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TESTIMONY

National Flood Insurance Program Reauthorization and Reform

Before the

House Financial Services 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 and the community perspective. We appreciate the opportunity to discuss our views and recommendations for the future of the program. We thank you, Chairwoman Waters, Ranking Member McHenry and Members of the Committee for your interest in this important subject.

The ASFPM and its 37 chapters represent more than 19,000 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 ASFPM's 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. NFIP on the whole provides substantial public benefits as our testimony will further detail.

A Pivotal Time for the NFIP – Current and Future Status

Improvements to the NFIP continue to be made. NFIP reform legislation in 1994 and 2004, in addition to other measures, outlined reforms focused on reducing repetitive loss properties. Today, those remain problematic. Reform legislation in 2012 focused on flood mapping. Today the National Flood Mapping Program (NFMP) provides important authorities for FEMA and cooperating technical partners to map all flood hazard areas across the country and prepare for future flood risk. Reform legislation in 2004, 2012, and 2014 addressed deficiencies in the insurance element of the NFIP. There is still more work to be done. ASFPM hopes Congress will be thoughtful about reforms that might be considered in 2019 as we do not yet fully know the program outcomes that will result from the previous two reform bills.

At the end of 2018 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 10 years). But beyond paying insurance claims, the NFIP has also mapped 1.2 million miles of streams, rivers and coastlines. It has invested more than $1.3 billion in flood hazard mitigation for older, at-risk structures. Because of the program, over 22,000 communities have adopted local flood risk reduction standards, which have resulted in $1.9 billion of flood losses reduced every year. The NFIP has provided innumerable public benefits as well as direct monetary ones to taxpayers.

While these benefits are notable, the NFIP must ensure that it is ready to address the future condition. Floodplain managers know upstream 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; 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 sea level rise, with cascading impacts to the larger economy. Higher storm surges due to sea level rise 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.

This new data is getting the attention of our state and community members. In theory the NFIP, as it exists today, can help states and communities address these problems with its innovative mix of incentives, requirements, data and tools.

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. We also believe a strong NFIP can co-exist with a developing private market if it is done carefully with full consideration of potential impacts. But at the end of the day we must acknowledge that at least today's NFIP is far more than an insurance program. It is the nation's comprehensive flood risk management program. It is the primary tool to identify and map flood hazard areas used by a multitude of agencies. The program is also a tool to assess flood risk, used to work with communities and states to implement strong land use and building standards to protect taxpayers through actions to prevent future disaster losses, and works with property owners and communities to undertake mitigation to reduce damage to older at-risk buildings, in addition to providing flood insurance.

A Long-term Sound Financial Framework is Progressing; Debt Still 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, and 2017 the program currently owes $20.5 billion to the treasury.

Initially, 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[1].

Important progress toward putting the program on a more sound financial footing and to begin to handle catastrophic events was made as part of the past two NFIP reforms in 2012 and 2014, which ASFPM supported. Under BW-12, reforms (later modified by HFIAA-14) were made to the rate structure to move subsidized policies toward actuarial premium rates, to allow the NFIP to purchase reinsurance and to establish a reserve fund. All of these 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 not address the affordability issue. In fact, some reforms – like the HFIAA policy surcharge -- exacerbated this issue.

We appreciate 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.

- **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 catastrophic events, the debt will be paid by the U.S. Treasury. 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.**

[1] *Dr. Len Shabman with Resources for the Future has been researching this topic in-depth and will be soon developing a paper detailing the history and specifically the financial arrangement of the NFIP from 1968-1978 as well as the strengths and weaknesses of the public-private loss sharing model that actually still exists today.*

- **This should be part of a broader commitment to develop a backstop for the program based on an evaluation of its current financial capacity given the financial risk management tools Congress has asked FEMA to implement.**

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 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.

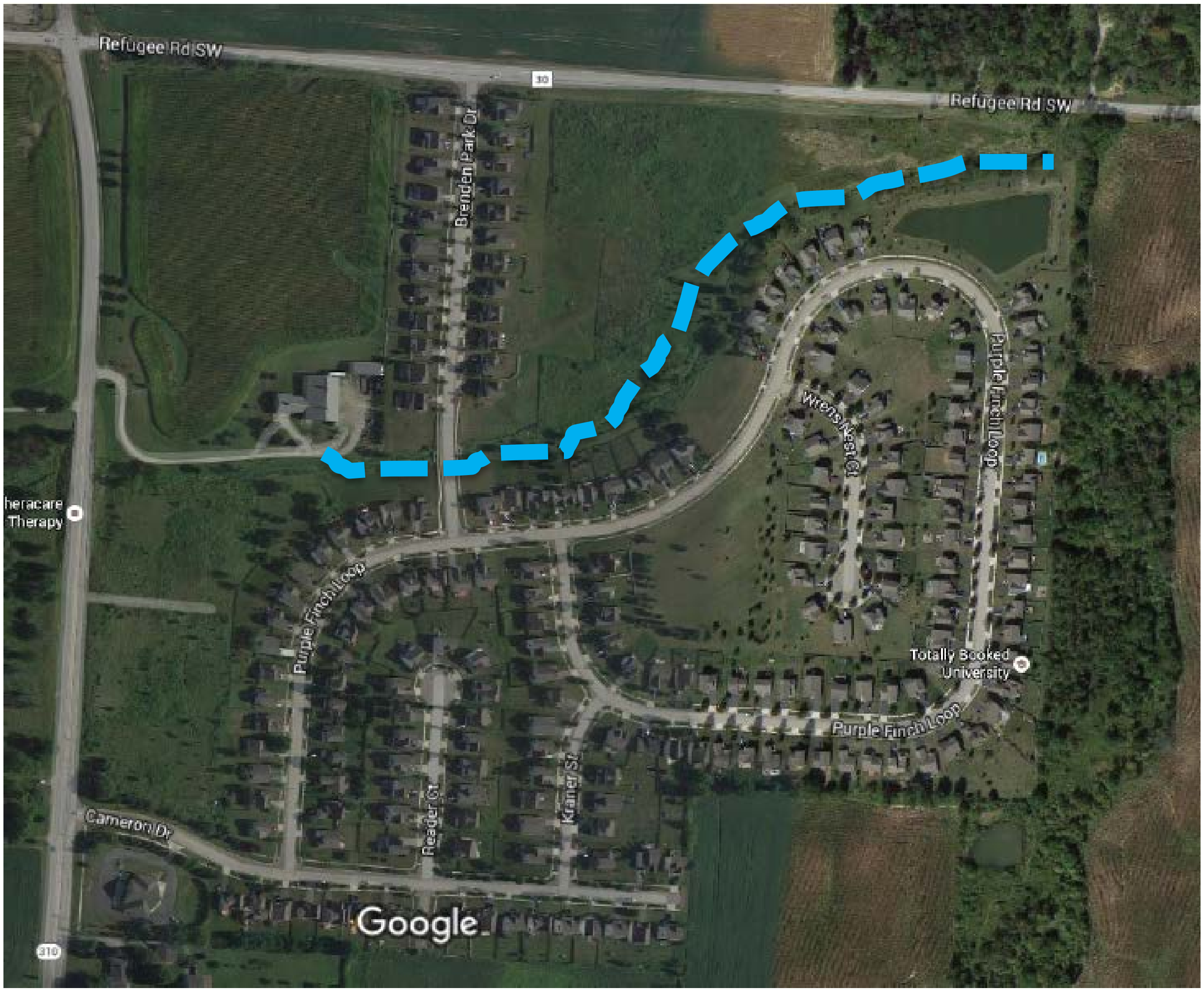
Unfortunately, due to the length of time it takes from initiation of a flood study to final production, some maps coming out today may have been started a decade ago and are not being produced to today's specifications. It is important to distinguish between these legacy mapping projects and those meeting todays guidance and specifications.

Recently there has been confusion around whether or not sophisticated risk assessment modeling developed by the private sector for broad insurance or reinsurance uses can be a suitable replacement for FEMA flood maps and data. This, however, is comparing apples to oranges. First, FEMA flood maps and data are already produced by the private sector (under contract to FEMA). Second, the private sector risk assessment methods largely developed to assist the insurance industry are not publicly available. Those models do not produce a "map" the community can use for multiple purposes and cannot inform the other needs of the program, including hazard mitigation and floodplain management, which regulates private property. Such methods can complement FEMA maps for the purposes of rating flood insurance, but do not replace FEMA maps. Further, those developing such models have indicated they depend on FEMA maps to calibrate their models. The FEMA maps are also essential for identifying Special Flood Hazard Areas (SHFAs) where the purchase of flood insurance is required for properties mortgaged by federally regulated lenders.

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. Even today some of the 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 modernized with newer flood study procedures.

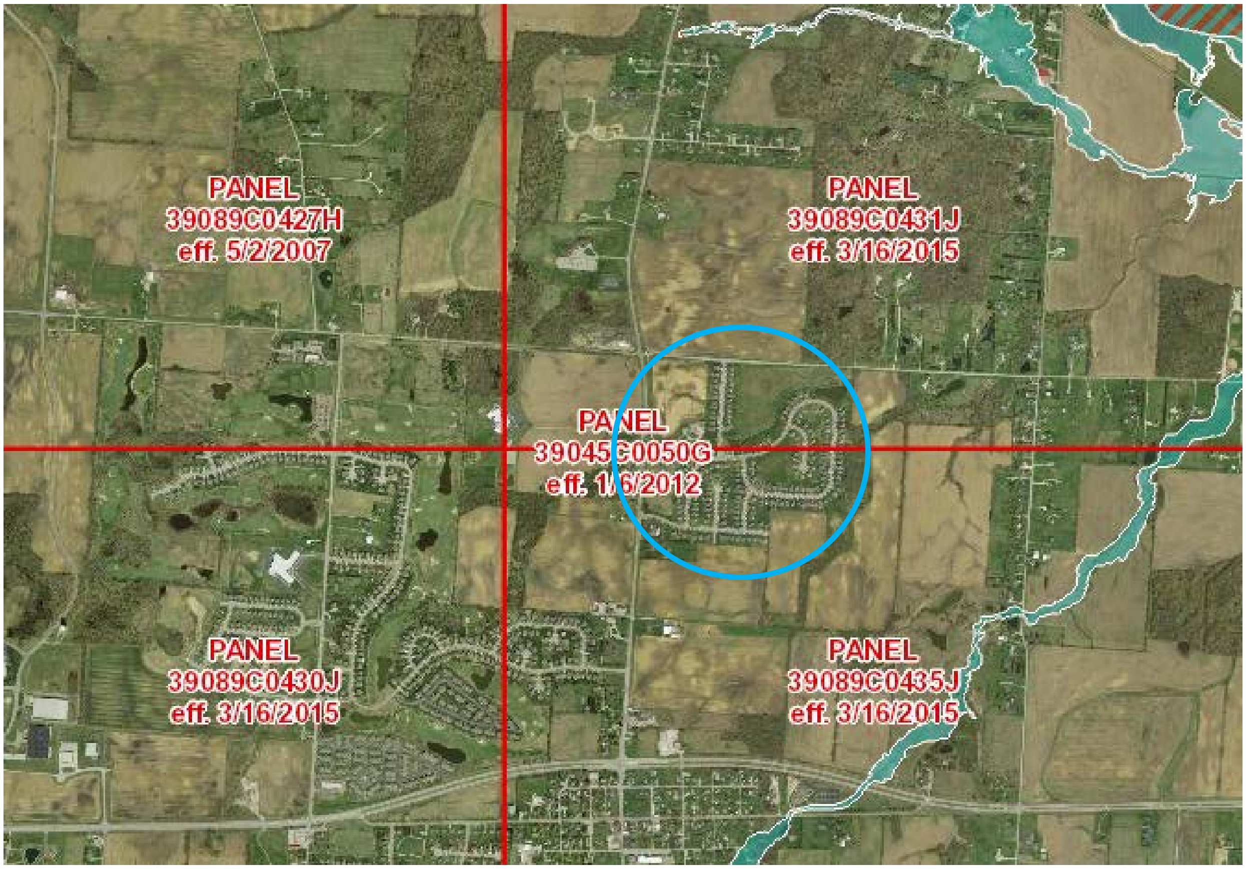
Many other areas have never been mapped, so there is no identification of areas at risk and communities have no maps or data to guide development to be safe from flooding. This is a significant problem and the below figure illustrates why.

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. So prior to development a flood study (similar to one that FEMA would prepare) was completed and the result? A 1% chance floodplain 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 tens of thousands of housing units. Later, after there is significant development 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 point is it doesn't have to be like this, but we have to start changing our mapping priorities. 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 a lot of vacant 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.

- **FEMA must complete the initial flood mapping of the entire nation to get ahead of development.**
- **FEMA must prioritize the elimination of the un-modernized paper map inventory in the nation.**

The National Flood Mapping Program (NFMP) authorized by Congress in the 2012 Biggert-Waters Reform Act was one of the most important elements of the legislation and remains the right approach. While FEMA has not made much progress on mapping residual risk areas, failure inundation areas or areas of future development, FEMA is making some progress. For example, the Technical Mapping Advisory Council made recommendations to FEMA on how implement some of these new requirements. Now we need to complete the job of mapping the nation and get to a steady maintenance state. Authorized by the 2012 reform act at $400 million annually, the NFMP is still desperately needed to map the approximately 2.3 million miles of unmapped flood hazard areas, and to maintain the existing inventory of 1.2 million miles of flood studies. ASFPM appreciates the 2016 letter initiated by then Ranking Member Maxine Waters and signed by 43 House members, not only recognizing the benefits of flood mapping, but urging 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 essential and critical as the Administration and Congress plan a major investment in building and repairing infrastructure.

- **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 $1.5 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.**

While the NFMP requires FEMA to map areas below dams and behind levees to show the residual risk areas that will be flooded when the dam or levee overtops, fails, or a spillway is used; the information is not being made public. his was an issue with the recent flooding below Oroville Dam in California. While local emergency management officials had access to these inundation maps, two hundred thousand evacuated property owners did not. People need to know they are living or buying in a residual risk area so they can take preparedness and mitigation measures such as buying a low cost flood insurance policy. In just the last four years, South Carolina alone has had 80 dam failures due to back-to-back flooding events. Unfortunately, DHS policy to restrict public availability of inundation maps has continued unchanged since 9/11 when maps for federal dams and levees were classified as "For Official Use Only" and were removed from being publicly available. This means citizens living in such areas do not know they are at risk until law enforcement knocks on their door in the middle of the night and orders them to evacuate.

- **ASFPM recommends that Congress require federal dam and levee inundation maps be publicly available and cease their classification as "For Official Use Only".**

In recent years, a Federal Policy Fee associated with NFIP policies ($50 for high-risk policies; $25 for lower-risk policies) has paid between 30-60% of the flood mapping program and general appropriations paid for the remainder. The highest level of appropriations in the past five years has fallen far short of the $400 million per year authorized in BW-12. So funding from the Federal Policy Fee is an important part of the funding for map updates and corrections. Fewer NFIP policies means less funding for updated maps.

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 22,200 communities participate in the NFIP - that they 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 $1.9 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 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 NFIP do not undermine this incentive.

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 established to build and maintain 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 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 isn't run like a typical grant, funds are available 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:

- 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 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. Recently, FEMA convened an internal working group to look at ICC to evaluate how to make it more effective. ASFPM urges the Committee to monitor the progress of this group to ensure that the congressional intent is carried out.

Another frustration with how ICC is currently being implemented is the determination of how the 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 inability to 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 ICC claim limit be raised to at least $60,000.**
- **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.

As our testimony will address in more detail below, one approach to flood insurance affordability is to subsidize flood hazard mitigation or at least give property owners a chance to mitigate. 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.

Repetitive loss claims unnecessarily drain the National Flood Insurance Fund, and today, there are at least 160,000 repetitive loss properties. 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.

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). 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].

The Push for Expansion of a Private Flood Insurance Market

In 2012 and today, there appears to be much interest in expanding the private flood insurance market. Many believe the private sector is a cure-all and can get the taxpayer off the hook for flood losses. And there seems to be a belief that there is a need for further Congressional intervention in 2019, beyond the steps taken in 2012, to help a robust private market to develop. ASFPM can see where the private sector can be a partner to the NFIP in growing the policy base nationally. We have the following observations related to expanding the private flood insurance market.

First, private flood insurance has always been and will continue to be allowed under the NFIP. Currently, robust private markets exist for policies in excess of NFIP limits. The private market has almost all of the commercial and industrial flood risk in the country. And robust private markets exist for forced-place policies. Too often in 2012 and again this year, conversations in Congress about private flood insurance imply private companies are not currently able to expand without legislative action. This is not, in fact, borne out by the facts.

Second, the reforms to stimulate more private market participation in 2012 have worked as intended. ASFPM disagrees with those who believe that somehow the 2012 reforms were badly written or somehow missed their intent. ASFPM has spoken with numerous industry sources, as well as had extensive conversations with private sector companies interested in offering private flood insurance and former state insurance commissioners. This industry is growing and in the past four years has grown significantly. For example, private flood policies today are required to contain a flood mitigation coverage that is similar to ICC because the 2012 reforms required that private policies have coverage "at least as broad as" NFIP policies. This ensures that property owners have funds to elevate flood prone homes and that communities are not faced with owners who just walk away from the property because it is too expensive to elevate. The 2012 reforms are ensuring that the private market is

[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.*

growing in an orderly way with appropriate safeguards that ensure protections for policyholders, lenders, taxpayers and communities.

- **As a result of the successful 2012 reforms to stimulate the private flood insurance market, ASFPM does not believe any further stimulation of the private market is needed at this time.[4]**
- **If Congress does consider additional changes to stimulate the private market, ASFPM urges that that the provision in current law related to coverages and deductibles being "at least as broad as" NFIP policies be retained to preserve adequate coverage and deductibles and an ICC type coverage to mitigate at-risk buildings.**

Third, 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. As explained earlier in this testimony, 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 these 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.

In early 2019 the mortgage regulators issued a final rule to be effective July 1, 2019 that appears to ASFPM to directly conflict with statute when it comes to what type of flood insurance policy qualifies to meet the mandatory purchase requirement. While rulemaking has 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 four years has done so without the loophole being in effect.

- **ASFPM recommends Congress eliminate the "discretionary acceptance" loophole that allows lenders to decide whether to accept private policies that is in the federal regulatory rule to be effective July 1, 2019.**

Fourth, ASFPM believes that to preserve the many public benefits of the NFIP, two changes must be made to the existing law to ensure private sector growth does not inadvertently erode the other elements or legs of the NFIP stool.

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. Industry officials that ASFPM talks with all support the floodplain management efforts in a community that

[4] *Last year ASFPM testified before the Senate Committee on Small Business & Entrepreneurship on flood insurance rate increases which also included detailed thoughts on HR 2901, which can be found [here] or on ASFPM's website at www.floods.org*

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. Particularly susceptible to this are small communities with low policy counts. 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.**

Flood Insurance Affordability

Despite the longer glide path for premium increases set in HFIAA, rates may again reach high levels in another three or four years and a long-term solution to affordability was not included in either BW-12 or HFIAA. Also, 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 from the standpoint of flood insurance affordability and equity with private flood policies. This will take an additional cost burden off of small businesses.**

There are several innovative ideas on flood insurance affordability that deserve consideration such as those proposed by the Wharton School linking a subsidy voucher with a mitigation loan to reduce risk and lower flood insurance premiums.

Improving the NFIP Policy Offerings

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 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.**

Initial Observations on Draft Bills

While ASFPM is continuing to review the draft legislation, we are pleased to offer our initial views.

Discussion Draft Primary (Affordability) Bill

ASFPM is supportive of many sections of this bill including debt forgiveness, elimination of the HFIAA surcharge, monthly installment of the payment of premiums and the establishment of a state revolving loan fund for flood mitigation. While we are also supportive of other measures to address flood insurance affordability, we strongly believe that any subsidy should come from outside of the program and covered by all taxpayers, not just NFIP policyholders. We do not believe in creating a new cross-subsidy within the National Flood Insurance Fund or a new type of surcharge. Also, to the extent possible, we should be subsidizing flood hazard mitigation, not insurance. Mitigation will make insurance affordable and helps avoid the “moral” hazard of keeping lower income people in harms way.

While we understand the impact of eliminating the Federal Policy Fee on policy holders and making flood insurance more affordable, we must point out that currently the fee pays 100% of the NFIP’s floodplain management function cost and roughly between a third and a half of the annual flood mapping budget. We are very concerned about subjecting these critical elements of the NFIP to the unevenness of the annual appropriations process.

Discussion Draft Mapping Bill

ASFPM is also supportive of many of the elements in the draft mapping bill. The bill continues to advance the good mapping language in the Biggert-Waters 2012 NFIP reform bill, which we supported. We note the bill authorizes the National Flood Mapping Program at $400 million - which we see as a minimum. ASFPM believes that to get the 2/3 of the nation mapped that is not yet mapped, the NFIP will need an amount more like $600 million per year for the next 5-10 years. We appreciate the effort to balance pre-existing flood mapping requirements of the National Flood Mapping Program that remain to be completed with newer ideas such as building specific data and risk information by largely focusing on data that has already been generated by states and communities and importing it into a FEMA developed and maintained digital display environment. This will ensure that the mapping costs will not skyrocket and further delay flood maps. We also appreciate the focus on mapping all areas of the United States, a priority to update the remaining inventory of flood maps that have yet to be modernized, and the reiteration of the need to map future flood risk.

ASFPM also supports some reforms to the appeals process especially those proposed to ensure that map panels which are not being held up by an appeal can go final and be adopted by communities. This will go a long way to ensure that new flood data is able to be utilized by communities in a timely manner. ASFPM has long supported the establishment of levee specific flood risk zones as presently, in the absence of such zones, FEMA has no choice to designate large areas as a Zone D which results in much more costly flood insurance and no information on flood risk.

ASFPM notes that many of the provisions proposed for agricultural structures in flood hazard zones track with the concepts in draft guidance FEMA is developing. In fact, we applaud FEMA for reaching out to many stakeholders in the development of the guidance which will hopefully be released soon. We are relieved to see that the definition of an agricultural structure does not include a single family residence. While there may be technical reasons that elevation is not feasible for certain agricultural buildings, the same cannot be said for residential homes which have been elevated for years across the country. Ae do have a concern about the creation of a new flood insurance subsidy for ag buildings where wet floodproofing would allow premiums as if the building was dry floodproofed. This is inconsistent with reforms that Congress passed in 2012 and 2014 to make the NFIP more actuarially sound – not less. The insurance premium should be reflective of the risk. As we have said earlier if subsidies are needed, subsidized mitigation, not insurance. And the subsidy should be outside the NFIP. We do believe there are some agricultural buildings that should not be required to buy insurance and support the pilot program for multiple agricultural buildings. We have seen many building with very low to no damage potential that are required to buy flood insurance, and the annual premium exceeds the value of the building.

Discussion Draft Mitigation Bill

We generally support much of this bill and were very encouraged to see three key reforms to ICC: Increasing the cap to $60,000; specifying that ICC can be used for acquisition of property; and that the ICC amount shall be in addition to aggregate coverage limit under a standard flood insurance policy. We note that the average cost of mitigation typically far exceeds the existing $30,000 limit for ICC, which is especially a problem for low income people who have no cash savings or reserves.

We are also pleased to see the strategies allows mitigation on block or neighborhood basis, a focus and robust funding for PDM, and a pilot program for community-wide flood insurance. Community-wide policies could be another tool to help more broadly reduce the cost and impacts of flooding.

Finally, we are very pleased to see an authorized community assistance program which provides grants to states to build capacity for floodplain management. Because there are over 22,000 communities, building capacity and capability at the state level is critical as states are in the best position to understand the enabling authorities as well as administrative procedures within the state, they are best positioned to help out with enforcement issues, and can tailor training and outreach to the specific needs of communities within the state. Further, we support how the program works to direct states to build *effective* floodplain management capabilities, rewarding those that go beyond minimum measures.

Discussion Draft Administrative Reforms Bill (Velazquez)

ASFPM notes that since Hurricane Sandy, FEMA has implemented many reforms to the claims process administratively. Data suggests that customers of the NFIP are reporting high satisfaction rates. Whether there are additional outstanding issues related to claims handling is largely beyond the focus of ASFPM. However, we support provisions of this draft bill that ensure the Flood Insurance Advocate is properly staffed. The creation of a flood insurance advisory committee should help the NFIP better understand and adopt best practices from industry, and support directing lending regulators, in consultation with FEMA, to update and maintain the mandatory purchase guidelines document. ASFPM previously expressed concern in testimony that after FEMA decided to no longer update the guidelines in 2014, nobody has been doing it.

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 contact Maria Cox Lamm, ASFPM Chair at coxm@dnr.sc.gov (803) 734-3672); 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).