January 27, 2022

Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency
500 C St SW
Washington, DC 20024

RE: Request for Information on the National Flood Insurance Program’s Floodplain Management Standards for Land Management and Use, and an Assessment of the Program’s Impact on Threatened and Endangered Species and Their Habitats

Docket ID: FEMA-2-21-0024-0001

Dear Administrator Criswell:

We are pleased to respond to the Federal Emergency Management Agency’s (FEMA) Request for Information (“FEMA RFI”) on reforming and modernizing the National Flood Insurance Program’s (NFIP) floodplain management standards for building and land use, mitigation, and insurance as a way to promote safer, stronger, and more resilient communities. Climate change will increase the risk of flooding in rivers and coastal areas, as well as in densely populated urban areas. NFIP’s outdated programs and standards will not sufficiently protect communities from this increasing threat.

FEMA needs to revise the NFIP floodplain management standards and other program elements to adequately account for the increasing risk of flooding. The program must begin to help communities avoid development in high-risk areas as opposed to the current approach of identifying the high-risk areas on maps and then showing communities how to develop in that area. Better mapping, regulation, mitigation, and insurance provisions will provide communities the opportunity to anticipate and reduce flood risk — saving lives and protecting property.

Please find below our suggested principles for reforms to the NFIP program:

Dedicated to reducing flood risk and losses in the nation.

Chair
Carey Johnson, CFM
Director
KY Division of Water
502-782-6990
carey.johnson@ky.gov

Vice Chair
Steve Samuelsen, CFM
Floodplain Manager
KS Dept. Agriculture
785-296-4622
steve.samuelsen@ks.gov

Treasurer
Aaron Carranza, P.E., CFM
Regulatory Division Director
ND State Water Commission
701-328-4813
acarranza@nd.gov

Secretary
Glenn Heistand, P.E., CFM
Sen. Hydraulic Engr.
IL State Water Survey
217-244-8856
heistand@illinois.edu
1. NFIP Standards and Regulations must be strengthened to assist communities in avoiding development in high-flood risk areas and, where avoidance is impossible, to reduce flood damages and increase flood resilience:
   a. Minimum standards must be increased for all residential and commercial development and especially for critical use facilities and subdivisions. Stronger standards will support social equity because lower income people have few options for where they buy homes.
   b. Standards should ensure development causes no adverse impact on other properties or communities.
   c. Standards should support the conservation and enhancement of the natural benefits and functions of floodplains, which in turn will reduce the loss of life and property from flooding.
   d. Standards must support avoidance and reward better approaches.

2. Mapping program must be robust in supporting avoidance in high-risk areas and we must complete mapping throughout the nation:
   a. Mapping metrics must measure the percentage of miles of floodplains mapped in the nation.
   b. Future conditions for multiple frequencies and time frames must always be included for planning, regulation, and mitigation.
   c. Floodways, with no allowable rise, must always be identified and provided in order to support no development in this highest risk area.
   d. Some level of elevation information must be available in all Special Flood Hazard Areas (SFHAs).
   e. Maps must identify and reflect additional areas of risk, including residual risk areas associated with the operation of dams and levees and their potential for failure.

3. Mitigation programs must quickly and effectively help property owners and communities relocate existing buildings away from high-risk areas:
   a. Buyouts of individual buildings must be the highest priority for mitigation in order to provide safety and equity.
   b. Mitigation must build off community and state hazard mitigation plans and priorities.
   c. Mitigation benefit-cost analysis must be improved to reflect social equity, environmental impact, and both monetary and non-monetary economic benefits and best practices.
   d. Improved mitigation utilizes nature’s systems to reduce flooding.

4. Flood insurance must reflect full risk rates and support better mapping, mitigation, and regulations:
   a. Affordability must be addressed by Congress and any subsidy must not come from the NFIP.
b. Risk Rating 2.0 must be adjusted to better support and encourage true mitigation, such as building freeboard elevations, utility elevations, and other mitigation measures.

c. ICC must be increased to $60 or $75,000 and be paid at the same time claims are paid since it can be the most effective mitigation provision of the NFIP.

d. NFIP flood insurance must be better integrated into the other FEMA programs, including mitigation, mapping, and regulations.

5. The disaster relief program in FEMA and other agencies must improve coordination and collaboration to better support NFIP regulations, mapping, and mitigation:

a. HUD, USACE, NOAA, NRCS, and other agencies receive significant funding after major disasters. FEMA must work diligently with the interagency work groups to mesh all agencies disaster and mitigation programs, assure timely access to funding and services, and improve funding and data access to individuals and communities.

b. Disaster programs must promote equity and help property owners understand their flood risk and effective mitigation approaches.

c. Individual Assistance (IA) and Public Assistance (PA) must always consider NFIP regulations and mitigation options.

6. Disclosure of flood risk must be improved significantly to assist current and prospective residents, local communities, and states to effectively manage existing and future flood risk:

a. Communities and states must have immediate access to historical coverage and claims loss data, including all repetitive flood loss data to help reduce this drain on NFIP funds.

b. Prospective buyers, renters, property owners, and lessees must have full access to NFIP flood claims and disaster assistance data (IA and PA if applicable) knowledge of flood claims and damage data to support effective decision making, risk awareness and management, and, where appropriate, mitigation or ultimate removal of buildings from high risk areas.

c. Consider a national flood disclosure requirement similar to the lead paint rule.

7. Enforcement of the basic requirements for NFIP participation must be strengthened and streamlined throughout the nation, which will lead to more equitable and resilient development:

a. Clear penalties for failing to enforce regulations and mapping standards should be set up to automatically cost the community or state if they fail to meet the obligations they agreed to when joining the NFIP. This should quickly lead to being removed from NFIP eligibility, in the event of prolonged failure.

b. The NFIP would greatly improve enforcement by investing in and building local and state planning, enforcement, and hazard mitigation capability.

c. Clearer rules will improve consistency and help eliminate the sometimes random nature of NFIP enforcement process.
8. Building state capability is sorely needed to improve all NFIP elements:
   a. While the growth of permanent FEMA staff has somewhat increased, the agency cannot provide oversight and technical assistance to over 22,000 communities. States have relationships with their local communities and can provide support for these elements if we build states’ capabilities.
   b. The issues of climate change and equity can be greatly improved if the more capable states are supported, incentivized, and empowered to assist those communities with fewer resources.
   c. States can provide regular training, oversight, and technical assistance to local programs through this local/state relationship.
   d. FEMA must incentivize the development of state capacity to help implement an enhanced and strengthened NFIP and promote effective flood risk mitigation. To support development of state capacity, FEMA must provide funds to facilitate continuity that is not dependent on administrative management funds from prior disasters or funding fluctuations in state budgets.

9. Endangered Species Act (ESA) provisions as well as the issue of Threatened and Endangered (T&E) species must be appropriately integrated into the NFIP. Although we believe that it is most efficiently done programmatically, implementation will likely need to be done locally:
   a. ESA and T&E provisions and requirements for the NFIP must be clearly laid out by the NFIP and provided to communities and states. This should include practical and easy-to-use tools recognized by FEMA and the relevant federal and state fish and wildlife services that can be applied in either a programmatic case or on a permit-by-permit basis. (i.e. IPAC or FRESH)
   b. The NFIP cannot simply direct communities and states to comply with ESA; they must provide the tools and resources to assist with this requirement as well as incentivize compliance.

Begin the rulemaking process to reform the NFIP
The NFIP was created by Congress to reduce flood damages nationwide and to ease the federal taxpayer’s financial burden for providing disaster recovery. However, flood damages and federal spending on flood recovery are rising at alarming rates, demonstrating the NFIP is failing to achieve its primary goal. To adequately account for the impacts of climate change and reduce future loss of life and flood damages, the NFIP must use updated science to protect critical infrastructure from flooding, require building standards that better protect homes against flooding, and limit development in places that will experience more flooding by improving mapping and mitigation. FEMA must use the information collected from this process to initiate rulemaking as soon as possible.

Sincerely,

Chad Berginnis, CFM
Executive Director

Dedicated to reducing flood risk and losses in the nation.