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TESTIMONY

Reauthorization of the National Flood Insurance Program, Part II

Legislative Reform Proposals

before the

Senate Committee on
Banking, Housing and Urban Affairs

by

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Introduction

The Association of State Floodplain Managers (ASFPM) is very pleased to offer our thoughts and recommendations regarding the reauthorization and reform of the National Flood Insurance Program (NFIP). We thank Chairman Johnson and Ranking Member Shelby for your attention to the importance of providing reauthorization and guidance for the future direction of the program. We appreciate the opportunity to share with you observations about the current status of the NFIP, challenges the program confronts and opportunities to improve our nation's efforts to reduce flood-related losses.

We are hopeful that this Congress can provide stability for the NFIP while also moving the program in the direction of needed improvements and adjustments. We note that extensive work in both the House and Senate in the 110th Congress did not result in final action on reform legislation and legislation passed by the House in the 111th Congress also did not result in final legislative action. Since then, other issues have emerged and actions have been taken by the Federal Emergency Management Agency that point to the need to update those earlier reform and revision proposals and to seriously consider further and possibly significant NFIP reform ideas.

The convergence of several areas of concern, in particular new flood maps, accreditation status of levees, and affordability of flood insurance, has focused considerable attention on challenges faced by the NFIP. We believe this creates an opportunity to better manage flood risk, to better protect lives and property and to help communities and individual citizens restore their economic and personal lives more fully and quickly after a flood disaster.

Central Question

Perhaps the central question for the Congress to consider during reauthorization of the NFIP is what the program is expected to do and what it should be expected to do in the future?

We are all well aware that the program is in debt to the nation's taxpayers for \$17.6 billion after being overwhelmed by claims following flood damage resulting from the major hurricanes of 2004 and 2005. Floods are our nation's most frequent and, overall, most costly disasters. We also know that due to the ever-changing climate, scientists predict that some parts of the country are expected to experience more frequent and more intense storms in the future, and that sea level rise along the coasts of the United States will result in oceans being at least several feet higher by 2100. Given this, should the NFIP be expected to cover all claims associated with catastrophic losses or should the program be expected to cover claims in the average annual loss year with catastrophic losses handled in some other manner?

How Congress decides the answer to this question is central to the way in which future reforms to the NFIP should be framed.

About ASFPM

Members of the Association of State Floodplain Managers (ASFPM) are the Federal Emergency Management Agency's (FEMA's) partners in coordinating and implementing the insurance, risk identification and hazard mitigation components of the NFIP. ASFPM and its 30 Chapters represent over 14,000 state and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community

development, hydrology, forecasting, emergency response, water resources, and insurance for flood risk. All ASFPM members are concerned with working to reduce our Nation's flood-related losses. Many of our state members are designated by their governors to coordinate and implement the National Flood Insurance Program, and many others are involved in the administration and implementation of FEMA's mitigation programs. For more information on the Association, our website is: <http://www.floods.org>.

The NFIP and Benefits to Communities, Policy Holders and Taxpayers

Intentions

The National Flood Insurance Program was enacted into law in 1968 following several years of policy development. The private insurance industry was not writing flood insurance policies as it was not deemed to be a profitable enterprise and potential flooding areas had not been identified and mapped making quantification of risk difficult. Taxpayers paid the bills for Disaster Relief following flood disasters. The original purposes of the NFIP were several:

- to require those living in at-risk locations to pay for a portion of their risk through insurance premiums;
- to reduce dependency on disaster assistance and save the taxpayers' money by requiring insurance in at-risk locations;
- to make flood victims closer to whole following a disaster than they would be with only disaster relief;
- to reduce flood related losses over time by requiring participating communities to adopt ordinances to guide development in areas at risk of flooding; and,
- to identify areas at risk of flooding for the dual purposes of knowing where to require the purchase of flood insurance and of guiding development and building practices to save lives and reduce property damage.

As originally authorized, rates were to be affordable to encourage broader participation in the program, thereby expanding the base of policy holders. Properties built before issuance of Flood Insurance Rate Maps (FIRMs) would have flood insurance available at lower, “subsidized” rates based on the presumption that the builder and property owner were not aware of the flood risk. It was thought that, over time, the number of such subsidized properties would diminish because they would be substantially damaged by floods or would be demolished for other reasons. In the early years, some 70% of policies were subsidized. Currently, only about 23% are subsidized, and the remaining are charged actuarial rates based on risk. As authorized, the NFIP does not incorporate the potential for catastrophic losses in the rate structure. Rather, to pay for claims that exceeded the resources of the National Flood Insurance Fund, the program is authorized to borrow, with interest, from the U.S. Treasury. Prior to the 2004 and 2005 hurricane seasons the NFIP had built a strong reputation for repayment.

Results Thus Far

The Association of State Floodplain Managers concludes that the NFIP has been successful in meeting a number of its original objectives, but less so in reducing total flood losses in the nation. The statute does mandate lenders to require certain borrowers to obtain flood insurance, sparing taxpayers from paying many millions of dollars in disaster relief and casualty loss deductions, and enabling those citizens with flood insurance to more fully restore their lives to normalcy after a disaster. Additionally, the NFIP has prevented some unwise development and promoted flood hazard mitigation through local adoption of floodplain management ordinances. On the other hand, too many Americans continue to build in at-risk locations, including residual risk areas behind flood control structures and high risk coastal areas. Thus

collective flood losses for the nation continue to increase in real dollars. In the first decade of this century, average yearly flood losses have increased from \$6 billion to \$10 billion.

Over the forty plus years of the NFIP, there have been revisions and reforms, but the program has, in large part, functioned as it was designed to function. The original framers did not require the NFIP to set rates for truly catastrophic flooding associated with extreme events like Hurricane Katrina, or to have reserves to cover the fiscal impact such events would have on the program. A significant, often unrecognized, and difficult to measure benefit of the NFIP is the number of decisions people have made to build on higher ground and the damage that does not occur because buildings have been built to resist flood damage. For those who decide to build in mapped flood hazard areas, FEMA estimates that meeting the NFIP standards prevents over \$2 billion in damage each year.

However, issues have emerged which now necessitate some re-evaluation of the scope of the program and some significant readjustments to better meet the original and still valid purposes.

Emerging Issues

The program has saved taxpayer dollars in disaster relief and, until recently, flood claims have been covered by premium and fee revenues or by Treasury borrowing which was repaid with interest. (In the 1980s, approximately \$2 billion in borrowing was forgiven.) The rate structure was generally sufficient to cover the costs of the average loss year. Currently, however, the program has a debt of approximately \$17.75 billion. The FEMA Administrator has testified that full repayment from current revenues is unlikely. This leads to questions about how the program should cope with catastrophic losses in the future and about how to put the program back on solid footing.

Enforcement of local floodplain management ordinances, land use regulations (i.e., subdivision and zoning codes) and building codes has reduced flood losses. However, other policies in some cases, including levee construction, have had the opposite effect of encouraging development in areas that still have a residual flood risk and where the consequences are dramatic when flooding occurs. Incentives for communities and property owners to take steps to mitigate future flood losses have not been sufficient. As a result, flood losses in the nation continue to increase.

Concern about the debt has led to calls to increase premiums and to take other steps to reduce exposure and increase revenues. In particular, there have been calls to move certain properties that currently receive “subsidized” rates to full actuarial rates. However, this feeds existing concerns about affordability of flood insurance. Can the program be fiscally sound and still have affordable rates?

Concerns about affordability have played an important role in response to issuance of new, updated flood risk maps and to de-certification of levees, which is beginning to interfere with improved identification of risk because of the related requirement to purchase flood insurance. Identification of risk is key to both providing property owners with the insurance protection they need as well as to facilitating appropriate construction techniques and loss mitigation activities.

When Map Modernization began in 2003, most flood maps were between 15 and 30 years old. The Map Modernization program, which ended in 2009, focused primarily on bringing modernized maps to a current and consistent digital platform while only focusing some effort on identifying new flood hazard areas and updating the maps with new engineering studies. Also, levees were analyzed for their ability to

provide flood protection based on current engineering and design standards on a national level – which hadn't previously been done on such a large scale. One of the lessons learned under Map Modernization is that outreach and data are critical to help communities understand flood risk. Another is that the publication of new flood maps with old engineering data and methods casts doubt as to the credibility of the maps overall. In reflection, the digital conversion of the flood maps was an important and necessary step to bring the national inventory of flood maps into a modern platform; however, that step alone is not the final answer. Many maps have been converted to digital format but significant work remains to update them with new engineering studies to reflect the effects of increased watershed development and increased storm intensity on flood hazards.

Why is new engineering and risk data so important? When new and improved engineering models are used, when data is updated to reflect changes from watershed development, when additional stream gage and precipitation data are incorporated to better reflect changing storm intensity and watershed runoff patterns, and when better topographic data is used, you get a better flood map. The result? The poor condition of much of the nation's infrastructure, including levees, dams and other flood control structures, as well as stormwater facilities, has become much more evident. Updated flood maps more accurately reflect the floodplain by showing some areas as now in 100-year flood hazard areas and, conversely, by showing many areas as no longer in the 100-year flood hazard areas. (It is important to note that, to date, approximately as many properties are newly shown as out of a Special Flood Hazard Area (SFHA) as are newly shown as in the SHFA due largely to improved topographic mapping.)

Under FEMA's RiskMAP program, which has replaced Map Modernization, there is more focus on providing new engineering data as well as providing adequate flood risk data and outreach to

communities. The mapping program has evolved to incorporate some of the lessons learned under Map Modernization. Newly designed map products will provide much more risk information for areas both inside and outside the 100-year flood hazard area which will enable citizens and communities to make better decisions about management of risk. New maps will also reflect whether levees are reliable which can change the hazard designation behind the levee. However, budgetary limitations threaten to significantly slow the process of making RiskMAP products available. The National Flood Insurance Fund pays the administrative costs of the NFIP, but does not collect enough in policy fee income to pay the full cost of mapping and risk identification. This has necessitated the appropriation of funds for the Map Modernization Initiative and now the RiskMAP program to supplement the funds available from policy fees associated with premiums.

The use of the 100-year flood (or 1% annual chance flood) for designation of the Special Flood Hazard Areas (SFHAs) has led to over-reliance on this artificial boundary and under-estimation of flood risk beyond that boundary. Currently, 25% of flood claims are paid on properties located outside of the mapped SHFA. Improved awareness of risk beyond the SFHA boundary is necessary along with better communication about the affordability of policies in these areas. Whether these areas lie outside of the natural floodplain or exist behind levees, downstream of dams, or in designated floodways of major flood control systems, these areas are at risk from flooding. And that risk can be catastrophic in the case of areas behind levees or downstream of dams.

Reforms for the Congress to Consider

The Association of State Floodplain Managers has been very pleased that FEMA, at the direction of Administrator Craig Fugate, has undertaken a “Re-Thinking the NFIP” analysis. A report to the

Congress on the options reviewed is expected this summer. Some of those options and possible reforms from this analysis could be acted on by the Congress, but others will undoubtedly require further study and research. ASFPM recommends that this Committee seriously evaluate FEMA's findings. At this time, our suggestions range from larger issues to smaller adjustments:

1. ASFPM recommends that the Congress clarify whether or not the NFIP should be structured to accommodate catastrophic losses, as discussed at the beginning of this testimony. Many reform decisions would flow from this clarification.
2. Authorization of an on-going flood mapping program is needed. The Senate-passed 2008 bill included a well-conceived section providing such an authorization and outlining important mapping activities. It is important that the section authorize the continuation of an annual appropriation in addition to funds available from policy fee and map fee revenue. The 2008 act would have authorized establishment of a Technical Mapping Advisory Committee of key NFIP stakeholders much like the one authorized in the 1994. That body proved to be very effective and its reports led to development of the Map Modernization Initiative.
3. The Severe Repetitive Loss Program (SRL) was established in the 2004 Flood Insurance Reform Act as one component of a three part approach to diminish the problem of repetitive loss claims by mitigating these properties. SRL has not been fully effective largely because the statutory provisions establishing the program are so prescriptive that FEMA's ability to design an effective program was limited. The statutory requirements also heavily burdened states and communities to the point that some

declined to participate. Statutory changes are needed to simplify the program and make it more attractive to states and communities.

The SRL program is intended as a fiscally responsible means of investing funds from the National Flood Insurance Fund (NFIF) to reduce the approximately \$200 million per year drain on the fund represented by properties that have received multiple claims. Instead of simply reauthorizing the SRL program, we recommend that the well-received Flood Mitigation Assistance (FMA) program be expanded to include the focus and funding from both SRL and another component, the Repetitive Flood Claims (RFC) program. The combined program would retain the authorized level of funding (by transfer from the NFIF) for each component provided in the 2004 Flood Insurance Reform Act -- \$40 million for mitigation of severe repetitive loss structures (defined in statute), \$40 million for FMA and \$10 million for certain properties in certain communities. This would have the effect of simplifying administration so that the unobligated balance in the program can be put to its intended use of reducing claims from severe repetitive loss properties.

4. Improved flood hazard mitigation incentives are needed. ASFPM suggests that better linkages between premium rates and mitigation actions must be encouraged. We support the suggestions made by FEMA Administrator Fugate for a community-based risk assessment system involving payment by the community for a community policy. As the Administrator said, “Incentives could be structured to encourage communities to implement flood mitigation measures in order to reduce their overall premium assessment.” The Committee could direct either further research on the feasibility of this concept or direct that pilot group policies be tested.

5. As in the 2008 Senate-passed bill, the debt to the Treasury should be forgiven. Since the debt exceeds the NFIP's ability to repay, it is prudent to stabilize the program without debt and to build in reforms to improve its fiscal soundness. The definition of "actuarial premium rates" will depend on whether or not the program is to accommodate catastrophic losses.

Due to two mild hurricane seasons and a favorable refinancing of the debt, the NFIP has been able to cover claims, to pay interest on its debt, and to repay \$2 billion of the original loan. However, full repayment of the debt is not a reasonable expectation because mild loss seasons cannot be expected to continue, the nation's flood risk is increasing due to development and more intense storms, the interest on the debt will go up, and the annual program income is about \$3.2 billion, from which operating expenses and claims must be paid. It is not expected that program income will change significantly unless dramatic changes are made to the NFIP's rate structure.

6. Purchase of flood insurance in residual risk areas behind levees should be mandatory.

The Senate-passed 2008 bill included such a provision. Engineers know that all levees are subject to failure or over-topping. Because of the low probability but catastrophic loss possibility, premium rates in such areas would likely be relatively low, but property owners would be protected with insurance as well as appropriate risk messaging. The report to Congress from the National Committee on Levee Safety (established by the Water Resourced Development Act of 2007) strongly recommends mandatory purchase of flood insurance behind levees.

7. The affordability issue must be addressed. Not only is the mandatory purchase requirement a financial hardship for many lower income property owners, but affordability concerns are beginning to

interfere with identification of risk, related mitigation of risk and protection of public safety. Legislative suggestions for delaying map issuance or for delaying effective dates for the mandatory purchase requirement are examples. We note that the bill soon to be considered by the House of Representatives includes language which focuses and limits the application and time frame for a delay in the mandatory purchase requirement for areas newly mapped as within the SFHA. A phase-in of actuarial rates in these areas is a better approach to ease the financial burden because property owners are insured during the phase-in period rather than entirely without insurance protection.

Ideas have emerged in academic research for a means-tested system of flood insurance vouchers. ASFPM recommends that the Committee direct that an economic analysis be conducted of the overall effect on taxpayer funds of providing flood insurance vouchers to low income property owners as opposed to providing assistance through disaster relief funds. Such an analysis should include aspects such as restoration of community and economic vitality and speed of rebuilding, repair and restoration of lifestyle.

8. ASFPM has long supported movement of policies toward actuarial rates for both for fiscal soundness and for clarity of the risk message. As we have identified earlier; however, there are affordability issues that will emerge. ASFPM also believes that robust mitigation programs can be an opportunity for property owners who are affected by such changes to help offset the resources needed to mitigate. Movement of certain classes of properties towards actuarial rates such as second homes, commercial properties and severe repetitive loss properties is consistent with ASFPM positions and this should be done so within a reasonable timeframe.

9. Exploration of additional private insurance engagement with the NFIP should be conducted. For example, the private reinsurance market could possibly provide part of the solution to the problem of catastrophic losses. We recommend studying the feasibility of purchasing some amount of reinsurance for the NFIP.

10. The NFIP should operate within a true flood risk management framework. The Committee could direct that FEMA work with other federal agencies in the Federal Interagency Floodplain Management Task Force to develop a comprehensive flood risk management framework to improve federal coordination toward the objective of reducing flood related losses in the nation.

The nation must carefully balance the issue of who benefits and who pays for development at risk.

There are about 130 million housing units in the U.S. Of that, about 10 to 11 million are in flood hazard areas, with fewer than half of those carrying flood insurance. This means 90% of the population does not live in identified Special Flood Hazard Areas, yet they must continue to support large outlays each year for disaster relief for flooding of uninsured buildings and rebuilding damaged infrastructure in flood areas, including the possibility of having to cover the \$17.75 billion debt of the NFIP. Yet those same taxpayers obtain few, if any, of the benefits of that development. This points out the need to tie program outcomes of the NFIP to these other programs such as FEMA's disaster relief programs and programs of HUD, DOT, USDA and others.

The U.S. Army Corps of Engineers has adopted the comprehensive flood risk management approach in many of its programs at the national level. For this approach to be successful for the nation, FEMA

must also actively promote the concept and integrate its programs for the NFIP, mitigation and disaster relief internally, and must integrate them with other federal programs that impact flood risk.

11. Future changes in flood levels and sea level rise should be reflected in flood mapping and risk data and long term adaptation strategies should be programmed into the land use and planning provisions of the NFIP and mitigation planning. It is clear that many parts of the nation are experiencing more intense rainfall and storm events. The Mayor of Des Moines, Iowa, relates how his community suffered a 500-year flood event in three consecutive months during the summer of 2010. Sea levels have fluctuated over time and the current pattern shows an accelerated rise through at least the year 2100. FEMA flood maps need to reflect these future conditions so communities have the data to implement adaptation and mitigation strategies. This is essential in order for communities to be economically and socially sustainable and to incorporate resiliency in infrastructure and development now when it is incrementally less expensive versus later when it will be much more expensive to retrofit these facilities.

12. FEMA is authorized to delegate to qualified states the administration of the post-disaster mitigation grant program authorized in the Stafford Act and known as the Sec. 404 Hazard Mitigation Grant Program. If selected states develop the capacity necessary for that delegation, FEMA should also delegate the authority to administer the NFIP-funded grant programs where appropriate. ASFPM continues to focus on building state capacity. We believe that those states which have developed the capacity to assume program administration are in the best position to efficiently and effectively carry out the purpose of reducing flood losses.

13. ASFPM concurs with many recommendations for a longer term reauthorization for the NFIP to avoid the dislocations for the housing market, lenders and insurers when the program undergoes periods of lapsed authority. In view of the “Re-Thinking the NFIP” effort, Congress could direct FEMA to perform necessary studies from the policy options for major policy reform consideration at the end of that 5-year authorization. This would facilitate the Committee taking action on FEMA’s findings and recommendations in 2016.

The Association of State Floodplain Managers appreciates this opportunity to share our observations and recommendations with the Senate Committee on Banking, Housing and Urban Affairs as you consider reauthorization and reform of the National Flood Insurance Program. We look forward to answering any questions you may have and to assisting in any way that is helpful as you develop legislation.

For any further questions on this testimony contact Chad Berginnis, ASFPM Associate Director at cberginnis@floods.org (608) 274-0123 or Meredith Inderfurth, ASFPM Washington Liaison at (703) 448-0245.