because of the potential problems involved and because current procedures contain adequate provisions for waivers of HUD's flood plain management requirements, however, we recommend that H.R. 10051 not be enacted.

Sincerely yours,



Deputy Comptroller General  
of the United States