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TESTIMONY

Flood Insurance Reform: A Community Perspective

Before the

House Financial Services Committee
Subcommittee on Housing and Insurance

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, Chairman Duffy, Ranking Member Cleaver and members of the subcommittee for your interest in this important subject.

The ASFPM and its 36 chapters represent more than 17,000 local and state officials as well as 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, its 14 policy committees and 36 state chapters, our website is: *www.floods.org*.

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 other three can erode the program overall. While we are under no illusion that the NFIP is the only tool in the toolbox, it is one that serves policyholders, taxpayers and the public well. ASFPM's 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
- Require states and communities, as a condition of future federal financial assistance, to participate in the NFIP and to adopt adequate floodplain ordinances consistent with federal flood loss reduction standards
- Require the purchase of flood insurance by property owners who are being assisted by federal programs or by federally supervised, regulated or insured agencies in special flood hazard areas
- 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 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 to identify flood risk, communication and 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 Status

At the end of 2016 the NFIP, which is 50 years old, had paid $56.4 billion in claims. 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 adopted local flood risk reduction standards, which resulted in nearly $2 billion of flood losses reduced annually. The NFIP has provided innumerable public benefits as well as direct monetary ones to taxpayers.

At the same time, based on historical flooding and dealing with ongoing development, future conditions are and will continue to change, perhaps quite significantly. While floodplain managers know upstream development often results in increased flood heights, we also observe changing weather patterns that result in shifting snowmelt/rainfall in the West. Nationally, more intense short duration storms are causing more flash floods, and unrelenting sea level rise (SLR) is beginning to affect communities from Florida to Virginia to Alaska. A recent *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. This new data is getting the attention of our state and community members. For example, a *recent article* shows Rhode Island state officials discussing how to deal with these new scenarios. Luckily the NFIP, as it exists today, can help states and communities address these problems with its innovative mix of incentives, requirements, data and tools.

Still, improvements can be made. NFIP reform legislation in 1994 and 2004, in addition to other measures, outlined reforms focused reducing on repetitive loss properties. Today those remain problematic. Reform legislation in 2012 focused on flood mapping. Today the National Flood Mapping Program provides important authorities for FEMA and cooperating technical partners to map all flood hazard areas across the country. Reform legislation in 2004, 2012 and 2014 addressed deficiencies in the insurance element of the NFIP. There is still more work to be done. It is important to note that the 2012 and 2014 reform legislation resulted in 80 new sections of law that are not yet fully implemented.

ASFPM hopes Congress will be thoughtful about reforms that might be considered in 2017 as we do not yet fully know the program outcomes that will result from the previous two reform bills.

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 flood risk. We also believe a strong NFIP can co-exist with a developing private market. 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 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 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 Needed

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 largely 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, and now due to a high claims year in 2016, the program does currently owe $24.6 billion to the treasury. Unfortunately, we heard last week in testimony to the subcommittee from FEMA, that this past January, the program had to even borrow to pay the interest on the debt (and today's debt is financed at historically low rates). This was done only one other time back in 2008 after hurricane Ike. When interest rates eventually cycle back to more historic levels, the interest on the debt payments will destabilize the program.

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. As recently as the late 1980s, internal communications show that the administration reaffirmed the federal treasury was essentially the reinsurer of last resort[1]. It seems this history has been forgotten.

Important progress toward putting the program on a more sound financial footing 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 to 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.

But what has been very frustrating to ASFPM is Congress' unwillingness to address the program debt. After reviewing FEMA's interest and principle payments after 2005 and based on FEMA's analysis of cash flow, if Congress had promptly dealt with the debt amassed from the 2004-2005 hurricane seasons, then the NFIP wouldn't have had to borrow from the treasury to pay Hurricane Sandy claims. Those pointing to today's debt in the NFIP as evidence that the NFIP is irreparably broken do not understand that if the

[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.*

2004-2005 debt had been resolved in a timely manner by Congress (as had been done in the 1980s and consistent with the program's design), the NFIP would be functioning well with little or no debt today.

- **ASFPM recommends Congress forgive the current NFIP debt.**
- **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**

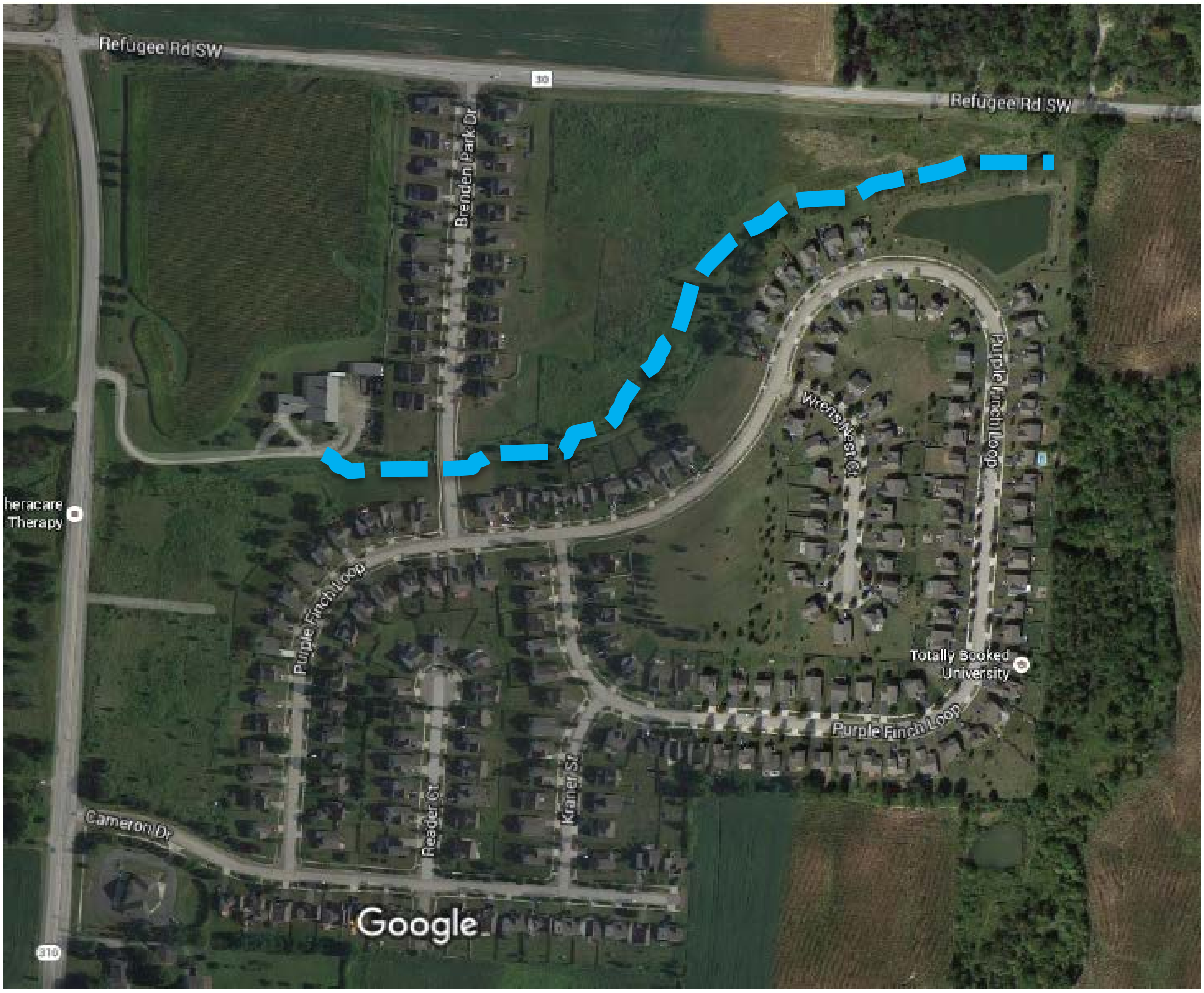
Floodplain Mapping

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. Today FEMA has in place 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. ASFPM is also pleased that FEMA has prioritized eliminating remaining pure "paper" maps that have never been modernized with newer flood study procedures.

Recently there has been confusion around whether or not sophisticated risk assessment modeling developed by the private sector can be a suitable replacement for FEMA flood maps and data. However, this 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 publically 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. 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.

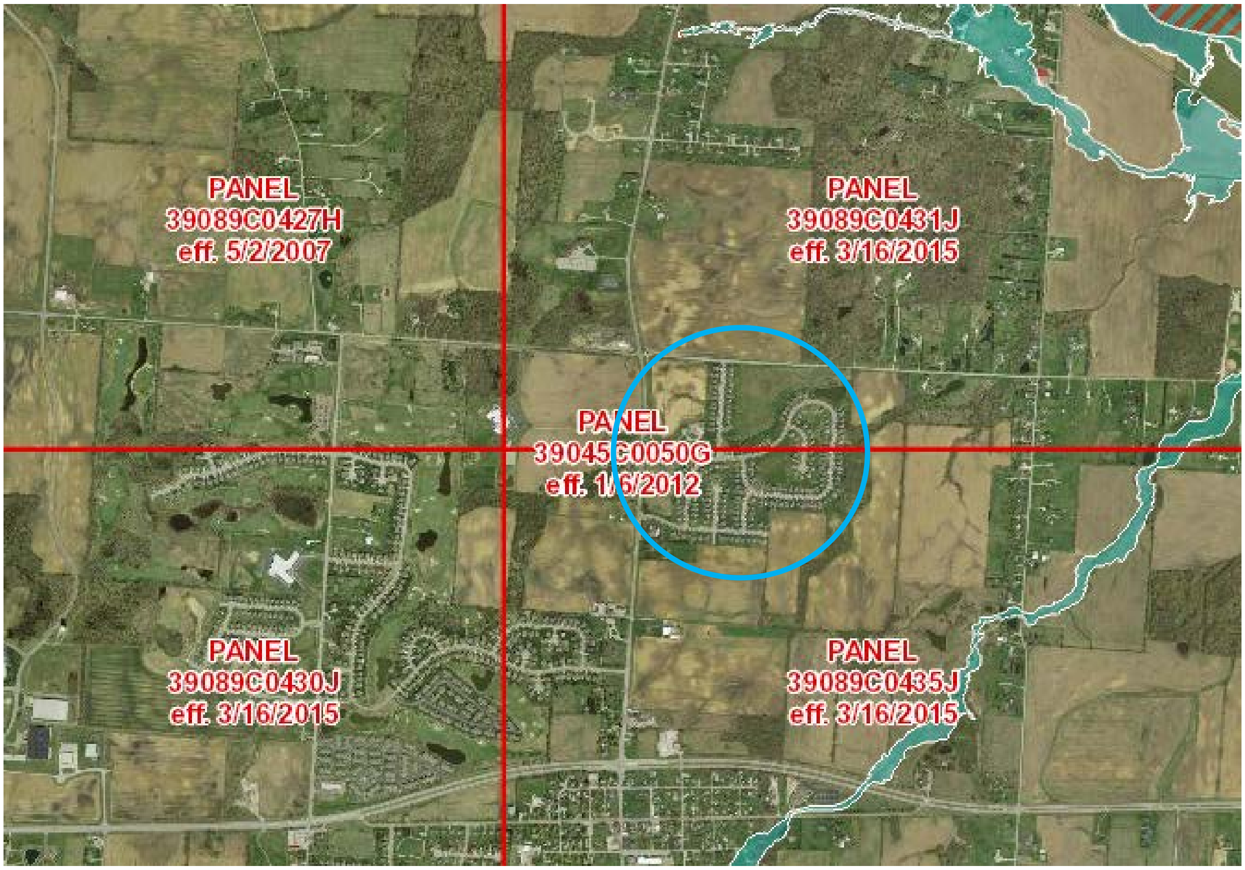
Today, flood risk maps only exist for about 1/3 of the nation – only 1.2 million of 3.5 million miles of streams, rivers and coastlines have been mapped. Even today some of the maps are many decades old, or were updated before the current standards to redraw boundaries based on more accurate study data and topography. Many 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 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. 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 are developing into tens of thousands of housing units that use to be cornfields and cow pastures. 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 is 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 get mapping ahead of development.

The National Flood Mapping Program (NFMP) authorized by Congress in 2012 Reform Act was one of the most important elements of the legislation and is 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 progress, paying attention to recommendations made by the Technical Mapping Advisory Council. 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 unidentified flood hazard areas, and maintain the existing inventory of 1.2 million miles of flood studies. ASFPM appreciates last year's letter initiated by 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 essentially critical as the administration and Congress plan a major investment in building and repairing infrastructure.

Another key issue is mapping 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. This was an issue with the recent flooding below Oroville Dam in California. While local emergency management officials had access to these 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 two years, South Carolina alone has had 80 dam failures due to back to back flooding events. Unfortunately, DHS policy has continued unchanged since 9/11 which is that inundation maps for federal dams and levees are classified as For Official Use Only and not publically available. This means citizens living there 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.

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 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.

- **ASFPM recommends the reauthorization of the National Flood Mapping Program (NFMP).**
- **ASPFM supports an increased authorization for the National Flood Mapping Program to accelerate the completion of the job of initially mapping the nation in five years and getting to a steady state maintenance phase**
- **ASFPM recommends that Congress require federal dam and levee inundation maps be publically available and cease their classification as For Official Use Only**

Floodplain Regulations, Standards and Codes

More than 22,200 communities participate in the NFIP, which basically means 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.

States are required to apply similar standards for state funded, financed and undertaken developments. In fact, 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, the only local codes they have adopted are their floodplain management standards. Today it is estimated $2 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 a freeboard – which is an elevation that is 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.

The entire floodplain management budget (100%), which includes staffing, community and state technical assistance, and the Community Assistance Program (CAP-SSSE), comes out of the Federal Policy Fee.

- **ASFPM recommends almost all forms of disaster assistance (especially public assistance) be tied to a community's participation on the NFIP**

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 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 it's 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 an 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 them 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. It was clear in the hearing last week that there is interest by this subcommittee in effectively using ICC pre-disaster. ASFPM would note that this past fall, FEMA has finally convened an internal working group to look at ICC and evaluate how to make it more effective. ASFPM urges the committee to monitor the progress of this group to ensure that the congressional intent has been 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 date ASFPM has is for calendar year 2014 where ICC brought in approximately $74 million for mitigation. On average this equals 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 the 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.

However, in its 2010 rate review, FEMA discussed how it was collecting more in ICC than it was spending and therefore adjusted the amount it would collect per policy down 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. However, FEMA implied last week in its testimony that the cap may need to be raised. While ASFPM can be supportive of raising the cap, we also suggest 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.

- **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 $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 FEMA clarify to Congress whether or not expanding ICC to utilize pre-disaster triggers, raising the claim limit and allowing demolition and acquisition costs would necessitate increasing the cap and based on that information either raise the cap or set a tiered surcharge within the existing cap**
- **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 go into 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 continue to 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 20% 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 if not for Congressional intervention in 2017, a robust private market would 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 part 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 properties. Too often in 2012 and again this year, conversations in Congress about private flood insurance imply private companies are not currently writing policies. Not true!

[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.*

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 its 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 year or so 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 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 an ICC type coverage to mitigate at-risk buildings**

Third, ASFPM strongly 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. As explained earlier in this testimony, private insurers depend on NFIP maps and agrees local floodplain regulations help all insurance, 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.

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 of the NFIP.

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 ASFPM talks with all support the floodplain management efforts in a community that provide a meaningful program of risk reduction. Given that 100% of the Federal Policy

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[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]*

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 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 private flood insurance policies meet the mandatory purchase requirement and can only be sold in 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.

On one hand ASFPM supports pricing flood insurance premiums to accurately reflect risk. Premiums reflecting risk inform individuals as to the level of hazard in flood prone areas and encourage investment in flood mitigation measures. On the other hand, many low and middle income homeowners living in older homes in flood prone areas may not be able to afford flood insurance if premiums are priced to reflect risk. ASFPM believes that it is imperative that issues of affordability be addressed, but not by subsidizing premiums. The University of Pennsylvania Wharton Risk Management and Decision Process Center has developed a conceptual approach that would pair a needs based voucher program with implementation of a low interest mitigation loan program. ASFPM supports approaches like this that emphasize mitigation as part of the solution.

ASFPM notes that congressionally-mandated studies on flood insurance affordability have been completed and now look forward to FEMA's completion of the affordability framework. However, we are also concerned about timing of the FEMA framework relative to the reauthorization deadline and whether any meaningful reforms will be developed and considered.

- **ASFPM recommends considering a shorter multi-year reauthorization of 2-3 years so FEMA can more fully develop affordability recommendations for Congress to consider.**
- **ASFPM recommends the elimination of the PAYGO surcharge established in 2014 from the standpoint of flood insurance affordability and equity with private flood policies**

Mandatory Purchase Compliance

ASFPM shares the subcommittee's concern about compliance with the mandatory purchase requirement of the NFIP and appreciates the focus on the issue during last week's hearing with FEMA. Back in 2014 our members became quite concerned when FEMA decided that because mandatory purchase was not the agency's responsibility, it rescinded the Mandatory Purchase of Flood Insurance Guidelines (ironically our members report the document is alive and well in circulation as a bootlegged resource and while dated, it is still very helpful).

What emerged from the hearing is that we really don't know precisely what the compliance rate is. Attempts to quantify this in 2005 as part of the evaluation of the NFIP concluded that while overall the market penetration rate of the NFIP nationwide was estimated to be around 50%, the mandatory purchase requirement compliance rate could not be precisely determined. That same study did come to the conclusion that mandatory purchase compliance at the time of loan origination did not seem to be an issue.[5] While the number hasn't been precisely determined, another study as part of the evaluation of the NFIP contained a very good policy discussion of the mandatory purchase issue and contained 72 recommendations, including one that ASFPM strongly concurs with: "FEMA should explore opportunities to exercise a leadership role in promoting compliance and in assisting federal entities for lending regulation to meet their obligations related to flood insurance."[6]

Aside from the compliance rate, it may be useful to divide mandatory purchase compliance into three areas: mandatory purchase associated with loans from federally-regulated lenders, mandatory purchase associated with loans by federal agencies that do direct lending (i.e., Dept. of Agriculture, Veterans Administration, SBA) and mandatory purchase associated with the receipt of some forms of disaster

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[5] *The authors did try to make an estimate of 75-80%; however, stakeholders largely thought this number was high. Data source: NFIP's Market Penetration Rate: Estimates and Policy Implications. RAND Corporation. 2006.*
[6] *NFIP's Mandatory Purchase Requirement: Policies, Processes and Stakeholders. Tobin and Calfee. 2005.*

assistance. It is important to note that while FEMA has the authority to administer the NFIP, other federal agencies typically have the authority to administer the NFIP's mandatory purchase requirement. Although ASFPM would note that compliance with mandatory purchase associated with disaster assistance falls on FEMA. This means there are likely very different processes and procedures in place.

While Congress continually raises questions about mandatory purchase, FEMA continually points out that it does not have explicit authority to enforce the requirement. ASFPM agrees with earlier Office of Inspector General recommendations that FEMA could have a useful role in the implementation of the mandatory purchase requirement including assisting other federal entities in addressing the compliance issue. FEMA's Office of Inspector General in 2000 provided several examples of how FEMA could promote compliance without assuming a regulatory or enforcement role. One example is re-instituting a process FEMA used in the 1980s and early 1990s that collected information about mortgages and location in the SFHA from applicants seeking flood-related disaster assistance. FEMA then matched the information with data on which property owners carried flood insurance to determine the level of compliance with the mandatory purchase requirement.

- **ASFPM recommends Congress clarify FEMA's role in mandatory purchase to provide leadership and give FEMA explicit authority to provide technical assistance to federal entities to meet their obligations to related to mandatory purchase compliance**
- **ASFPM recommends the subcommittee hold a hearing dedicated to compliance with the mandatory purchase requirement (including when flood insurance purchase is required as a condition of disaster assistance) to further explore this issue**

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**

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 other three can erode the program overall. While we are under no illusion that the NFIP is the only tool in the toolbox, it is one 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 subcommittee. For any questions, please contact Chad Berginnis, ASFPM Executive Director at *cberginnis@floods.org* (608 828-3000) or Merrie Inderfurth, ASFPM Washington Liaison at *merrie.inderfurth@gmail.com* (703 732-6070).

Appendix A: Questions for Witnesses – ASFPM Responses
House Financial Services Committee, Subcommittee on Housing and Insurance Hearing
Flood Insurance Reform: A Community Perspective
March 16, 2017

The Subcommittee is interested in how the operation of the NFIP affects consumers, policyholders, local businesses, and other members of your community. In addition to these matters, to the extent practical based on your experience, please discuss the following in your testimony:

1. Whether the NFIP, as it is presently constituted, represents an ideal model for the effective protection of residential and commercial property owners from damages related to flooding; The NFIP is a comprehensive flood risk management program that involves a partnership between local, state and federal governments as well as property owners and the private sector. The basic concept is to reduce taxpayer costs for disasters through the arrangement to use the incentives of insurance for communities to guide future at risk construction, flood insurance premiums to require occupants of buildings in flood hazard areas to pay part of the cost of the flooding, and assistance to those communities with flood maps and technical assistance to manage the program.

2. Whether FEMA can accurately predict flood risks, price for such flood risks and create an efficient *admin*istrative mechanism to serve policyholders; With the use of up to date contour mapping with LiDAR and modern technologies the NFIP can accurately predict flood risk. We note that It is only computing the risk from yesterday's floods, and needs to expand that to future expected flooding for purposes of community planning and mitigation.

3. The extent and scope of the NIFP's interaction and relationship with local communities to propose and address mitigation initiatives, as well as improve the local land use and zoning codes to enhance local flood resilience; FEMA has about the same number of staff in the NFIP program to serve those 22,000 communities as it had decades ago to serve 6,000 communities. However, the most effective means of providing assistance to communities is to partner with State floodplain management offices to provide training, assistance and monitoring. States already have relationships with those communities and can best help the community integrate flood risk management with other related federal and state programs.

4. How the claims process could be improved to enhance the timeliness and accuracy of claim payments; This is not ASFPM's area of expertise. No comment.

5. Suggestions on how to improve FEMA's mapping process, including whether maps could be developed more quickly and at lower cost by increasing community input and using more sophisticated technologies; FEMA has greatly improved their ability to provide accurate maps. Today the main obstacle is funding. Even so, FEMA is always looking at cost efficiencies. For example, FEMA is piloting a method in Minnesota where the flood study work is being completed at a cost of around $200 per mile versus $10,000 per mile for detailed flood studies. Increasing community input will likely have the effect of lengthening the process (such as extending the appeals process to 180 days vs. 90 days) We note that Congressionally mandated periods for notice, appeal, etc. has actually lengthened the process over the past five years.

6. Whether the Committee should consider developing or enhancing Federal and local partnerships beyond what currently exists today; Building state capacity to provide flood mapping through the Cooperating Technical Partners program as well as training and technical assistance is the most effective means of helping communities. Community authority to manage land use and building codes flows from state authority delegated to the community.

7. The role of the Federal Policy Fee and to what extent it has shaped FEMA's ability to provide timely and correct maps for local communities; For many years in the 1990s the Federal Policy Fee was almost the entire budget for flood mapping so it was of critical importance. Still, the Policy fee was and is not adequate to provide flood maps and to update them on a needed basis. Furthermore, the flood maps are used by a myriad of agencies (local, state and federal) as well as the private sector for development planning, road and bridge construction, dam and levee safety, emergency actions such as evacuation planning, rescue and relief and planning for placement and operation of critical facilities like hospitals, emergency shelters, water supply, etc. That is why in 2000, the Bush Administration and Congress provided supplemental funding from the general fund to increase the timeliness and accuracy of the flood maps.

8. Whether the patterns and practices of FEMA affect the community's ability to respond and recover from local disasters related to flood peril; Indeed—one of the biggest problems a community faces is when development is proposed in a flood hazard area that is not yet mapped. Because the community has no map, the development will occur with no guidance; then after the development is in, FEMA will now come along a map the area because their priority is to map developed areas. Unfortunately, many of those homes or businesses may now be shown in the floodplain, with flood insurance required, and many will have been built below the BFE on the maps. This makes their flood insurance premium very high, and the cost to mitigate an existing building is very high. IF the map had existed before development, the building could be built new when the cost of mitigation would be very low, usually 1 ½ or 2 % of building cost.

9. The reforms, based on your experience in the community, that could improve the program's efficiency and reduce fraud, abuse and waste; While ASFPM is not commenting on the claims process, we would note the recommendations of the flood insurance advocate that reflects comments we receive: the largest complaint is from agents who often quote the wrong premium for various reasons. Agent training seems to be a key need to improve efficiency.

10. How the NFIP and the private sector could better serve high-impacted communities and modernize mapping systems while incorporating local community mitigation efforts; and, Key to helping communities and property owners mitigate is to provide mitigation assistance very soon after a flood or even before the flood. The quickest and most effective post flood mitigation is the Increased Cost of Compliance (ICC) that is a part of the flood insurance policy. This provides amount up to $30,000 to help property owners mitigate the property to comply with modern codes and standards. So in addition to the policy claim for damages, they have some added funding to actually make their home safer and to reduce their flood insurance premium. While this is exactly the right concept to assist the community and property owner, the ICC amount needs to be increased to $60,000. Many communities would mitigate entire neighborhoods before the flood if mitigation funding through program like Flood Mitigation Assistance (FMA) was increased.

11. How the Committee should consider the question of affordability for low-income families living in high-impacted communities with few personal or community resources to pay actuarial flood rates or complete mitigation projects that lower the risk for those individual properties. Affordability is a key issue Congress must consider. We saw the kickback from higher premiums after BW-12 and in a couple years we believe premiums will be approaching that threshold again. In addition to robust ICC and FMA programs, some kind of revolving loan fund to assist property owners mitigate flood risk seems critical. We suggest this or some similar mechanism could provide low cost loans to mitigate the building to where premiums would now be lower and the building would be safer. Rather than subsidize insurance premiums, this would subsidize mitigation, a much more sustainable solution.