American Rivers • Anthropocene Alliance

Association of State Floodplain Managers • Environmental Defense Fund

National Wildlife Federation • Natural Resources Defense Council

Southern Environmental Law Center • The Nature Conservancy

The Pew Charitable Trusts • Union of Concerned Scientists

April 10, 2023

Administrator Deanne Criswell
Federal Emergency Management Agency
Office of the Administrator
500 C Street, SW
Washington, DC 20472

Electronic copy sent via email to FEMA-IGA@fema.dhs.gov

Dear Administrator Criswell,

Our organizations collectively request a meeting to discuss the agency's progress on developing regulations to overhaul aspects of the National Flood Insurance Program (NFIP).

More than a year ago, FEMA concluded a sweeping Request for Information (RFI) that sought public input on how the agency should improve its implementation of the NFIP.[1] Our organizations all participated in this comment period and were very supportive of FEMA taking this first step towards developing updated regulations that account for the rapidly changing nature of flood disasters in the United States.

The agency has now had ample time to review the 369 written comment letters submitted and the oral testimony provided to determine how the agency will proceed to proposed rulemaking and the timeline for doing so.

Among the most critical issues the agency requested input on and should now be poised to act upon are:

- Updating the NFIP's minimum building and land use criteria, which have not been revised since the mid-1970s, to ensure higher elevation standards in the special flood hazard area, incorporate standards to ensure critical infrastructure is more safely sited and designed, discourage future development of natural floodplain buffers, and prohibit the ongoing practice of fill & build, among other necessary changes.
- Incorporating future climate change impacts, like extreme storms and sea level rise, into flood risk maps, so they can better serve their intended purpose for guiding development

[1] Published at 86 FR 56713, Docket ID FEMA-2021-0024. Available at https://www.federalregister.gov/documents/2021/10/12/2021-22152/request-for-information-on-the-national-flood-insurance-programs-floodplain-management-standards-for

away from areas that are vulnerable to flooding today and will be vulnerable to flooding decades from now.

- Requiring that past flood damages and ongoing flood risks be disclosed to home buyers and renters, remedying an inherent unfairness that exists in real property transactions in the majority of states and ensuring that people have the right to important information about their prospective home.
- Expanding flood mitigation support and access to buyouts available to NFIP policy holders through the Increased Cost of Compliance coverage, particularly for those who are already subject to repeated flooding.
- Promoting the protection and conservation of threatened and endangered species and their designated habitat and amending floodplain management standards to more explicitly or comprehensively protect and restore the natural and beneficial functions of floodplains.

While FEMA's RFI requested public input on many aspects of the NFIP, the issues we have identified above are ones where ample information already exists to justify a significant strengthening of the agency's current policies and practices. The agency itself has documented the pressing need to update and modernize these regulations based on the latest science to bring them into the 21st century.[2]

Over the years FEMA has demonstrated the benefit of state and local governments adopting stronger building codes, land use standards, and critical infrastructure standards. The agency has proposed changes before the International Code Council, participated in local and state proceedings, and documented through its own studies the public safety and financial benefits of stronger codes and standards. Over the past five decades FEMA has consistently championed adoption and enforcement of stronger codes and standards yet has failed to take the one action it has sole control over − updating its own regulations − despite a clear statutory obligation to do so.

The agency's Technical Mapping Advisory Council has provided input on ways that future climate conditions could be better integrated into flood maps and how current mapping methodologies can be improved.[3] Moreover, the Government Accountability Office has made recommendations for how FEMA could update its RiskMAP program to better capture current and future flood hazards and produce more useful flood maps that can better support community resilience efforts.[4]

Providing more information to the public, home buyers, and renters about flood risks and past flood damages is something the agency has long encouraged and made efforts to accomplish.

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[2] *See generally*, Natural Resources Defense Council and Association of State Floodplain Managers, *Petition Requesting That The Federal Emergency Agency Amend Its Regulations Implementing the National Flood Insurance Program* (Jan. 5, 2021)(providing a detailed account of FEMA documentation and publications discussing the benefits of higher building and land-use standards in reducing flood risk).

[3] FEMA, Technical Mapping Advisory Council Annual Reports and Recommendations, website accessed March 16, 2023 at https://www.fema.gov/flood-maps/guidance-reports/technical-mapping-advisory-council/reports.

[4] Government Accountability Office, *FEMA Flood Maps: Better Planning and Analysis Needed to Address Current and Future Flood Hazards*, October 25, 2021. Available at https://www.gao.gov/products/gao-22-104079.

More recently FEMA even documented how states have failed to require disclosure of such information to renters and homebuyers.[5] There is a clear need to improve the amount of information that people can access about properties' flood history and flood risks.

Finally, the agency has repeatedly demonstrated the financial benefits of flood mitigation assistance, yet the NFIP still provides a relatively small amount of supplemental coverage for this purpose, which has not been adjusted in 20 years.[6] Providing more direct and more flexible mitigation assistance directly through the NFIP could be one of the most effective ways of speeding such assistance to policy holders. Currently, the long lag times that exist between a flood disaster and the application for hazard mitigation assistance, much less the receipt of such assistance, is one of the biggest barriers to people taking proactive steps to either relocate or make improvements to decrease the potential for future flood damages.

Since FEMA's RFI comment period concluded, the nation has seen 3.4 million people displaced due to disasters - an unknown number of whom were permanently displaced. The nation also experienced 28 major disasters for flooding; 18 of which caused at least $1 billion in economic losses. Hurricane Ian alone could result in the NFIP paying claims totaling as much as $5.2 billion. For all these events, the harshest impacts were felt by low-income communities and communities of color who lack the resources to prepare and recover and tend to live in the riskiest areas.

As climate change continues to elevate the risk of flooding and increase the vulnerability of communities throughout the nation it is imperative that FEMA act to amend the NFIP's implementing regulations to meet these challenges.[7] At present the nation is experiencing enormous losses – both in terms of lasting damage to families as well as financial damage – because communities and states are making ill-informed decisions in full accordance with FEMA's outdated rules and regulations.

The nation's efforts to keep pace with the escalating impacts of climate change with regards to sea level rise and greater flooding are only as effective as the standards and guidelines under the National Flood Insurance Program.

We look forward to the opportunity to discuss these issues in person.

Respectfully,

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[5] *Flood Risk Disclosure: Model State Requirements for Disclosing Flood Risk During Real Estate Transactions*, FEMA (July 11, 2022) https://www.fema.gov/sites/default/files/documents/fema_state-flood-risk-disclosure-best-practices_07142022.pdf

[6] *The NFIP's Increased Cost of Compliance (ICC) Coverage*, Wharton Center for Risk Management and Decision Processes (2017) https://riskcenter.wharton.upenn.edu/wp-content/uploads/2017/11/WRCib2017c-NFIP%E2%80%99s-Increased-Cost-of-Compliance-Coverage.pdf

[7] *The Economic Report of the President*, The White House, pg. 274 (March 2023) https://www.whitehouse.gov/wp-content/uploads/2023/03/ERP-2023.pdf

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