Council on Environmental Quality  
ATTN: Terrance L. Breyman  
722 Jackson Place, N.W.  
Washington, DC 20503

Via email to P&G@ceq.oep.gov

Dear Mr. Breyman,

On behalf of the Association of State Floodplain Managers (ASFPM), its state chapters and members throughout the Nation, we want to thank you, the Council on Environmental Quality (CEQ), and the U.S. Army Corps of Engineers (USACE) for the opportunity to offer comments and suggestions on revisions to the Principles and Guidelines. ASFPM is the premier national organization for flood risk management. Our members work to protect people and property from the ravages of floods while enhancing floodplain resources that reduce flood losses naturally. Since our inception in 1977, we have grown to 28 State Chapters and more than 14,000 members throughout the Nation and abroad.

ASFPM strongly supports retirement of the 1983 Principles and Guidelines, to be replaced by Principles that protect and restore natural systems, provide for sustainable economic development, and minimize adverse impacts, all as part of a national water resources planning policy. Although ASFPM provided comments in October 2008 that are attached hereto, we welcome this opportunity to consider the broader purpose for the policy framework that the Principles and Guidelines need to meet to be effective in meeting the nation’s 21st Century water resource management and planning needs.

In their current form, the 1983 Principles and Guidelines (P&G) are nonbinding guidelines that differ from the previous regulations in that they eliminate the longstanding environmental quality objectives and designate the national economic development as the sole primary federal objective. In promulgating the 1983 P&G, the Water Resources Council explained that “... the change from regulations to guidelines ... removes or reduces the threat of litigation for failure to comply, thus permitting planners to focus on the appropriate task and not on a concern for mechanical compliance with complex and detailed regulations.” 48 Fed.Reg. at 10,251. By the late 1990s the limitations of this approach were apparent to many observers.
Starting with the movement to restore the Florida Everglades, more and more stakeholders were advocating for a Federal role in environmental restoration, especially in areas where federal projects had themselves altered natural systems and led to outcomes their designers had not anticipated.

Congress enacted the Water Resources Development Act (WRDA), 121 Stat. 1041, 42 U.S.C. 1962-63, on November 8, 2007, overriding a President Bush veto. Section 2031 of WRDA, 121 Stat. 1082, sets forth the detailed process by which the Principles and Guidelines of 1983 are to be revised, and requires that final revisions be issued by November 8, 2009. The statement of national water planning policy 42 U.S.C.A. § 1962(a) reads:

It is the policy of the United States that all water resources projects should reflect national priorities, encourage economic development, and protect the environment by—

(1) seeking to maximize sustainable economic development;
(2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and
(3) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems.

Additionally, at 42 U.S.C.A. § 1962(b)(3), Congress required that the revised Principles and Guidelines be consistent with and address the following considerations:

(A) The use of best available economic principles and analytical techniques, including techniques in risk and uncertainty analysis.
(B) The assessment and incorporation of public safety in the formulation of alternatives and recommended plans.
(C) Assessment methods that reflect the value of projects for low-income communities and projects that use nonstructural approaches to water resources development and management.
(D) The assessment and evaluation of the interaction of a project with other water resources projects and programs within a region or watershed.
(E) The use of contemporary water resources paradigms, including integrated water resources management and adaptive management.
(F) Evaluation methods that ensure that water resources projects are justified by public benefits.

In laying out these policy priorities and considerations, the Congress signaled its intent that a new direction in national water policy be mapped and pursued. The nation can no longer afford to continue on its current path of authorizing and funding projects through a process that is so heavily biased toward structural approaches without comprehensive review of environmental impacts and consideration of nonstructural alternatives. As the CEQ works with Federal agencies and the States to craft a 21st Century P&G, fundamental tenets of federalism and other national values will help guide this work.
Consistent with the explicit intent of Congress, the existing “national economic development” principle embodied in the 1983 P&G is to be replaced with a policy to maximize sustainable economic development. ASFPM supports the development of a robust P&G toward that end that identifies and reflects the linkages between economic development, environmental degradation, and population pressure. The 1983 P&G needs to be modernized to ensure that Federally-supported projects lead to sustainable economic development in reducing risk to the public and the environment. To achieve this and meet the intent of Congress expressed in WRDA 2007, the revised P&G will need to consider the trends and conditions occurring and anticipated in affected watersheds, view projects within the social and environmental contexts, and provide needed guidance for addressing the range of national interests and concerns.

**Governmentwide Application of a Revised P&G**

While ASFPM generally supports policies that guide effective resource management government-wide, we share with our allied organizations concerns regarding the application of a revised P&G to agencies that are not currently familiar with or participating in the process to revise the existing P&G. The 1983 P&G document guides the planning of four federal agencies: the Bureau of Reclamation, the Corps of Engineers, the Natural Resources Conservation Service, and the Tennessee Valley Authority. Now that CEQ is considering extending the reach of the revised P&G government-wide, the revisions should reflect and harmonize with the missions, policies, and priorities of a broader range of agencies. Since the adoption of the 1983 P&G, many agencies have grown more technically sophisticated in their own engineering, environmental, and public safety missions. In many cases, these policy frameworks may already surpass what the P&G could address in terms of project scope and requirements for sustainability in a changing climate. On the other hand, some potentially affected agencies lack experience with the current P&G, much less a revised P&G that embodies the national values set forth in WRDA 2007. These agencies will benefit from meaningful inclusion in the revisions process, and from guidance, especially in the early years of implementation of a revised P&G.

**Considerations for Federal Water Policy to Be Embodied by the Revised P&G**

First, we encourage CEQ to consider fundamental Federal and State roles in water resource management. Second, the lessons learned over the past 25 years have shaped national policy toward greater emphasis on the value of important services provided by undeveloped floodplains. Finally, the past provides an important lens through which national policy should be viewed, shedding new light on the conditions that should accompany Federal investment and interest. Each factor for consideration is addressed in greater detail below.

**Federal Interest & Role**

Most fundamental is the question of how to define the federal interest - how to tell the difference between those projects that the federal government should undertake and those that should be a local, state, or private responsibility. The inventory of authorized but unfunded federal water projects is already very large. Unless we take the view that all aquatic ecosystems are necessarily Federal responsibilities, the revised P & G will have to define the threshold to sort the Federal interest and role from those of State and local governments.
Although the Federal government guides and incentivizes water resource and related land management decisions, development and land use decisions rest with the States and with local governments through their State enabling statutes. The role of the States is to identify and propose solutions to water related challenges and opportunities, such as flooding, water supply, and degradation of waters. Only then should States or local governments request Federal participation. The Federal role is to evaluate these proposals against broad national values, and to assure consistency with existing Federal goals and plans. Only then should the Federal government agree to partner with the non-Federal sponsor.

National Values & Requirements for Federal Investment

Broad national values were set forth by Congress in WRDA 2007, and in other directives embedded within existing legislation. These values include assurance of public safety and benefit; environmental and economic sustainability; water resource protection, restoration, and resilience; and minimization of adverse impacts. Each project proposed for potential Federal involvement must reflect these broad national values as a condition of Federal investment.

In setting forth these values, Congress rejected the status quo and called for action toward a renaissance in national water policy. The charge contained in WRDA 2007 signals a departure from an approach that has been in place for more than 25 years, and that reflects a view of waterways as assemblages of economic outputs as marketable goods, such as electricity, barging of freight, irrigation water, and the engineering and controlling of floodwaters. Just as a greater interest in the recreational and scenic values of the nation’s waters began to take hold in policy prior to 1983, today’s challenge is to incorporate the value of healthy ecosystem services and benefits to public health and safety, social well-being, economic stability, and civil security.

Another question is how to analyze projects with both economic development and ecosystem restoration benefits. Under the 1983 P & G, project alternatives that advance both economic development benefits and ecosystem restoration benefits are at a competitive disadvantage because the ecosystem restoration benefits add costs to the project but do not show corresponding economic benefits. This will inevitably lower that alternative’s benefit-cost ratio compared with other alternatives. Should the planner be constrained to choose the less costly alternative in every case, abandoning opportunities for significant ecosystem restoration as part of the project? If not, then the revised P & G will have to include a rigorous methodology for assessing these important ecosystem benefits.

Additionally, the P&G will need to provide for substantive assessment opportunities to preserve and enhance water-related services, such as water supply and source waters protection; ecosystem services that improve public health and safety; and the cultural and social services provided by existing resources under various alternatives designed to preserve and enhance those services. Each alternative should be evaluated under future conditions, taking anticipated climate change into account, and assuring the long-term economic and environmental sustainability of the proposed action. Finally, where the structural solution is selected following rigorous consideration of all nonstructural options, it should be accompanied by nonstructural and land use measures to assure that flood risk is stabilized and reduced over time.
As the CEQ considers the expansion of applicability of the new P&G government-wide, all potentially affected agencies will need the opportunity to participate, and many will benefit from clear and meaningful guidance to assure the successful incorporation into existing missions and policies. Sound revision to the P&G will require the full engagement of a broad and multidisciplinary range of experts, and the provision of adequate time to address the numerous problems with the existing framework identified in reports issued by the National Academies, the Government Accountability Office, and the Department of the Army. ASFPM encourages the CEQ to pursue a deliberative and clear process for the development of these revisions, and stands ready to assist in this effort.

ASFPM has enjoyed a successful partnership with the USACE AND CEQ for many years. Thank you again for this opportunity to make these recommendations.

Sincerely,

Greg Main, CFM
ASFPM Chair

Larry Larson, P.E., CFM
ASFPM Executive Director

CC: Nancy Sutley, Chair, Council on Environmental Quality
W. Craig Fugate, Administrator, Federal Emergency Management Agency
MG Merdith W. B. (Bo) Temple, Deputy Commanding General for Civil and Emergency Operations, U.S. Army Corps of Engineers
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