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Testimony

Flood Insurance Reform and Reauthorization

Before the Subcommittee on Housing and Community Opportunity
House Committee on Financial Services

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Overview

The Association of State Floodplain Managers (ASFPM) thanks this Subcommittee, Chairwoman Waters, Ranking Member Capito and members of the Subcommittee for your attention to the need to reform the NFIP. We very much appreciate your holding this hearing and planned mark-up tomorrow. Unfortunately, the extensive work that went into the Flood Insurance Reform Act, passed in different forms in the 110th Congress by both the House and Senate did not result in new public law. Many of the elements of that legislation are still highly relevant and in need of resurrection. Beyond that, some other issues have emerged that point to the need for further reform ideas.

Who We Are

The Association of State Floodplain Managers, Inc. (ASFPM) and its 29 Chapters represent over 14,000 state and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources, and insurance for flood risk. All ASFPM members are concerned with working to reduce our Nation's flood-related losses. Our state and local officials are the federal government's partners in implementing flood mitigation programs and working to achieve effectiveness in meeting our shared objectives. Many of our state members are designated by their governors to coordinate and implement the National Flood Insurance Program, and many others are involved in the administration and implementation of FEMA's mitigation programs. For more information on the Association, our website is: http://www.floods.org.

A Comprehensive Review of National Flood Insurance Program Accomplishments and Shortfalls is Needed for Long-Term Reform

ASFPM applauds the constructive examination of the National Flood Insurance Program (NFIP) launched by FEMA Administrator Craig Fugate. Administrator Fugate has recognized both the value of the NFIP and the need for a new phase of program growth and adaptation to changing circumstances. During a Listening Session on the future of the NFIP last November, Mr. Fugate challenged over one hundred invited participants to think creatively about the overall value of the NFIP, what it was intended to achieve, what is has and has not accomplished, and needed changes, both small and large.[1] One example to encourage thinking big was whether or not the private sector could now handle and provide flood insurance. Mr. Fugate has subsequently charged a FEMA working group with assembling the recommendations, analyzing their merits and feasibility, and then developing substantive recommendations for moving the NFIP forward. The working group will evaluate not only the suggestions from the recent and additional Listening Sessions, but also the recommendations of a multi-year NFIP Evaluation led by the American Institutes for Research, the results of several Government Accountability Office

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[1] *ASFPM comments at the NFIP listening session appended to this testimony*

Studies, Congressional Research Service studies, and other reports. FEMA expects to have a number of substantive additional reform proposals ready for Congressional consideration within the next two years, when we urge your timely consideration.

The NFIP Challenges for Growth and Adaptation

The hurricane seasons of 2004 and 2005 involved catastrophic losses well exceeding the average historical loss year, putting the program in debt to the Treasury. The debt now stands at $18.7 billion. Due to two mild loss seasons and a favorable refinancing of the debt, the NFIP has been able to repay $589 million and the interest. However, full repayment of the debt is not a reasonable expectation because mild loss seasons cannot be expected to continue, the nation's flood risk is increasing due to development and more intense storms, the interest on the debt will go up, and the annual program income is about $3.2 billion.

The poor condition of much of the nation's infrastructure, including levees, dams and other flood control structures, as well as stormwater facilities, has become more evident. More accurate flood maps now reflect the unreliable flood protection of levees and the effects of development by showing some areas as now in the 100-year flood hazard area (and, conversely, by showing many areas as no longer in the 100-year flood hazard areas). It is important to note that almost as many properties are newly shown as <u>out</u> of a Special Flood Hazard Area (SFHA) as are newly shown as <u>in</u> the SHFA. Requirements for the purchase of flood insurance in areas newly shown as at risk of flooding are highlighting concerns about affordability of flood insurance.

Reflections and Questions

The Association of State Floodplain Managers concludes that the NFIP has been successful in meeting a number of its original objectives, but less so in reducing flood losses in the nation. The NFIP has, for example, required those living at risk to obtain flood insurance, sparing taxpayers from paying many millions of dollars in disaster relief, and enabling many citizens to more fully restore their lives to normalcy after a disaster. Additionally, the NFIP has prevented some unwise development and promoted some hazard mitigation through local adoption of floodplain management ordinances. On the other hand, too many Americans continue to build in at-risk locations, including residual risk areas behind flood control structures, and collective flood losses for the nation continue to increase in real dollars. In the first decade of this century, yearly flood losses have increased from $6 billion to 15 billion.

We recommend that Congress consider clarifying the intended objectives of the NFIP so that the program can be evaluated accordingly. For example, should the NFIP be expected to accommodate catastrophic losses rather than the average historical loss year? If so, are there realistic, affordable program adaptations that can achieve that objective? If not, would it be best to clarify that the program is not expected to cover truly catastrophic losses?

Other questions warrant examination. What adjustments are needed for the program to be a positive factor in reducing flood losses in the nation? What adjustments are needed to act on better risk identification through improved maps? If the NFIP is to be a significant tool in an integrated flood risk management approach, how should it be altered to better support this objective? ASFPM has endorsed the following concepts:

- Integrate the NFIP with other federal flood risk programs, including the disaster relief program Army Corps of Engineers, Environmental Protection Agency (EPA) and Natural Resources Conservation Service. (NRCS)
- Identify cross-program policy conflicts and inappropriate incentives that increase risk.
- Build State floodplain management program capability and capacity to work with the 21,000 participating local jurisdictions
- Delegate the floodplain management and mapping elements of the program to qualified states, similar to programs managed by the EPA and Department of Transportation.
- Identify incentives and disincentives for state and local governments to make the program more effective, since local decisions determine how much development will be placed at risk of flooding.
- Evaluate the NFIP-funded mitigation grant programs to determine whether they are effectively addressing the most high-risk structures.

Should the flood maps better display the flood risk so that communities and citizens understand that the flood risk does not stop at the line on a map – and that considerable risk exists beyond the "100-year" floodplain? (The average home is occupied for more than 100 years, virtually assuring that every home in the 100-year flood hazard area will flood in its lifetime.) Should insurance be required in residual risk areas behind levees and below dams? Should insurance be required in a broader area, such as the 200-year or 500-year floodplain? Should critical infrastructure like hospitals, fire and police stations and water supply and treatment plants be regulated based on a larger flood, but one the nation experiences somewhere every year, such as the 500-year floodplain? Should flood insurance policies be long-term (20 years or more) and tied not to the owner but to the property, regardless of property transfers?

Broad Recommendations

<u>Flood insurance should gradually move toward being actuarially sound to reflect actual risk and enable market-based financial decisions</u> about how much risk-related cost to assume. We recognize that there are affordability problems for some citizens living in at-risk areas; this is more prevalent in older riverine areas than in recently developed coastal areas or some newly developed areas behind levees. The de-accreditation of levees and more accurate flood maps have highlighted the affordability issue. We do not support efforts to delay issuance of flood maps, withholding accurate information about flood risk from citizens living and working in hazardous areas. We suggest that this issue presents challenges, but ones that can lead to constructive new growth and adaptation for the NFIP if done correctly.

<u>To actually reduce flood-related loss of life and property in the nation, we must move toward a true flood risk management framework with the nation's policies and programs</u>. A comprehensive flood risk management program recognizes that:

- Managing flood risk is a shared responsibility between individual, private sector, community, state and federal government;
- Flood risk is not isolated to the 100-flood hazard area but is rather a continuum of risk that crosses lines on a map;
- Development and other activity outside the 100-year floodplain impacts flood levels—if we only manage activity in that 100-year floodplain, we miss opportunities to save lives and reduce flood damages and impacts;
- All structural protection measures will fail or be overtopped at some point by some flood event;
- Managing flood risk requires a mix of measures from structures to avoidance to retreat from high risk areas. Selection of only one structural measure, such as a levee, leads to severe losses in catastrophic events. Levee failure and high storm surge and 500-year events have shown the need for a mix of approaches including elevation, insurance and structures;
- Flood levels will increase in the future because development increases runoff; and storms are intensifying;
- Flood risk will increase as the natural resources and functions of floodplains are altered by development since this destroys the natural system that reduces the negative impacts of flooding;
- Flood risk management includes concepts such as identification of flood risk, community planning to steer development away from areas of risk, basing flood insurance on actual risk, vigorous promotion and support of hazard mitigation actions, and enabling citizens to better recover from disasters by being insured to reduce their financial risk.

The U.S. Army Corps of Engineers has adopted the concept comprehensive flood risk management approach in many of its programs at the national level, but for this approach to be successful for the nation, FEMA must also actively promote the concept and integrate its programs for the NFIP, mitigation and disaster relief internally, and with programs of the Corps and other agencies that impact flood risk.

<u>Consider a number of interesting ideas to address the affordability problem.</u> The long-term goal should be to eliminate premium subsidies: an insurance program with subsidies is not an insurance program. We understand the need to assist low income people with insurance premiums for some specified length of time, upon demonstrated need. A program of flood insurance vouchers to assist with purchase of flood insurance issued through a means-tested program could be administered by the Department of Housing and Urban Development. An analysis might show it would be less costly for the taxpayer to pay for flood insurance vouchers for low income property owners for a limited time rather than have the taxpayer continue to pay disaster costs from the Disaster Relief Fund every time that a community floods. This would also support more rapid post-disaster restoration and community economic stability because everyone would have flood insurance which can also be applied toward mitigation of their property after a disaster. If short-term relief is provided using the NFIP-- through delayed mandatory purchase of insurance, extension of time when policies can carry Preferred Risk rates, or phase-in of actuarial rates; it must be recognized that none of these are appropriate long-term solutions. In conjunction with such short-term relief, FEMA should provide general information about actuarial rates so people see what their true risk is, and at the same time, provide

substantial information about mitigation actions and how much each action will reduce actuarial premiums in the future. Group flood insurance could be developed by FEMA for mapped flood hazard areas and areas mapped as protected by a levee, allowing a group policy to be purchased by the levee district or other local taxing entity for all residents of the area, thereby keeping costs down. Remember, the more policies there are the lower the premiums everyone pays.

<u>The nation must carefully balance the issue of who benefits and who pays for development at risk.</u> There are about 130 million housing units in the U.S. Of that about 10 or 11 million are in flood hazard areas. Of those in flood hazard areas, roughly half carry flood insurance. This means 90% of the population does not live in identified Standard Flood Hazard Areas, but continues to pay a large amount each year for disaster relief for flooding, rebuilding damaged infrastructure in flood areas, and may have to cover the $18 billion debt of the NFIP. Yet those same taxpayers obtain few, if any, of the benefits of that development. This points out the need to tie program outcomes of the NFIP to these other programs like disaster relief programs and programs of HUD, DOT, USDA and others.

Perspectives on the National Flood Insurance Program

FEMA reports that the NFIP was been self-supporting for 20 years. From 1986-2005, prior to Hurricane Katrina, income from policyholders covered claims and all operating expenses, including salaries and expenses of the Federal employees who administer the NFIP and floodplain management programs. From time to time the NFIP exercised its authority to borrow from the U.S. Treasury when claims exceeded short-term income. Importantly, the program was praised for its ability to repay debts ahead of schedule and with interest. This would seem to be the way Congress intended the program to function. The original framers did not require the NFIP to set rates for truly catastrophic flooding associated with extreme events like Hurricane Katrina, or to have reserves to cover the fiscal impact such events would have on the program. A significant, often unrecognized, and difficult to measure benefit of the NFIP is the number of decisions people have made to build on higher ground and the damage that doesn’t occur because buildings have been built to resist flood damage. Perhaps the original framers considered it reasonable that taxpayers contribute to payment of claims after extreme events that exceed the NFIP’s capacity to pay as part of the bargain for long-term overall improvement in the way we manage flood losses—perhaps Congress could clarify this.

The NFIP has multiple goals, and providing flood insurance in order to minimize direct government subsidy of flood damage is one of the goals. The consequence of having fewer people insured against known risks would likely be greater reliance on taxpayer funded disaster assistance and casualty loss tax deductions. Striking the balance between a fiscally sound NFIP while having premiums that are affordable – but that do not reward or encourage development in high flood risk areas – is the challenge now facing Congress and the nation.

The National Flood Insurance Program is now 42 years old. It was created in 1968 by the Congress following several major studies in the 1950s and 60s which concluded that the private sector did not offer insurance coverage for flood because only those who had actually flooded would buy policies, contrary to a normal insurance model which assumes a broad spreading of risk to cover losses. The lack of information showing which properties were likely to flood added to the private sector dilemma, which is less of a challenge now that FEMA produces flood maps for 21,000 communities. The concepts embodied in the NFIP were designed with the idea it would save the taxpayers' money in disaster relief by requiring those living in at-risk locations to pay something to cover their own risk, and to enable them to more fully recover from flood damage than they could with only disaster relief. The assumption was that this would reduce flood losses over time by requiring local regulation of development in flood hazard areas as communities voluntarily agreed to participate in the program in order to make flood insurance available to community residents and businesses.

The NFIP has gone through various stages of growth and adaptation involving more, then less, then again more involvement with private insurance companies and agents. After its first five years, Congress added mandatory purchase of flood insurance in identified flood hazard areas. By 1979, the program moved from the Department of Housing and Urban Development (HUD) to the newly established Federal Emergency Management Agency (FEMA). Initially some 70% of insured properties had discounted policies because they were "grandfathered" since they were built before the flood hazard area was identified. Now about 23% of insured properties have these discounted rates. Many newly developed properties have been built either in safer locations outside the 100-year floodplain or built to NFIP standards (elevated to the 100-year flood level) to mitigate possible flood losses.

During the 1980s, the goal of making the program self-supporting for the average historical loss year was achieved, but the premiums did not provide sufficient income to develop and maintain accurate flood maps for 21,000 communities. There were no Congressional appropriations for the program from 1986 until 2003, when it was agreed the nation needed a major map modernization effort requiring appropriated funds. Most of the nation's flood maps were found to be 10 to 20 years old, not reflective of massive watershed and floodplain development, and therefore not accurately representative of actual flood hazards.

A major report following the mid-west floods of 1993 found that only 10-15% of damaged properties had flood insurance. This led to another set of improvements in the National Flood Insurance Reform Act of 1994, including stricter compliance requirements for lenders and new means of encouraging and supporting mitigation through the Increased Cost of Compliance insurance coverage, establishment of the Flood Mitigation Assistance program and authorization of the Community Rating System to make lower premiums available in communities taking significant steps beyond national minimum approaches to mitigate risk. The Flood Insurance Reform Act of 2004 Act made a number of improvements to insurance agent training and consumer provisions, and enhanced and developed programs to address the problem of repetitive flood losses.

Comments on the Discussion Draft

The draft flood insurance reform bill makes some important improvements, but neglects others, some of which were included in the flood insurance reform legislation that passed the House in the previous Congress. We offer general comments on several major issues, comments on specific provisions that are missing, and comments on several provisions of the draft bill.

Reauthorization for 3 Years

Due to the recognition that FEMA is in the process of analysis and development of significant recommendations for the future of the NFIP, ASFPM urges that the NFIP be authorized for no longer than 3 years. This would provide program stability while anticipating further recommendations for program growth and adaptation. We stress this point because the issues highlighted by the concerns about risk identification and flood insurance affordability require more substantial program revisions than can be considered in a short period of time.

Debt to the Treasury

As noted above in this testimony, the NFIP was self-supporting from 1986 until 2005 when the catastrophic losses from the 2004 hurricane season in Florida and Hurricanes Katrina, Rita, and Wilma in 2005 generated the current debt to the Treasury of $18.7 billion. Given that the annual NFIP income is about $3.2 billion, that the past few years have been mild loss years and that interest rates can be expected to rise, it is unreasonable to expect the debt to be fully repaid. Balancing affordability of flood insurance and its role in building the policyholder base with premium rate increases as high as the 20% per year suggested in the draft bill requires careful consideration. ASFPM supports an increase from the current 10% cap to a 15% cap, but suggests some analysis is needed about where the balance should be. The debt arising from the 2004-2005 hurricane seasons should be considered emergency funding and the debt forgiven since the NFIP has successfully been self-supporting for the average historical loss year. The flood insurance reform bill should address the NFIP debt to the Treasury.

Separation of Congressional Committee Jurisdiction

ASFPM understands that consideration is being given to dividing Congressional committee jurisdiction over the NFIP between the House Financial Services Committee and the House Transportation and Infrastructure Committee. The idea, as we understand it, would leave the insurance aspects of the program with the House Financial Services Committee, while transferring the mapping, land use and flood risk mitigation elements to the Transportation and Infrastructure Committee.

ASFPM opposes such a division of committee jurisdiction. The program is often referred to as a three-legged stool: insurance, risk identification and mitigation. Proposed short-term solutions to the issues associated with better risk identification (Flood Mapping) all involve adjustments to the insurance rate structure and timing. As the Map Modernization initiative draws to a close in 2010, the new Risk MAP program is intended to draw better connections between risk identification, mitigation and insurance, risk assessment and community hazard mitigation planning. It involves a substantially improved outreach effort to better inform communities and their citizens about their flood risk and the importance of insurance to community resilience. To separate committee jurisdictions over the NFIP would create an artificial division of a program that was creatively designed to function as a whole.

Lack of Mapping Section

ASFPM is very disappointed to note that the draft bill contains no section to authorize the ongoing risk identification work of the Federal Emergency Management Agency (FEMA). The flood insurance reform bills passed by both the House and Senate in the 110th Congress (but not enacted), contained substantial sections providing for ongoing and expanded mapping activities. Both bills re-established a Technical Mapping Advisory Council in FEMA to bring in the knowledge and experience of a number of expert stakeholder groups. Risk identification is central to understanding where the risk is, how to mitigate risk and reduce loss of life and property, and where to require insurance that will facilitate disaster recovery. The flood insurance program cannot function properly without up-to-date and accurate data on flood risk. This is another example of the integration of the three legged stool elements of the NFIP and is a serious omission from this draft legislation.

Wind and Flood – Multi-Peril Insurance

The ASFPM has testified in the past to voice its strong opposition to proposals that would add the unknown exposure of an optional wind and flood policy to the NFIP. While intended to benefit the narrow strip of properties subject to both hurricane storm surge and wind damage, this proposed policy change could conceivably result in coverage of a property in a flood zone that was destroyed by winds elsewhere in the nation. While it is true that many Americans live in coastal counties, relatively few of those are subject to both storm surge and wind damage, so this concept would involve a major cross subsidy of a small group at risk of both wind and flood damage by policy holders throughout the nation.

Provisions that are Missing from the Discussion Draft:

A number of adjustments that were passed by the House in H.R. 3121, 110th Congress, are missing from the discussion draft. ASFPM urges the subcommittee to include the following.

Flood Mitigation Assistance Program [Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c)]:

- Add “demolition and rebuilding” as an eligible activity; this not only achieves consistency with the NFIP-funded Severe Repetitive Loss grant program, but gives another option that makes sense in certain situations (areas other than high-risk storm surge and floodway areas). Specifically, for some communities, acquisition by fee simple acquisition of land and relocation of the residents may not be the best solution, but rather mitigation measures that help improve livability and community integrity may be. Elevation-in-place is a feasible measure for many buildings; however, for many older buildings and certain types of buildings, it is more feasible or cost-effective to demolish and rebuild a new building, as long as sustainability and resilience are assured along with full compliance with floodplain requirements and building codes which address fire resistance, energy efficiency, and where appropriate, resistance to other hazards such as hail, high winds, and seismic forces.
- Eliminate the limitation on aggregate amount of insurance by striking subsection (f).

- Specify that the funds for this program (Section 1367) shall be available until expended (currently FEMA imposes a 2-year limitation) and that the funds shall be made available without offsetting collections through premium rates for flood insurance.

Severe Repetitive Loss Grant Program [Section 1361A (42 U.S.C. 4102A]:

- Correct an oversight and modify the definition of "severe repetitive loss property" to include nonresidential properties that have received the same number and value of claims. Nonresidential properties make up a disproportionately large share of all repetitive loss properties and we must be able to pursue mitigation of these high-loss properties in order to more effectively stem the drain on the Fund that is associated with properties that receive multiple claims.
- Delete 1361 A(g)(3)(A) and (B) so that the purchase price offered would be determined only by the either the fair market value immediately before the most recent flood event or the current fair market value. It is complicated, confusing, and expensive to have to determine the potential purchase price four ways (and the purpose of the grant is not to enrich those who unwisely paid more than a property's market value at the time of purchase or who borrowed more than the property is worth).

Grants for Direct Funding of Mitigation Activities for Individual Repetitive Claims Properties [Section 1323 of the National Flood Insurance Reform Act of 1968]. Current NFIP-supported mitigation grant programs provide cost share funds to communities – and thus successful projects depend on community participation. ASFPM has long supported community-based mitigation; however, we recognize that some repetitive loss properties are in communities that may not have the resources to participate. In order to achieve the goal of reducing the repetitive loss drain on the National Flood Insurance Fund, we urge the subcommittee to:

- Clarify that FEMA has the authority to work directly with certain property owners under this specific program, which was authorized at $10 million each year. There are many nonresidential properties that have received millions in flood insurance claims. Allowing FEMA to selectively encourage very high-loss property owners to consider mitigation will actually implement paragraph (b) which calls for prioritizing the worst-case properties to result in the greatest savings to the Fund.
- Specify that at least two claims shall have been paid in order for a property to be eligible.
- Specify that the funds shall be made available until expended (see Section 1310(a)).

The following also comes from our recommendations on S2284

Create a New Section to Establish Priorities for NFIP-Funded Mitigation Grant Programs. Direct FEMA to develop a mechanism to recognize that mitigation of repetitive loss properties (of which Severe Repetitive Loss properties are a subset), and that mitigation by acquisition, are priorities. The former helps reduce the drain represented by properties that receive repetitive claims; the latter is the only mitigation activity that permanently avoids future damage, while also providing benefits that are difficult if not impossible to quantify. There are examples where FEMA has denied funding for homes that have a computed benefit to cost ratio of 0.99. We appreciate that FEMA has been criticized in the past for its policy of approving buyouts for homes when the B:C is "close" to 1.0. The required new section would fulfill Congressional intent and make implementation easier and more consistent. It should also be clarified that mitigation projects that include repetitive loss properties and SRLs are, by definition, in the best interests of the NFIP and therefore FEMA should develop a mechanism to recognize this. Report language can suggest that FEMA use multipliers applied to the computed benefit-to-cost ratios as proxies.

Create a new section as follows:
Sec. 1366A. (a) PRIORITIES FOR MITIGATION ASSISTANCE.—In the administration of the mitigation assistance in Sec. 1323, Sec. 1361A, and Sec. 1366, and notwithstanding the provisions of those sections, the Director shall consider the following to be priorities and in the best interests of the National Flood Insurance Fund:

(1) mitigation activities that include repetitive loss structures, as defined in Sec. 1370(a); and

(2) mitigation activities that include severe repetitive loss structures, as defined in Sec. 1361A; and

(3) mitigation activities that include substantially damaged properties, as defined in Sec. 1370(a); and

(4) mitigation activities that include acquisition of properties with structures;

(5) mitigation activities that include other such properties as the Director determines are in the best interests of the National Flood Insurance Fund.

(b) RECOGNIZING PRIORITIES.—The Director shall develop a mechanism to recognize explicitly that mitigation activities identified in paragraph (a) are priorities.

Implementation of the Increased Cost of Compliance Coverage as Amended in 2004. ASFPM urges the Committee to request a report from FEMA on implementation of the changes to Section 1304(b) that were enacted in the Reform Act of 2004. This coverage (called ICC) has been part of all policies on buildings in mapped special flood hazard areas since about 1997. Total income associated with premiums for ICC greatly exceed the payments made to qualifying policyholders.

Comments on the Discussion Draft:

Sec. 3. Extension of National Flood Insurance Program. ASFPM urges a 3-year reauthorization of the program and the Severe Repetitive Loss mitigation grant program (see above). To avoid internal conflicts, a conforming amendment to Section 1361A of the National Flood Insurance Act of 1968 is necessary to strike subsection (l), which specifies that the Director may not provide assistance after September 30, 2009.

Sec. 5. Phase-In of Actuarial Rates for Nonresidential Properties and Non-Primary Residences. ASFPM supports movement to actuarial rates for pre-FIRM non- residential buildings and non-primary residences.

Sec. 6. 5-Year Delay in Effective Date of Mandatory Purchase Requirement for New Flood Hazard Areas. ASFPM strongly opposes this provision and urges its deletion in favor of a suggested revision we make below to Sec. 7. Implementing the Section 6 provision leaves property owners vulnerable to a known threat with no recovery mechanism other than federal disaster relief that is capped at $28,000. As a result, community work forces would be far more vulnerable and less able to recover following a disaster. Additionally, implementation of Section 6 would be extremely complicated and costly for FEMA and especially for regulated lenders who would have to create a mechanism to track mortgages on properties in the areas subject to delays and somehow be able to trigger an enforceable contract requirement to obtain flood insurance after the 5-year period expires.

Sec. 7. 5-Year Phase-In of Flood Insurance Rates for Newly Mapped Areas. We oppose this provision as written because implementation would be very complicated. We urge the Committee to examine a proposal that FEMA is developing to extend the Preferred Risk Policy availability for some period of time for properties that are mapped into a flood hazard area by a map revision. The effect would be the same – short-term cost-savings for the policy holder – while being considerably easier for all parties to implement.

Sec. 8. Increase in Annual Limitation on Premium Increases. As noted in the discussion above regarding "Debt to the Treasury," ASFPM recommends considering changing the limit on annual increases to 15 percent which was passed by the House and Senate in the last Congress. The affordability issues would be exacerbated by a 20% cap on annual premium increases as is proposed in the Discussion Draft.

Sec. 9. Consideration of Construction, Reconstruction, and Improvement of Flood Protection Systems in Determination of Flood Insurance Rates. This section offers some relief for communities and property owners behind levee systems that need repair or upgrading. The key to any such short-term relief is that citizen property owners cannot be left vulnerable to economic loss in the event of a levee failure or overtopping. ASFPM accepts this provision as long as it is clear that flood insurance coverage at some rate will be required for some limited specified period of time, after which the levee must meet standards or NFIP requirements will take effect.

Sec. 10. Treatment of Certain Flood Protection Projects. ASFPM opposes this section. It will result in citizens at flood risk being without either protection from a structural measure such as a levee, and without flood insurance. Would Congress really want citizens to have no protection of life, property or their financial well-being, which this may do? The approach in Section 9 provides an acceptable approach to the issue, rather then Section 10.

Sec. 11. Exception to Waiting Period for Effective Date of Policies. We appreciate the flexibility that would make coverage immediately effective if a policy is purchased within 30 days of the purchase or transfer of a property.

Sec. 12. Enforcement. ASFPM supports increasing civil penalties on lending institutions related to administration of the mandatory purchase of flood insurance requirements. We note that the National Flood Insurance Reform Act of 1994 directed that collected penalties are to be deposited into the National Flood Mitigation Fund and made available for grants that mitigate flood losses – another mechanism to improve the financial stability of the NFIP.

Sec. 14. Flood Insurance Outreach Grants. For several years the NFIP has expended considerable financial resources on marketing the NFIP under its FloodSmart initiative. Many states and communities also undertake actions to encourage property owners to understand their risks and to purchase flood insurance. Currently, FEMA is developing what seems to be a robust outreach component of the Risk MAP (Mapping, Assessment, and Planning) Strategy. Rather than require FEMA to spend limited resources to create the framework for a new competitive grant program, ASFPM believes FEMA's attention is best focused on working with its State and local partners to implement outreach under Risk MAP. However, if the Committee retains this section, ASFPM strongly urges that it be modified to include the States, so that outreach campaigns can become a state-local partnership. It can be more efficient to have a statewide outreach campaign that could target multiple communities in high risk areas, especially if one or more individual communities were not interested in taking an active part.

Sec. 16. Authorization of Additional FEMA Staff. The salaries and expenses of a significant number of FEMA staff in the National Office and all ten Regional Offices who are involved with the NFIP are funded by policy service fees that are assessed on every flood insurance policy. As the NFIP policy base grows, and as the NFIP-funded mitigation grant programs are implemented, FEMA needs to be able to expand its staff to support the increased workload.

Sec. 18. Flood Insurance Advocate. This section establishes both a FEMA Headquarters Office of the Flood Insurance Advocate and regional offices, all funded by the NFIP program's revenues. ASFPM much prefers the language passed by the House in H.R. 3121, 110th Congress. That language would have created an Advocate at FEMA Headquarters who was tasked with conducting a study of the nature, scope and extent of policyholder claims issues not being handled adequately by the existing appeals process. This would include analysis of the need for as well as the feasibility and effectiveness of authorizing a larger advocacy presence. The initial idea for a consumer advocate grew out of problems that came to light after Hurricane Isabel in 2003. It is important to note that Sec. 205 of the Flood Insurance Reform Act of 2004 included a provision requiring FEMA to establish a formal appeals process. Surely that process has addressed many of the previously-identified concerns. ASFPM recognizes that consumer protection is important, but urges that the scope of the problem – and the past several years of effort by both the NFIP and the Write Your Own insurance companies – warrant definition.

Sec. 19. Study of Mandatory Purchase for Natural 100-Year Floodplain and Non- Federally Regulated Loans. ASFPM supports broadening the number of property owners who are covered by flood insurance. However, we note that as written, the study called for in this language does not address extending the mandatory purchase requirement into areas that have been called "natural 100-year floodplains" as did language that was passed by the House in H.R. 3121, 110th Congress. These areas have also been called "residual risk" areas. Residual risks are present in areas that would flood if not for the presence of measures such as levees, floodwalls, and flood control dams. Importantly, residual risk areas are at risk of catastrophic flooding when such flood control measures fail. Rather than a study, we urge that the mandatory purchase requirement in "residual risk" areas be implemented immediately, and that FEMA be directed to work with other federal, state and local entities to map such residual risk areas and to establish rates that would reflect actual risk—the greater protection a levee provides, the lower the premium. The land use controls that the NFIP requires communities to administer in the special flood hazard areas shown on Flood Insurance Rate Maps would not be applied to the residual risk areas.

The Association of State Floodplain Managers appreciates the opportunity to share our views, recommendations and concerns with you. We hope these observations, based on our collective experience in working to reduce flood risk in the nation and in serving as FEMA's partners in implementing the National Flood Insurance Program, will be helpful as you work to improve the NFIP. We look forward to answering any questions you may have and assisting the Subcommittee in any way that you find helpful. I can be reached at: (608) 274-0123 or at: larry@floods.org. Our website is: www.floods.org.

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NFIP Listening Session-ASFPM comments
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Now is the time to back up and look at the "big picture of the NFIP"

Various developments have come together to make this a perfect time to open up the thought process about the challenges for National Flood Insurance Program (NFIP) and options to address those challenges. The program is deeply in debt due to catastrophic storms it was not designed to handle; a major effort to modernize and update the nation's very outdated flood hazard maps to be more accurate and appropriately reflect the hazards associated with structures such as levees is changing the delineation of the "regulatory floodplain" and associated areas for mandatory purchase of flood insurance; the need to purchase flood insurance in newly mapped communities is resulting in "push back" against more accurate hazard identification; the public safety communication about risk and hazard mitigation has become lost; and increased enforcement by the Army Corps of Engineers that appropriately results in de-accrediting levees that do not meet the structural, hydrologic, or O&M requirements to assure 100-year flood protection is highlighting the connections between the Corps, FEMA and the NFIP on flood risk management issues.

A new Administration with new thoughts and perspectives is ready to enter the discussion about the NFIP and to advance a more integrated flood risk management strategy where the NFIP is one of the elements therein. ASFPM recognizes not all the ideas we mention here may or after evaluation should be implemented, but all of them should be considered and evaluated to re-tool the NFIP into a more effective program for the nation that will effectively reduce flood losses and the loss of natural resources and functions of our floodplains.

The NFIP has had some major accomplishments in the past 40 years

- Over 20,000 communities with land use mgt and/or building codes (adds resilience)
- Many of nation's floodplains mapped (and much more needed)
- Almost 50% of those are risk of flooding pay at least some of that cost
- The NFIP was mostly self supporting for nearly 20 years

Questions and issues we hope to see addressed

By either FEMA with rules and guidance or by Congress through legislation

What was the NFIP intended to accomplish? Are the goals still valid?
What do Congress and the Administration want it to accomplish?
Does the basis of the NFIP need to change or not?
What's the assessment of what it has accomplished?
Why have flood losses increased, not decreased, despite 40 years of the NFIP?
If it has not succeeded, is it because of program design, inadequate development standards or implementation approaches?

What are recent developments or recognitions that could impact the future of the NFIP?

- Debt to Treasury
- Lack of clarity over whether or not NFIP should cover catastrophic flood losses (the NFIP should not cover wind)
- More severe, intense rainfall events and storms
- Sea level rise
- Increase in population density near water
- Map updates and levee de-accreditations

Where are the gaps and problems?

- Continued Affordability of flood insurance
- Maps provide unintended message of little/no risk beyond 100-year floodplain
- Lack of recognition of residual risk areas behind levees and below dams—those areas must be mapped, regulated and require flood insurance
- Inadequate development standards—e.g. need freeboard, zero rise floodways, no habitable uses in floodway, "no build zones in coastal highest hazard areas
- Maps of flood hazard areas must be based on future development, not yesterday's
- The CRS standards are too low, make most of them NFIP base standards and create some really effective CRS standards that are effective and incentivize local/state actions

What role has subsidies or discounts played in supporting unwise development?

- Are rate subsidies and grandfathering contributing to NFIP insolvency?
- Should the rationale for subsidies be re-examined?
    - If premiums are subsidized, it is no longer a true insurance program
- Should subsidies exist? If for low income folks, what program should pay them?
    - Any low income subsidies should be taxpayer funded and done by HUD
- Rating practices be re-examined for more accurate picture of risk
- How can the NFIP move all policies to actuarial based pricing and avoid policy loss?

If the NFIP is to be a significant tool in the integrated flood risk management perspective, how should it be altered to better support this objective?

- Integrate the NFIP with other federal flood risk programs, including the disaster relief program, Corps of Engineers, EPA and NRCS programs
- FEMA needs to identify cross program policy conflicts that increase risk

- The NFIP must build State FPM capability and capacity or it will not succeed
- The NFIP program should be delegated to states, similar to EPA and DOT programs
- What incentives and disincentives would make it more effective?
- Are the NFIP mitigation grant programs effectively addressing the high risk structures?

How can the NFIP better deliver the risk message and protect the general taxpayer?

- More areas of mandatory coverage--e.g. residual risk areas on rivers and coasts
- More defined set of rates and maps to clarify variation of risk beyond SFHAs
- Modification of 100-year standard for critical facilities & areas of dense population
- Change name and attributes of map so its viewed as risk map, not an insurance map
- Add zones within SFHA so those more at risk pay higher rates than lesser risk structure
- Do not add wind coverage to the flood insurance program

What are some "new ideas" for refreshing and re-invigorating the program?

- Group policies for areas behind levees to be purchased by levee districts
- Flood insurance vouchers for lower income households to be administered by HUD
- Long-term flood insurance to be attached to property, not owner (see Kunreuther)
- Consider requiring flood insurance as a part of all homeowners policies
- Tie Disaster dollars to NFIP compliance, with a sliding scale to reflect how well the community and state are managing their flood risk
- Consider a major change where FEMA would no longer be in charge of flood insurance---turn flood insurance over entirely to the private sector. (this will need to be done carefully so as not to lose the floodplain mgt in communities and states)