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TESTIMONY

Reauthorization of the National Flood Insurance Program, Part I

Before the

Senate Banking Committee

By

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Introduction

The Association of State Floodplain Managers is pleased to participate in this hearing about the National Flood Insurance Program. We appreciate the opportunity to discuss our views and recommendations for the future of the program. We thank you, Chairman Brown, Ranking Member Toomey and Members of the Committee for your interest in this important subject.

The ASFPM and its 38 chapters represent more than 20,000 local and state officials as well as private sector and other professionals engaged in all aspects of floodplain management and flood hazard mitigation, including management of local floodplain ordinances, flood risk mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources development and flood insurance. All ASFPM members are concerned with reducing our nation's flood-related losses. For more information on the association, our website is: *www.floods.org*.

Floods are this nation's most frequent and costly natural disasters and the trends are worsening. The National Flood Insurance Program or NFIP is the nation's most widely used tool to reduce flood risk through an innovative and unique mix of incentives, requirements, codes, hazard mitigation, mapping and insurance. It is a partnership between communities, states and the federal government. The NFIP is the one tool in the toolbox that serves policyholders, taxpayers and the public well. Our testimony is intended to provide a better description of these interdependencies as well as twenty recommendations for Congress to consider to reform the NFIP.

The NFIP is a National Comprehensive Flood Risk Reduction Program

The NFIP was created by statute in 1968 to accomplish several objectives. Among other things, the NFIP was created to:

- Provide for the expeditious identification of and dissemination of information concerning flood-prone areas through flood mapping
- Provide communities the opportunity to voluntarily participate in the National Flood Insurance Program in order for their citizens to buy flood insurance and, as a condition of future federal financial assistance, to adopt adequate floodplain ordinances consistent with federal flood loss reduction standards
- Require the purchase of flood insurance in special flood hazard areas by property owners who are being assisted by federal programs or by federally supervised, regulated or insured lenders or agencies.
- Encourage state and local governments to make appropriate land use adjustments to constrict the development of land exposed to flood damage so homes and businesses are safer and to minimize damage caused by flood losses
- Guide the development of proposed future construction, where practicable, away from locations threatened by flood hazards
- Authorize a nationwide flood insurance program through the cooperative efforts of the federal government and private insurance industry
- Provide flexibility in the program so flood insurance may be based on workable methods of distributing burdens equitably among those protected by flood insurance and the general public who benefit from lower disaster costs

Beyond merely providing flood insurance, the NFIP is unique as it integrates multiple approaches for identification of flood risk, communication of risk, and techniques to reduce flood losses. It is a unique collaborative partnership enlisting participation at the state and local level. It is a multi-faceted, multiple objective program – a four-legged stool as it is often called. The four legs of the stool are (1) floodplain mapping, (2) flood standards, (3) flood hazard mitigation and (4) flood insurance. Altering one leg without careful consideration of impacts on the other three legs can have serious repercussions on reducing flood losses. The NFIP on the whole provides substantial public benefits as our testimony will further detail.

We must remember that 90% of natural disasters in the United States involved flooding, and all 50 states and 98% of counties have the potential to be impacted by a flood event. The NFIP, which is now over 50 years old, had paid over $69 billion in claims (and half of that has come in the past 15 years). But beyond paying insurance claims, the NFIP has also mapped 1.2 million miles of streams, rivers and coastlines – flood hazard data that is freely and widely available. It has invested more than $1.3 billion in flood hazard mitigation for older, at-risk structures and into local flood mitigation planning. Because of the program, over 22,000 communities have adopted local flood risk reduction standards – far more communities than have building or zoning codes, which have resulted in $2.45 billion of flood losses avoided every single year. The NFIP has provided innumerable public benefits, direct monetary benefits to taxpayers, and significant benefits to policy holders.

A Pivotal Time for the NFIP – and a Window of Opportunity

Today, the NFIP is preparing to embark on one of its most transformational actions in the past several decades – the implementation of Risk Rating 2.0. At its core, Risk Rating 2.0 is consistent with a reform that ASFPM and many other organizations have been calling for which is to ensure that through accurate insurance rating we can communicate the relative level of flood risk to property owners and renters. Of course this is a simplified view and implementing transformation like Risk Rating 2.0 is much more complicated, but we should keep the fundamental reason we are doing this in mind as additional reforms are considered. The timing of both Risk Rating 2.0 and your consideration of NFIP reform and reauthorization can be very complimentary. For example, a seemingly widely supported reform from the last Congress was the need for a targeted, means tested way to assist lower income property owners with NFIP premiums. Now, Congressional reform ideas can be tested against the NFIP's more accurate rating approach in Risk Rating 2.0 to fine tune the approach. Over the past few months, ASFPM has been pleasantly surprised to learn that Risk Rating 2.0 will have the effect of generally reducing flood insurance premiums for those lower-cost, more modest homes than the rating approach in place now, resulting in more a more equitable program overall.

Today's NFIP must ensure that the nation is ready to address tomorrow's flood risk. Floodplain managers know development often results in increased flood heights, and we observe changing weather patterns that result in shifting snowmelt/rainfall in the West, and nationally, more intense short duration storms are causing more flash floods. Additionally, unrelenting sea level rise (SLR) is beginning to affect communities from Florida and the Gulf of Mexico to Virginia and the Mid-Atlantic, and to Alaska. A 2017 *NOAA report* added a new upper boundary for SLR this century up to 2.5m (8 feet) by 2100 due to new data on the melting of the Greenland and Antarctic ice sheets. According to a 2018 report by the Union of Concern Scientists, accelerating sea level rise in the lower 48 states, primarily driven by climate change, is projected to worsen tidal flooding putting as many as 311,000 coastal homes with a collective market value of about $117.5 billion today at risk of chronic flooding within the next 30 years—the lifespan of a typical mortgage. America's trillion-dollar coastal property market and public infrastructure are threatened by the ongoing increase in the frequency, depth, and extent of tidal flooding due to SLR, with cascading impacts to the larger economy. Higher storm surges due to SLR and the increased probability of heavy precipitation events exacerbate this risk. Inland, the situation is only slightly better, but is still problematic. A 2014 Climate Change Vulnerability Analysis by the Milwaukee Metropolitan Sewerage District shows that in the future to expect a pattern of increasing precipitation intensity in a few larger events but a decrease in the size and frequency of many smaller events, which is also consistent with the National Climate Assessment. The mapping, mitigation, and floodplain management elements of the NFIP all have a role to play in addressing future flood risk.

More recently, issues of equity and social vulnerability have been recognized as needing to be addressed. FEMA's National Advisory Council's (NAC) 2020 report made the focus on equity a centerpiece of the vision of the future of emergency management. It noted that "For disaster preparedness, mitigation, response, and recovery to drastically improve in 2045, emergency management must understand equity and become equitable in every approach and in all outcomes. The exacerbated impacts of disasters on underserved and historically marginalized communities across the United States showcases existing inequity." We must examine the NFIP and proposed reforms through the lens of equity and social vulnerability to ensure that policies do not intentionally or unintentionally make these inequities worse and seek opportunities to reduce them. ASFPM is pleased to learn that Risk Rating 2.0 will lead to a more equitable program recognizing that lower value homes that have traditionally paid more for flood insurance will pay less (as compared to higher value homes). NFIP reauthorization and reform and modernizing our nation's infrastructure should support states and localities' ability to reduce flood risk by increasing resilience, particularly for vulnerable communities. Legislation could facilitate identification of these communities through a data-driven approach and direct public and private sector resources, including grants, bonds, and tax incentives, to improve the resilience of these communities that, otherwise, could not make these investments on their own.

So what will the NFIP of tomorrow look like? ASFPM believes the nation will continue to need a robust, fiscally-strong NFIP to comprehensively reduce today's and tomorrow's flood risk. The program should strive to enhance equity and reduce social vulnerability. ASFPM is always vigilant that when it comes to NFIP reforms. We have seen far too many ideas over the past several years, that would change one element without consideration of how that change would impact the other elements of the NFIP (for example changes in insurance shouldn't weaken the role of either mitigation or floodplain management. We must ensure that reforms carefully contemplate the potential impacts to the overall comprehensive approach to flood risk management that the NFIP provides so that we strengthen the nation's overall resilience to flooding.

A Long-term Sustainable Financial Framework is Needed; Debt is an Issue

The NFIP had generally been self-supporting until 2005. In the 1980s the program went into debt a few times and ultimately Congress forgave approximately $2 billion. But from the mid-1980s to 2005, the NFIP was entirely self-sustaining and, when borrowing from the U.S. Treasury, the debt was repaid with interest. However, due to catastrophic floods in 2004, 2005, and 2012, 2016-2019 the program currently owes $20.5 billion to the US Treasury and since Hurricane Katrina, has paid $5.06 billion in interest to the Treasury.

The NFIP was never designed to pay for catastrophic events. In fact, from 1968 to 1978 the concept was one of risk sharing with the private sector, with the program actually paying a subsidy to private insurers for pre-FIRM structures (structures built prior to availability of flood insurance rate maps). As recently as the late 1980s, internal communications show that the administration reaffirmed the federal treasury was essentially the reinsurer of last resort.

Congress and FEMA have made some progress toward putting the program on a sound financial footing as part of the past two NFIP reforms in 2012 and 2014, which ASFPM supported. Under BW-12, reforms (later modified by HFIAA-14) included changes that led to moving subsidized policies toward actuarial premium rates, allowing the NFIP to purchase reinsurance, and to establish a reserve fund. These changes help reduce the financial risk to the program (and ultimately to the American taxpayer) and better prepare for the ever increasing number of catastrophic flood events. However, those reforms did have a consequence of exacerbating the issue of flood insurance affordability. We also note Congress' very significant action to forgive $16 billion of the NFIP's debt in 2017, and point out that the aforementioned reforms put in place in 2012 and 2014 to put the program in a better fiscal position continue today.

So what is next? ASFPM believes that Congress should consider reforms that don't endlessly put the NFIP at financial risk and at the same time, will also assure that the program remains consistent with a primary reason for having a federal flood insurance program in the first place – to reduce the need for disaster declarations and subsequent emergency spending bills. As a point of comparison, the federal crop insurance program now costs taxpayers approximately $9 billion annually. Yet the program is not required to pay that debt back – with interest – while filling almost exactly the same public policy goal; to reduce much larger costs to the taxpayers for agriculture disasters. Even those wishing to reform the crop insurance program aren't advocating to eliminate all subsidies nor considering the program a failure because the program results in taxpayer debt every single year; rather, reforms are targeted to certain subsidies, subsidy caps, and income limits.

- **ASFPM recommends forgiving the remainder of the current debt and adopting some form of a "sufficiency standard" as an automatic, long-term mechanism within the NFIP that ensures, after a certain threshold of flooding, the debt will be paid by the U.S. Treasury, much like other disaster assistance.[1] Among other things, the sufficiency standard would consider the reserve fund balance, utilization of reinsurance, and ability of the policy base at that time to repay.**
- **At a minimum, the requirement for the NFIP to pay interest on the debt should be discontinued, or the interest and debt payments should be directed as reinvestments back into the program for needs such as flood mapping or mitigating flood-prone buildings, especially repeatedly flooded buildings.**

[1] Most insurance systems have some trigger for socializing risk of extreme events, such as a sufficiency standard based on a pre-identified event (i.e., a one-in-twenty-five year or one-in-one-hundred-year event) beyond which mechanisms like guaranty funds pay losses. Adopting an explicit standard of this type for the NFIP would provide clarity as to what its funding sources should be and give Congress and taxpayers an understanding of when NFIP debt should be forgiven. Such an approach has been suggested by the American Academy of Actuaries for Congress to consider as part of a broader set of NFIP reform considerations their updated 2019 report *The National Flood Insurance Program: Challenges and Solutions*.

ASFPM is worried that as we head into a likely more inflationary environment over the long term which could have the effect of increasing interest rates, servicing the debt will quickly become the largest financial risk to the NFIP. The fact is, today's NFIP has taken advantage of the numerous tools Congress has provided to make it more fiscally sound and is more of a public-private partnership than ever before, leveraging private sector financial risk management tools like reinsurance and catastrophe bonds, as well as enabling the market for private flood insurance. Much progress has been made over the past eight years and Congress should take the final steps by recognizing these steps and permanently put the program on a sound financial footing by addressing today's and tomorrow's debt.

Floodplain Mapping

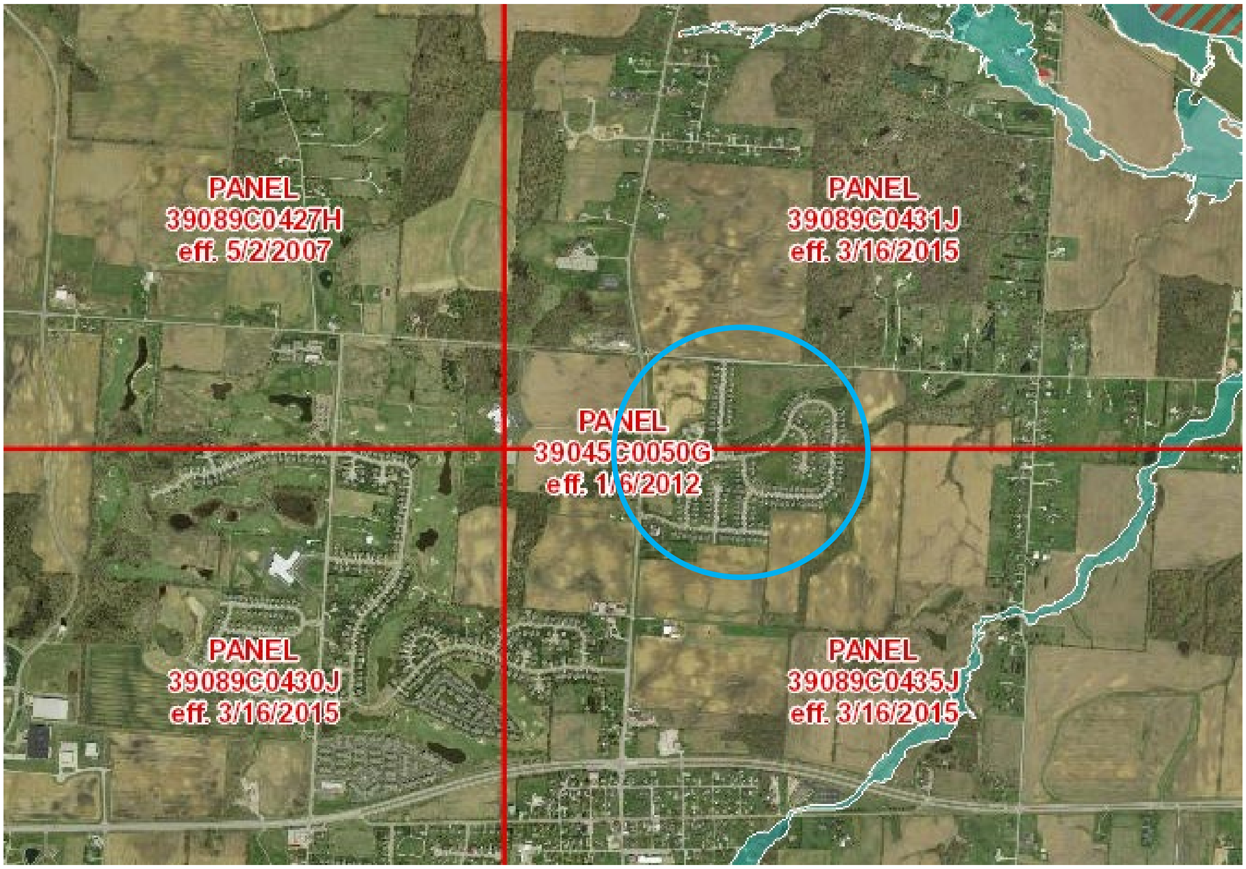
Floodplain mapping is the foundation of all flood risk reduction efforts, including design and location of transportation and other infrastructure essential to support businesses and the nation's economy. The flood maps are also used for emergency warning and evacuation, community planning, and locating critical facilities like hospitals and emergency shelters. Today FEMA has in place the right policies and procedures (i.e., requiring high-resolution topography (LiDAR) for all flood map updates), and is using the best available technology to produce very good flood studies. For example, FEMA is doing some pilot studies in Minnesota and South Dakota using very precise topographic mapping and automated flood study methods to develop base level engineering that can be used as an input into future flood studies. This gives communities access to data immediately to use for planning and development rather than waiting years for the data. In coastal studies, FEMA now uses the state-of-the-art ADvanced CIRCulation (ADCIRC) model for storm surge analysis.

Today, flood risk maps only exist for about 1/3 of the nation – only 1.2 million of 3.5 million miles of streams, rivers, and coastlines have been mapped. Also, even some of today's maps are many decades old, or were updated before the current standards to redraw boundaries based on more accurate study data and topography. ASFPM has repeatedly expressed concern that there is still a large inventory of pure "paper" maps that have never been digitized and modernized with newer flood study procedures. Many other areas have never been mapped, so there is no identification of areas at risk and communities have no maps or data to guide development to be safe from flooding. This is a significant problem and the example below illustrates why.

Cameron Chase is an 87-acre residential subdivision developed in the early 2000s in Licking County, Ohio. As a crow flies, it is 17 miles from downtown Columbus, Ohio (metro area population 2+ million). An unnamed stream flows through the subdivision:

(Above: Aerial view of Cameron Chase division, Etna Township, Licking County Ohio. The unnamed stream is highlighted as the dashed blue line)

On the FEMA maps that were effective at the time and even on today's maps, the unnamed stream is not mapped. Why? The old guideline for mapping these small streams was that you needed about 10 square miles of land draining into the stream for it to reach a threshold for FEMA mapping in rural areas. In the case of this tributary, it only had about 760 acres or just over one square mile of drainage. Also, the land previously had been a cornfield, and as a result never had enough property at risk for FEMA to map prior to development:



(Above: Portion of FEMA FIRM Index Panel for Licking County, Ohio. The Cameron Chase subdivision is circled; note that the unnamed stream does not have a FEMA mapped floodplain – it does not show up until several miles downstream)

Luckily, Licking County has strong local floodplain management regulations that exceed federal minimum standards and the regulations required the developer to map the floodplain on any stream where one wasn't identified. Prior to development a flood study (similar to one that FEMA would prepare) was completed and the result? A 1% chance floodplain identified that ranged from 150 feet wide to 300 feet wide and more importantly a map to guide the proposed development. But most communities do not have such standards and what happens then? The development occurs with no flood standards. Well, this is what is happening in thousands of subdivisions across the country: areas that used to be cornfields and cow pastures are developing into subdivisions with tens of thousands of housing units. Later, after there is significant development already built at risk and often after a flood or two, FEMA comes in and maps it. Then the dynamic changes and everything becomes adversarial. People think FEMA put a floodplain on them, when it was there all along. The property owner is mad because they have to buy flood insurance at high premiums because flood elevations were unknown. Realtors are upset because it is a surprise and may have an impact on the future salability of homes. And local elected officials fight to minimize the size of the mapped floodplain, spending thousands of dollars on competing flood studies. The entire dynamic can change if maps showing risk are available before development starts. You can see from the FEMA flood map above that there are many existing farm fields that will be developed in the next few decades (and there are small streams running through them too). We must map today's corn fields and cow pastures to assure that quality flood mapping precedes development.

For most of the history of the NFIP, flood mapping was done to primarily support two functions of the NFIP: flood insurance rating and floodplain management standards. As a result, two pieces of data were typically produced: the 100-year and the 500-year flood. However, as the NFIP grew and as flood risk management became more important, the nation's citizens looked to the FEMA flood maps as the primary source of any kind of flood risk information for a given area. In 2012, Congress, for the first time, authorized a National Flood Mapping Program (NFMP) as part of the NFIP reform legislation which took this more expansive view of flood mapping. It required, among other things, several new, mandatory types of flood risks to be shown on the nation's Flood Insurance Rate Maps (FIRMs) beyond the 100-year and 500-year flood including:

1. All populated areas and areas of possible population growth located within the 100-year and 500-year floodplains;
2. Areas of residual risk, including areas that are protected by levees, dams, and other flood control structures and the level of protection provided by those structures;
3. Ensuring that current, accurate ground elevation data is used;
4. Inclusion of future conditions risk assessment and modeling incorporating the best available climate science; and
5. Including any other relevant data from NOAA, USACE, USGS and other agencies on coastal inundation, storm surge, land subsidence, coastal erosion hazards, changing lake levels and other related flood hazards.

Unfortunately, ASFPM is not aware of any single flood map in the entire country that exists today where all of these data sets exist on either a FIRM panel or in the accompanying data FEMA provides. Therein lies the problem. We have had a National Flood Mapping Program authorized since 2012, but many key elements have not been implemented. In fairness to FEMA since 2012, progress has been made on improving the quality of the existing flood maps, in use of high resolution topography, and in the area of communicating information to communities and the public (either through the mapping process itself or through technologies and tools). Nevertheless, we believe these additional elements Congress required are essential for an effective national flood mapping program.

What is the gap then? ASFPM believes that the gap lies in getting the job of initially mapping the nation done.

Consider:

- Based on the National Hydrography Dataset (NHD) and NOAA shoreline data, there are approximately 3.5 million miles of streams and rivers, and 95,471 miles of coastlines in the nation. **Currently, only 1.14 million stream miles and 45,128 shoreline miles have flood maps. By this metric, only about 1/3 of the nation has been mapped**.
- **Over 3,300, or roughly 15%, of NFIP communities have maps over 15 years old, with many of these over 30 years old and still having "un-modernized" paper maps**.
- **Many of the added mapping requirements from 2012 haven't even been started beyond preliminary studies and research.** This includes residual risk mapping around flood control structures and future conditions mapping. A 2016 TMAC report reviewing the National Flood Mapping Program stated: *"To*

create technically credible flood hazard data, FEMA needs to address residual risk areas in the near term. Residual risk areas associated with levees and dams are of great concern."

- In 2020, in a House Science Committee hearing examining FEMA's flood mapping program, FEMA recognized these mapping needs and testified that appropriations simply have not been enough to make meaningful progress on the additional mapping responsibilities identified under the National Flood Mapping Program.

ASFPM believes this gap in data is contributing significantly to the increasing flood losses in the nation. A 2018 study shows that the total US population exposed to serious flooding is 2.6–3.1 times higher than previous estimates, and that nearly 41 million Americans live within the 100-year floodplain (compared to only 13 million when calculated using FEMA flood maps). This translates into 15.4 million housing units. The same study indicates that over 60 million people live in the 500-year floodplain.

In 2020, ASFPM completed the update to its 2013 report *Flood Mapping for the Nation*, which modeled the costs to fully implement the National Flood Mapping Program under the 2012 Biggert-Waters Reform Act and complete the initial flood mapping of the nation. We conclude that it will cost between $3.2 and $11.8 billion to complete the mapping in the nation and then cost between $107 and $480 million to maintain these maps as accurate and up-to-date.

To improve flood mapping in the nation:

- **ASFPM recommends the reauthorization, funding, and enhancement of the National Flood Mapping Program (NFMP).**
- **ASPFM supports an increased authorization for the National Flood Mapping Program to between $600 million to $1.8 billion annually in order to accelerate the completion of the job of initially mapping the nation in five years and getting to a steady-state maintenance phase.**
- **FEMA must complete the initial flood mapping of the entire nation to get ahead of development and must prioritize the elimination of the un-modernized paper map inventory in the nation.**
- **ASFPM urges consideration of a one-time flood map funding investment of $7.5 billion as part of any emerging infrastructure bill to finish the initial job of completing flood mapping for the nation.**

ASFPM notes that in 2016, a letter initiated by then Chairwoman Ranking Member Maxine Waters and signed by 43 House members, not only recognized the benefits of flood mapping, but urged Congress to get the job done by funding FEMA's mapping program at a level of $1.5 billion/year for five years. A stepped up commitment to mapping flood risk is should really go hand-in-hand with any major infrastructure investment; otherwise, we risk making costly and important infrastructure vulnerable to both today's and tomorrow's flood risk.

Floodplain Management (Floodplain Regulations, Training, Public Education)

To participate in the NFIP, states and communities must abide by minimum development standards and designate a NFIP coordinator. At the state level, this means that there is a NFIP coordination office that provides technical assistance and training to communities and the public, serves as a repository for the state's flood maps, ensures the state has sufficient enabling authority for communities to participate in the NFIP and is the lead agency to ensure that state development is consistent with NFIP minimum standards. At the local level this means that more than 22,500 communities participate in the NFIP and have adopted minimum development and construction standards to reduce flood losses. As floodplain areas are identified and mapped throughout the nation, NFIP participating communities must adopt and enforce local floodplain management standards that apply to all development in such areas.

NFIP standards are the most widely adopted development/construction standards in the nation as compared to building codes, subdivision standards, or zoning. FEMA has estimated that for approximately 6,000 of the NFIP participating communities, <u>the only</u> local codes they have adopted are their floodplain management standards. Today it is estimated $2.4 billion of flood losses are avoided annually because of the adoption and implementation of minimum floodplain management standards. Often communities decide to adopt standards that exceed the federal minimums. For example, over 60% of the population in the United States lives in a community that has adopted an elevation freeboard – which requires the first floor of the building be at an elevation that is at least a foot higher than the base flood (or 100-year flood). A freeboard not only has the benefit of making the construction safer, but it can have a tremendous impact on lowering flood insurance rates. A freeboard of 3 feet can reduce premiums by more than 70%.

Why do communities participate in the NFIP and adopt local standards? State floodplain managers around the nation who have enrolled nearly all of the communities in the past 40 years know a major reason is to make flood insurance available to their citizens. If a community hasn't joined (there are still about 2,000 communities not in the NFIP), it is usually compelled to do so when a resident gets a federally-backed mortgage and needs to have flood insurance. While there are some non-participation disincentives in terms of restrictions on some forms of disaster assistance, such disincentives are weak and very limited. For most communities, they are not much of a disincentive at all, but getting flood insurance is a strong incentive. We must ensure changes to the insurance element of the NFIP do not undermine this incentive.

To enable the NFIP to provide better technical assistance to over 22,000 communities in the NFIP, the Community Assistance Program (CAP-SSSE) was developed in the 1980s. This program invests in building capability to do floodplain management at the state level in order to assist the communities in the state with their NFIP participation responsibilities because it would be impossible for FEMA to either directly assist that many communities or for the program to provide funding assistance to all communities in the program. It is important to recognize communities must meet the NFIP standards, they do so within the laws and framework that differs in each state, making it important states provide that assistance. For a modest investment of around $10 million annually, CAP-SSSE leverages state investment to create and maintain the capability to do effective floodplain management at the state and local level. The entire floodplain management budget (100%), which includes staffing, community and state technical assistance, and the Community Assistance Program (CAP-SSSE), is funded out of the Federal Policy Fee. However, the CAP-SSSE program is not explicitly authorized.

- **ASFPM recommends that a community assistance program which would provide resources to states be explicitly authorized and its funding doubled to maintain and expand community technical assistance through effective state floodplain management programs.**

Although millions of American's homes are at risk of flooding, 21 states have no real estate disclosure laws. This makes it difficult for a home buyer to learn of a property's flood history. These states do not require sellers to tell prospective home buyers or renters whether a property has been damaged by a flood and limiting access to such information prevents people from making smart decisions about where to live. Unfortunately, many homeowners learn of their propensity to flood only after suffering through multiple disasters. The other 29 states have varying degrees of disclosure requirements. This hodgepodge of state and local policies hinders buyers from making fully informed decisions.

- **ASFPM supports a national real estate disclosure requirement for a property's flood history. Such a requirement could be tied to a state's participation in the NFIP.**

In 2018, the Natural Resources Defense Council researched this topic extensively and developed an interactive website where each state's flood disclosure law can be reviewed.

Flood Hazard Mitigation

NFIP has two built-in flood mitigation programs: Increased Cost of Compliance (ICC) and Flood Mitigation Assistance (FMA). These NFIP funded mitigation programs have resulted in more than $1.3 billion in funds to reduce risk to thousands of at-risk, existing structures. The National Institute of Building Science's Multi-Hazard Mitigation Council, in its research of FEMA flood hazard mitigation projects, determined that such projects resulted in $5 in benefits for each $1 spent. ICC and FMA have mitigated, on average, 1,850 buildings annually between 2010 and 2014. ASFPM strongly supports both programs.

ICC is the fastest way to get flood mitigation done and is paid for 100% through a separate policy surcharge. Since it is simply part of the flood policy it isn't run like a typical grant, funds are available to the owner much quicker. It is a transaction between the insured and insurance company. 60% of ICC claims are used to elevate a building and 31% of the time ICC is used to demolish a building. Other techniques used are floodproofing or relocation of the building out of the floodplain altogether. From 1997 to 2014, ICC has been used to mitigate over 30,000 properties.

ASFPM has been frustrated for several years over the pace of FEMA's implementation of its own authority to make ICC much more useful. In 2004 ASPFM worked with Congress to add triggers to ICC, so now there are four of them in the law:

- A building being substantial damaged,
- A building classified as a repetitive loss,
- A building where another offer of mitigation is being made,
- And the administrator's discretion to offer ICC when it is in the best interest of the flood insurance fund.

Of these four, only one trigger is being utilized – when a structure has been determined to be substantially damaged. While FEMA will claim it also applies ICC to repetitive loss properties, it is only if that subset of repetitive loss properties that have also been substantially damaged. The point is that there are three triggers – in existing law – that could be used in a pre-disaster sense. We are pleased to note that there is increasing Congressional recognition of the value of investment in pre-disaster mitigation.

Another frustration with how ICC is currently being implemented is the determination of how the ICC premium surcharge is set by FEMA's actuaries. Currently funding for ICC is through a congressionally-mandated surcharge capped at $75 per policy. The latest data ASFPM has is for calendar year 2014 where ICC brought in approximately $74 million for mitigation. On average the ICC surcharge was about $15 per NFIP policy – which is far below the statutory cap. However, as ASFPM has been discussing changes to ICC, including increasing the ICC claim limit beyond $30,000, a response we often get is that FEMA would have a tough time making the changes because it is collecting as much as it can under the existing cap and that the surcharge rate is set using actuarial principles.

In its 2010 rate review, however, FEMA discussed how it was collecting more in ICC than it was spending and therefore adjusted downward the amount it would collect per policy in 2011. The result? In 2010 the surcharge collected $84.5 million and in 2011 the surcharge collected $78.2 million. The point of this is that the rate setting becomes a self-fulfilling prophesy – FEMA's decision to not implement ICC's other triggers result in the program not being fully used. And its low utilization in turn led to FEMA determining that the rates should be lowered. So it gives the appearance there is room under the existing cap. ASFPM believes there is room under the existing cap. We suggest that Congress look at setting a tiered amount that would be consistent with the existing cap limit and reflective of risk. ASFPM calculates that under such an approach an ICC surcharge set at $25 for BCX-Zone properties, $50 for actuarially-rated A- and V-Zone properties and $75 for subsidized A- and V-Zone properties, would generate approximately $227 million in revenue that could be used by policyholders to mitigate their flood risk.

ASFPM believes ICC needs two other adjustments by Congress to be more effective. First, while ICC is collected on every policy, FEMA believes the statute requires the ICC claim be counted toward the total claim limit. This means a home that gets a $250,000 damage claim, the amount available for ICC is $0. Second, the ICC claim limit is too low. Estimates to elevate a home range from $30,000 to $150,000 with an average closer to $60,000. While $30,000 is very helpful, it often does not come close enough to cover enough of the mitigation cost, to be practical or feasible, especially for lower income homeowners.

- **ASFPM recommends the ICC claim limit be in addition to the maximum claim limit under a standard flood insurance policy.**
- **ASFPM recommends the "base" ICC claim limit be raised to at least $60,000 to $90,000 with the ability to purchase an optional additional amount of at least $30,000 in ICC coverage.**

- **ASFPM recommends Congress specifically allow FEMA to utilize the available ICC amount for both demolition and acquisition costs as a means of compliance, when the claim is assigned to the community and deed restricted as open space.**
- **ASFPM recommends Congress waive any rulemaking requirements that may be an impediment to quickly implementing the pre-disaster triggers for ICC and allowing demolition and acquisition costs.**

FMA operates like a typical grant program where a community applies through the state through a grant application. Further, FMA also funds other types of mitigation that can address issues on the neighborhood- or community-scale such as stormwater management systems to reduce flood risk and flood mitigation plans. In recent years, the priority for the FMA program has been repetitive loss and severe repetitive loss properties. While this is an important objective, ASFPM worries that an exclusive focus on such projects is increasingly resulting in a gap where no assistance is available for properties that desperately need assistance, such as older pre-FIRM, non-repetitive loss structures for which insurance rates may be increasing significantly. ASFPM recommends that accommodations be made for these types of properties as well, when FEMA formulates its new policy guidance.

Repetitive loss claims unnecessarily drain the National Flood Insurance Fund, and today, there are at least 160,000 repetitive loss properties. Because increased flooding keeps adding more repetitive loss buildings, hazard mitigation efforts have been insufficient to reduce flood damage to older structures and ultimately reduce the overall number repetitive loss properties. Current mitigation programs within the NFIP are underfunded and not reducing the overall number of repetitive losses in the country. One idea for Congress to consider is a mitigation surge where Congress would supplement FMA funds with a large one-time or multi-year appropriation to either address the growing number of repetitive loss properties, or specifically address pre-FIRM properties where affordability of flood insurance has become untenable.

- **ASFPM urges consideration of a one-time mitigation funding investment of $5 billion as part of any emerging infrastructure bill to reduce the amount of repetitive loss properties and improve the financial stability of the NFIP.**

Another idea for expanding mitigation that has merit is flood mitigation loan programs. After Superstorm Sandy, ASFPM worked with HUD to clarify that their Federal Housing Administration 203K loan program was available for flood mitigation purposes. Certainly loans have their place as a flood mitigation approach. ASFPM supports the State Flood Mitigation Revolving Loan Fund Act as a way to expand mitigation investment and its approach to emphasize flood preparedness as well as allowing states to develop their capacity in mitigation. We also support the ability of the program to offer grants instead of loans, especially in states where less funding might be available, and where state capacity and/or interest to administer such a revolving loan program may be lower.

ASFPM supports improvements to FEMA mitigation grant programs, like FMA to better address equity and social vulnerability. Increasingly, it is recognized that traditional benefit-cost analysis (BCA) which focuses primarily on damages and losses avoided favor high value homes and communities: it does little to recognize issues of social vulnerability. Further, FEMA's longstanding, restrictive interpretation and treatment of Uniform? Relocation Act assistance can result in inequities for those vulnerable especially who ultimately cannot participate in a mitigation project due to the inability to secure comparable safe, sanitary and affordable housing. We've offered ideas in the past such as excluding costs of complying with other federal laws like URA and environmental compliance laws from BCA calculations which would result in mitigation grants being more equitable as well as making progress on environmental justice issues.

- **ASFPM supports Recommendation 2020-01 and 2020-22 of the NAC report which recommends the FEMA Administrator create an Equity Standard and that would encourage FEMA to assess the current process of distributing mitigation funds to determine which policies, regulations and legislation need to be revised so the outcomes are more equitable.**

Flood Insurance

Flood insurance is the easiest way for a property owner to manage their flood risk. It was also viewed by the original authors of the program as a way to more equitably share risks and costs of development decisions. Yet too few property owners and renters carry flood insurance. Today it is estimated 10% of the population lives in an identified floodplain and that number is projected to grow to 15% by the year 2100 based on natural population growth and future conditions (land use, development, and climate change). While the NFIP provides some standards to reduce flood losses to new development, it has not helped communities avoid development in high flood risk areas. It is also estimated the number of policies increasing by 100% and the average loss per policy increasing by 90% in 2100. [2] The point is that these trends show growth in the human occupation of flood hazard areas and the potential damage that may result. As we have pointed out earlier, there are many more miles of rivers, streams and coastlines that aren't even yet mapped (which is why it is unsurprising that 25% of NFIP claims and 1/3 of federal disaster assistance come from outside of mapped floodplains)[3].

Flood Insurance Affordability

The aforementioned 2020 NAC report describes how the NFIP "inadvertently assists the wealthier segment of the population by serving only those who can afford flood insurance." Although reforms in 2012 and 2014 did put all properties on the path to full risk rating, it also affected flood insurance affordability. Unfortunately, a long-term solution to affordability was not included in either BW-12 or HFIAA. However, through Risk Rating 2.0, we argue that in addition to making the program more equitable, it also will result in making flood insurance more affordable to those who are likely most sensitive to higher flood insurance rates, fixing the legacy rating

[2] *The Impact of Climate Change and Population Growth on the National Flood Insurance Program through 2100. 2013.*
[3] *FloodSmart Flood Facts. Webpage accessed 3/14/17.*

approach which resulted in low-value homes paying too much and high-value homes paying too little. Additionally, ASFPM has identified three reforms that may have an impact on flood insurance affordability.

Over the past several years, another idea gaining traction is a program providing means-based premium subsidies to address flood insurance affordability. ASFPM is supportive of the concept based as long as it includes two provisions -- that the subsidy is shown separate from the premium so that the policyholder better understands the underlying flood risk, and that the subsidy is paid for outside of the NFIP and therefore by taxpayers versus NFIP policy holders as the benefits accrue to society at large versus other NFIP policy holders. It seems appropriate that such a program would be inclusive of an equity standard that has been proposed by FEMA's National Advisory Council.

- **ASFPM supports a needs based, equitable flood insurance premium assistance program. However, the subsidy should remain separate from the premium in order to properly communicate flood risk and it should be paid for outside of the NFIP as the benefits of the program are to society at large.**

In 2014, to meet House PAYGO rules, there was a large surcharge imposed on non-primary residences, small businesses and other non-residential structures. The surcharge is neither risk-based nor need-based. Premium increases and surcharges have led to a notable reduction in policies in force, declining from a high of 5.5 million to about 5.1 million today.

- **ASFPM recommends the elimination of the PAYGO surcharge established in 2014 to improve flood insurance affordability and equity with private flood policies. This will take an additional cost burden off of small businesses.**

A third reform that is presently being debated is the cap on flood insurance premium increases. ASFPM does not have a specific recommendation on a suggested rate cap; rather, we would remind the committee that generally rate caps that are too aggressive (too high) reduce the glide path to actuarial risk rating and therefore could exacerbate the problem of flood insurance affordability, while rate caps that are lower could help with flood insurance affordability and give owners time to consider and implement rate reducing flood mitigation options.

The Private Flood Insurance Market

Since 2012, previous NFIP reforms have led to a robust private market for flood insurance. Reforms to stimulate more private market participation have worked as intended. ASFPM very much believes a strong NFIP can co-exist with the private market offering flood insurance as long as both are on equal playing fields. In other words, neither the NFIP nor the private market should be at a competitive disadvantage. The result can be coverages that complement each other. For example, private insurers depend on NFIP maps and agree local floodplain regulations help all insurance by reducing risk, yet private policies do not have to include the Federal Policy Fee to help pay a share of the flood mapping and floodplain management costs. The wholly unfair PAYGO surcharge has allowed private policies to be written using FEMA rate tables and the private sector is profiting on the difference between the loaded NFIP policy (with surcharges and fees) and private sector policy that does not have to charge such fees. ASFPM further believes that with the increase in the number of private flood insurance policies, it is even more important that the NFIP continue to be widely available when the private sector no longer writes policies in an area due to the concentration of risk or claims.

In 2019, the mortgage regulators issued a final rule which directly conflicts with statute when it comes to what type of flood insurance policy qualifies to meet the mandatory purchase requirement. While rulemaking had gone on for some years, the "discretionary acceptance" approach appeared in the latest, final version with no opportunity to comment. The primary issue is that Congress mandated that private flood insurance policies that were sold to for properties to meet the mandatory purchase requirement had to have coverages and deductibles "at least as broad as" a NFIP policy. This means that such private sector policies must have a coverage similar to ICC, to provide resources to come into compliance with flood codes and have deductibles that aren't too excessive – a cheap flood insurance policy does a property owner no good if the deductible exceeds their ability to pay. Yet the "discretionary acceptance" alternative would allow policies without these provisions. Such a loophole hurts property owners and will lead to greater dependence on federal disaster assistance – contrary to the foundational goals of the NFIP. Additionally, the private flood insurance market that has grown rapidly the past seven years has done so without the loophole being in effect.

- **ASFPM recommends Congress eliminate the Lender regulators 2019 "discretionary acceptance" rule that allows lenders to decide whether to accept private policies not meeting the specific requirements set by Congress for private flood policies.**

The private insurance industry uses FEMA flood maps in various ways: sometimes to calibrate their risk assessment models, and sometimes to determine basic eligibility of their private flood insurance product. Certainly the most impactful part of flood mapping for private industry is the identification of where the mandatory purchase requirement is in effect. Industry officials that ASFPM talks with all support the floodplain management efforts in a community that provides a meaningful program of risk reduction. Given that 100% of the Federal Policy Fee goes to mapping and floodplain management, it is only equitable that private policies help pay for these functions and that they are not just borne by NFIP policyholders.

- **ASFPM recommends an *equivalency fee*, equal to the Federal Policy Fee, be assessed on all private flood insurance policies sold to meet the mandatory purchase requirement.**

As private flood insurance becomes more widely and easily available, provisions must be made to ensure such policies can only be made available to meet the mandatory purchase requirement if the community participates in the NFIP. Why? For thousands of communities in the NFIP, the primary reason for joining the program is the availability of flood insurance to meet the mandatory purchase requirement. As a requirement of joining, communities agree to adopt and enforce local floodplain management standards. As a result, floodplain management standards are the most widely adopted in the United States – exceeding the coverage of building codes, subdivision regulations and zoning. The adoption and enforcement of these codes, in turn, reduces future flood risk to the individual, businesses, communities and taxpayers. ASFPM members understand that once you remove the incentive for joining (flood insurance availability) thousands of communities may rescind their codes, drop out of the NFIP, and rely on the private policies to meet needs of property owners without the administrative burden of adopting and enforcing local codes and the likely future result of more development in flood risk areas. Particularly susceptible to this are small communities with low policy counts and where more development will occur. As stated earlier in this testimony, most communities in the nation already participate in the NFIP. And while the private industry is still emerging, let's be partners in persuading communities to comprehensively reduce flood losses. Finally, this fee has no cost to the private insurance industry.

- **ASFPM recommends that when private flood insurance policies are sold to meet the mandatory purchase requirement, they can only be sold for that purpose within NFIP participating communities.**

Finally, ASFPM is concerned about the availability of private claims and policy data for the purposes of floodplain management and flood mitigation planning and programs. For decades FEMA has provided these data to local and state officials to assist with substantial damage determinations, flood recover, flood mitigation grants, Community Rating System participation and flood mitigation planning. There should be a requirement that private flood insurance providers share comparable policy data to state and local floodplain managers.

Other Flood Insurance Issues

Community floodplain managers often hear complaints about the NFIP centered around what is covered and what is not; and the inability to get additional coverages like living expenses as part of a NFIP policy. ASFPM has been impressed with FEMA's customer experience initiative after Superstorm Sandy with FEMA committing to improving the insurance product it sells. Yet FEMA is constrained by a cumbersome rulemaking process that can take years to complete.

- **ASFPM recommends Congress give FEMA the flexibility to offer additional flood insurance policy options and make changes to existing options without the need for extensive rulemaking.**

Consistent with ASFPM's overall philosophy laid out in this testimony, the roll-out of Risk Rating 2.0 should strive to do no harm to the floodplain management and flood mitigation elements of the NFIP. As the initial roll-out of the program has begun, and while recognizing the many benefits of Risk Rating 2.0, many of our members have expressed concerns about how this will impact floodplain management and flood mitigation. ASFPM has been engaging with FEMA to answer questions on how these changes will affect how floodplain managers assist property owners, how it will impact mitigation grant programs, and to ensure that tools and information is developed to address these issues. We urge the Committee's continued oversight to ensure that the roll-out of Risk Rating 2.0 recognizes and addresses the needs of all of the NFIP's partners and stakeholders.

Finally, for nearly two years, ASFPM has been engaging FEMA to address access to certain policy and other data that might be classified as personally identifiable information (PII). Previously, state and local floodplain and mitigation managers had had access to information such as claims data provided it was used for official purposes such as implementing local floodplain management codes or for mitigation planning. However, two events conflated to inordinately restrict these data – Inspector's General reports where some inappropriate uses of data were discovered (and uses that ASFPM would never support), and the implementation of FEMA's new PIVOT system and accompanying reporting tool which did not contemplate needing to provide these data to those involved in flood mitigation or floodplain management. Today, FEMA has implemented a cumbersome system where some states and communities cannot even agree to FEMA's legal agreement under which some of these data are provided. Further, it is the DHS Privacy Office – that has dictated this burdensome overall approach. Unfortunately, we are not optimistic that FEMA can solve this administratively on its own.

In Conclusion

Floods are this nation's most frequent and costly natural disasters and the trends are worsening. The NFIP is the nation's most widely used tool to reduce flood risk through an innovative and unique mix of incentives, requirements, codes, hazard mitigation, mapping and insurance. At the same time, we understand the four main pillars of the NFIP are interconnected; and making significant changes to one pillar without thoughtful consideration of the impact on the other three can erode the program overall. The NFIP is a key tool in the toolbox that serves policyholders, taxpayers and the public well.

The Association of State Floodplain Managers appreciates this opportunity to share our observations and recommendations with the Committee. For any questions, please Chad Berginnis, ASFPM Executive Director at *cberginnis@floods.org* (608 828-3000); or Merrie Inderfurth, ASFPM Washington Liaison at *merrie@floods.org* (703 732-6070).