



FEMA

APR 24 2009

MEMORANDUM FOR: Mitigation Division Directors
Regions I - X

FROM: 
Doug Bellomo, Director
Risk Analysis Division

SUBJECT: Procedure Memorandum No. 53
Guidance for Notification and Mapping of Expiring
Provisionally Accredited Levee Designations

EFFECTIVE DATE: **Effective April 24, 2009, for all current, expiring, and
future Provisionally Accredited Levee Designations**

Background: To clarify the guidance for the evaluation and mapping of levee systems provided in Appendix H of *Guidelines and Specifications for Flood Hazard Mapping Partners*, the Department of Homeland Security's (DHS), Federal Emergency Management Agency (FEMA) issued Procedure Memorandum No. 43 (PM 43) on September 25, 2006. PM 43 introduced the concept of the Provisionally Accredited Levee (PAL) system designation and established a reasonable timeframe (24 months) for a community or levee system owner to supply data and documentation demonstrating that a levee system meets the requirements of the National Flood Insurance Program (NFIP) regulations cited in the Code of Federal Regulations (CFR) at Title 44, Chapter 1, Section 65.10 (44 CFR Section 65.10). FEMA also implemented certain timeframes (12 months) where communities and/or levee system owners are to submit progress reports during the 24-month PAL data and documentation submittal period. To address subsequent issues and provide further clarification of requirements, FEMA issued a revised version of PM 43 on March 16, 2007. On May 12, 2008, FEMA issued PM 45 to provide updated guidance on the notes that will appear on DFIRM panels on which levee systems and levee-impacted areas are shown.

Issue: As the 24-month deadline approaches for communities and/or levee system owners to submit 44 CFR Section 65.10-compliant data and documentation for the PAL systems, FEMA recognized that a plan for mapping levee-impacted areas after the PAL period expiration date needed to be developed in association with a public outreach and awareness strategy for these areas. The plan needs to cover both accredited levee systems and de-accredited levee systems. In developing the plan, FEMA will continue to consider stakeholders' concerns that communities and levee system owners are confronted with serious challenges in providing 44 CFR Section 65.10-compliant data and documentation.

Action Taken:

Guidelines have been produced to address these needs. The attached document, titled "Guidelines for Notification and Mapping of Expiring Provisionally Accredited Levee Designations," summarizes planned activities related to the mapping of levee-impacted areas after the PAL period expires.

The attached guidance document is to be implemented by all Regions, contractors, and mapping partners as PAL expiration dates are reached.

Attachment

"Guidelines for Notification and Mapping of Expiring Provisionally Accredited Levee Designations"

cc: See Distribution List

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Guidelines for Notification and Mapping of Expiring Provisionally Accredited Levee Designations

Notification of Provisionally Accredited Levee (PAL) Period Expiration

In advance of PAL designations expiring, each FEMA Regional Office will remind the levee system owners, communities, and other stakeholders of the impending expiration date. This notification will be accomplished by sending two letters during the 24-month expiration period to all appropriate parties. The Regional Offices will send the first letter 90 days before the PAL period expiration date, and Regional Offices will send the second letter 30 days before the PAL period expiration date. The attached letter templates are provided to support this Regional communication effort.

The Regional Offices will address the letters to each levee system owner signatory of the PAL Agreement, and will send copies of the letters to the following (at a minimum):

- Chief Executive Officers of all affected communities;
- Floodplain Administrators of all affected communities;
- State National Flood Insurance Program (NFIP) Coordinators;
- State levee safety officials, where appropriate;
- District offices of U.S. Senators and U.S. Representatives; and
- U.S. Army Corps of Engineers (USACE) District offices, if the PAL system is in USACE program. A USACE program levee system is defined in the Guidelines for Identifying Provisionally Accredited Levees (PALs), dated March 16, 2007.

It is important that appropriate Congressional offices are aware of this communication effort in advance of the PAL period expiration date. Therefore, in addition to sending copies of the letters, the Regional offices shall notify their Regional Legislative Affairs Division who may coordinate additional outreach efforts, as appropriate.

The Regional Offices may utilize certified mail with return receipts or fax the letters to the levee system owners and affected communities, following up with a telephone call, to confirm receipt of the original or faxed letters. FEMA Regions, or their assigned contractor will file return receipts, fax reports, or phone logs documenting the follow-up telephone calls in the case file for each affected community. FEMA Regions, or their assigned contractor also will assure that the documents are included with other technical and administrative support data in the Technical Support Data Notebook for the mapping project that commences upon the expiration of the PAL period.

Mapping Process for Expired PAL Designations

Upon expiration of a PAL period, the FEMA Regional Office will determine if the PAL system will be accredited or de-accredited. This determination will be based on several conditions:

- Receipt of a 44 CFR Section 65.10-compliant data and documentation submittal for the levee system;
- A Regional Office-funded review and approval or denial of the submittal based on completeness when compared with the 44 CFR Section 65.10-compliant levee system checklist; and
- Resolution of conflicting data and documentation that may be submitted by other stakeholders.

FEMA will initiate a mapping project to revise the levee-impacted areas immediately upon determining that the PAL system is to be accredited or de-accredited. Depending on the scope and cost of the mapping project necessary to either accredit or de-accredit the system, the process can take up to 12 months before a Preliminary Digital Flood Insurance Rate Map (DFIRM) can be issued that reflects either the newly designated accredited or de-accredited levee system.

Physical Map Revisions (PMRs) will be used to revise DFIRMs that are impacted by FEMA revising the map notations (Map notes and Notes to Users) and floodplain boundary delineations for levee-impacted areas. There are some possible exceptions to this mapping project format. For example, a countywide study/mapping project may be warranted when the majority of the DFIRM panels are being impacted and another study is being processed concurrently within the County. However, it is not acceptable to delay the issuance of a PMR for the levee-impacted areas, to accommodate an ongoing study/mapping project for the purpose of issuing the revised map and report in Countywide Format. In addition, for a single panel mapping project to accredit a levee system, the Letter of Map Revision (LOMR) process may be appropriate, and the Regional Office should consult with FEMA Headquarters to make this determination.

For a de-accredited levee system, FEMA will not revise the floodplain and map notations associated with a PAL system using the LOMR process. There are too many risks associated with outreach and communication to be handled in a simplified process such as a LOMR. Further, from the start of the mapping project for a de-accredited levee system until the final effective date of the revised flood map, no less than 18 months shall pass to allow for proper outreach and due process. Any exceptions to either of these criteria must be coordinated with FEMA Headquarters.

Remapping of Area Impacted by an Accredited Levee System

For communities submitting 44 CFR Section 65.10-compliant data and documentation, the PAL designation will be revised on the DFIRM to identify the levee system as accredited. The notations in the Notes to Users regarding the PAL system must be removed and replaced with the current Notes to Users provided in Procedure Memorandum No. 45, making anything less than a full panel revision potentially confusing to users and, therefore, impractical. Procedures for evaluation and mapping of levee-impacted areas are found in Appendix H of FEMA's *Guidelines and Specifications for Flood Hazard Mapping Partners (the Guidelines)* and in Procedure Memorandum No. 52 — *Guidance for Mapping Processes Associated with Levee Systems*. The standard processing and outreach practices that are associated with mapping projects shall be followed.

Remapping of Area Impacted by a De-Accredited Levee System

At the end of 24-month PAL period, if the 44 CFR Section 65.10-compliant data and documentation submittal is not provided to FEMA, or if evidence is received by FEMA that the levee does not meet 65.10, or if the submittal is inadequate as determined by the Regional Office-funded review, FEMA will initiate a mapping project to de-accredit the levee system. Procedures for evaluation and mapping of levee-impacted areas are found in Appendix H of the *Guidelines* and in Procedure Memorandum No. 52. Procedure Memorandum No. 52 provides additional procedures for notification and outreach activities that shall be taken for de-accredited levee systems. This includes establishing a 90-day comment period (if an approximate Zone A area is mapped and no new Base Flood Elevations (BFEs) are proposed) or 90-day appeal period (if new or modified BFEs are proposed) following the issuance of the Preliminary DFIRM.

Levee Inventory

During the remapping of the area impacted by an accredited or de-accredited levee system procedures must be followed to ensure proper inventory and documentation occurs. FEMA's Mid-term Levee Inventory (MLI) and DFIRM database should be used as the appropriate systems to capture any updates for these mapping projects.

PAL Period Extensions Will Not Be Granted

FEMA will not grant extensions to the 24-month PAL period. Per Procedure Memorandum No. 43 – *Guidelines for Identifying Provisionally Accredited Levees*, in order for a levee to be provisionally accredited, the community or levee owner must commit to FEMA in writing to submit the full 44 CFR Section 65.10-compliant data and documentation for the levee within 24 months of this signed agreement. If the submittal is not received or is determined to be inadequate upon the expiration of the 24-month PAL period, FEMA will conclude that the levee is not 65.10-compliant and initiate a mapping project to publish a DFIRM that fully characterizes the appropriate flood hazard and risk associated with the de-accredited levee.

Accreditation Opportunities for Communities and Levee System Owners

FEMA will initiate a map revision immediately after the expiration of the PAL period. However, if a community or levee system owner can provide 44 CFR Section 65.10-compliant data and documentation for a de-accredited levee system, as determined by a Regional Office-funded review and approval based on completeness when compared with the 44 CFR Section 65.10-compliant levee system checklist, the levee system must be accredited and mapped accordingly, either within the current DFIRM update, or as soon as possible after the DFIRM becomes final. Thus, the timing of the submittal will drive the process.

If a community or levee system owner can provide 44 CFR Section 65.10-compliant data and documentation prior to a community adopting the DFIRM or prior to the four month period that would precede the effective date of the mapping project, whichever comes first, FEMA must revise the DFIRM and process it following the accreditation guidance, above. While this process does not provide an extension to the PAL period, it allows communities and levee system owners additional

time to provide the 44 CFR Section 65.10-compliant data and documentation submittal to FEMA before the DFIRM is finalized and becomes effective. This may cause FEMA to spend funds towards de-accreditation, only to receive the submittal and change direction toward accreditation during the mapping project. However, the need to be consistent nationwide in initiating map revisions in a timely manner following the expiration of a PAL period offsets concerns related to costs.

If a community or levee system owner provides the FEMA Regional Office with the 44 CFR Section 65.10-compliant data and documentation submittal after the end of the appeal or comment period and after the community adopts the new DFIRM, FEMA will accredit the levee and map it accordingly as soon as possible after the DFIRM becomes final. There are several mapping options available to FEMA once the DFIRM becomes effective. Consequently, the FEMA Regional Office will consult with FEMA Headquarters staff to choose the mapping process that will accurately reflect the accredited levee on the effective DFIRM in an expeditious manner.

(Date)

[Mr. / Ms.] [Name of Community CEO]

[Title]

[City/County]

[Address]

[City, State Zip]

[90-Day / 30-Day] Notification of Provisionally Accredited Levee Period Expiration

Dear [Mr. / Ms.] [Last Name of Community CEO]:

This letter is to remind you of the upcoming **[Date Data and Documentation Showing 65.10 Full Compliance Is Due]** deadline for **[City/County Name and Levee System owner/operator]** to submit all data and documentation required to demonstrate that **[levee system known as (levee system name)] / [levee systems identified on the enclosed table]** are in full compliance with the National Flood Insurance Program (NFIP) regulations cited in the Code of Federal Regulations (CFR) at Title 44, Chapter 1, Section 65.10 (44 CFR 65.10). On **[Date of FEMA Acknowledgment for Signed PAL Agreement]**, the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security sent your community a letter acknowledging and accepting your signed Provisionally Accredited Levee (PAL) agreement (copy enclosed) for the **[levee system known as (Levee System Name)] / [levee systems identified on the enclosed table]**. That letter informed you that **[this levee system / these levee systems]** would be designated as **[a PAL system / PAL systems]** on the new Digital Flood Insurance Rate Map (DFIRM) for **«County», «State»** during a 24-month PAL period that started on **[Date 2-Year PAL Period Started]**. The PAL designation is shown for **[this levee / these levees/ on the [Preliminary / Effective] DFIRM for (County Name, State Name)]** and Incorporated Areas.

The **[levee system was / the levee systems were]** shown with the PAL designation during the 24-month PAL period to convey to map users that verification of the **[levee system's / levee systems']** accreditation status was underway. FEMA previously recommended that the levee system owner/operator(s) and the impacted communities implement outreach efforts to inform affected property owners that an assessment of the levee system[s] was underway. FEMA also encouraged the purchase of flood insurance in the areas impacted by the PAL system[s], although property owners are not federally mandated to purchase flood insurance policies in these areas.

In accordance with 44 CFR 65.10, it is the responsibility of the community or other party seeking recognition of a levee system, to provide the data and documentation defined and outlined in 44 CFR 65.10. Specifically, the design and construction data provided must be certified by a Registered Professional Engineer or by a Federal agency with responsibility for levee design.

If you are able to submit the required data and documentation and it is found to be acceptable by FEMA, FEMA will initiate a map revision to accredit the levee system[s]. FEMA will map the areas impacted by the levee system[s] as a moderate-risk area, designated Zone X (shaded). The mandatory flood insurance purchase requirements of the NFIP do not apply to structures in areas designated as Zone X (shaded), nor do the NFIP minimum floodplain management requirements.

If you are unable to submit the required data and documentation by **(Date Data and Documentation Showing 65.10 Full Compliance Is Due)** or if the submitted data and documentation are determined to be inadequate, FEMA will initiate a map revision to de-accredit the levee system[s] and map the impacted areas on the landward side of the levee system[s]. These areas will be remapped as Special Flood Hazard Areas (SFHAs), designated **[Zone A / Zone AE]**. The SFHA is the area that is subject to flooding during the 1-percent-annual-chance flood. The mandatory flood insurance purchase and minimum floodplain management requirements of the NFIP apply to structures within the SFHA.

The mapping process from start to finish in situations where a levee system is proposed to be de-accredited will take no less than 18 months. Data showing that the criteria of 44 CFR 65.10 have been met can be submitted at any time during that period or after. Data submitted prior to a community adopting the DFIRM or prior to the four month period that would precede the effective date of the mapping project, whichever comes first, will be incorporated into the maps prior to them becoming final.

Communities are encouraged to increase floodplain management efforts and promote the purchase of flood insurance for all homes and businesses in areas impacted by levee systems, including areas that are impacted by levee systems that have been certified as providing 1-percent-annual-chance flood protection. Risk is dynamic and may not be completely eliminated by any levee system. Levee systems are designed and built to provide a certain level of flood protection and to reduce the risks associated with flooding events in general. Levee systems can be overtopped or fail during flood events that exceed the design-level storm. Additionally, it is highly recommended that you consider this risk in your local emergency management plans, including creating evacuation plans for this area.

Please send all complete 44 CFR 65.10 data and documentation submissions to my attention on or before **(Date Data and Documentation Due)**. If you have questions or need additional information regarding the flood mapping for your community, please

[Mr. / Ms.] [Last Name of Community CEO]

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contact me by telephone at **(Regional Contact Telephone Number)**, or by e-mail at **(Regional Contact E-Mail Address)**.

Sincerely,

(Regional Contact Name), (Title)
Mitigation Division

Enclosures: **[PAL Status Table]**
Signed PAL Agreement(s)

cc: **(Name and Title of Floodplain Administrator)**
(Name and Title of State NFIP Coordinator)
(Name and Title of Impacted Community/Communities CEO)
(Name and Title of Senators/Congressional)
(Name and Title of USACE District Office Contact) (for B levees only)