



Association of State Floodplain Managers, Inc.

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July 16, 2012

Regulatory Affairs Legal Division
Office of the Chief Counsel
Federal Emergency Management Agency
500 C St. SW, Room 835
Washington, DC 20472-3100

RE: Docket ID FEMA-2012-0012, National Flood Insurance Program Programmatic Environmental Impact Statement

Dear Docket Manager:

The Association of State Floodplain Managers (ASFPM) applauds the Federal Emergency Management Agency (FEMA) for its recent decision to develop a Programmatic Environmental Impact Statement (PEIS) to assess and consider the current implementation of the National Flood Insurance Program (NFIP) and to further consider potential important changes and improvements to the program. ASFPM has provided extensive comments to FEMA on various aspects of the NFIP for decades, and participated in the 5-year evaluation of the NFIP, as well as the current rethinking effort since its inception in the fall of 2009. We will continue to provide input based on the experience and expertise of our 14,000 members and 33 Chapters throughout the Nation and welcome this opportunity to comment on the intent to perform a PEIS.

We make the following comments with the hope to improve the process. These comments and suggestions are based upon ASFPMs desire to see a reduction in the pain and suffering caused by flood losses in the future, not the continued increase of both as we have seen in the past decades, despite the inception of the NFIP in 1968. We are concerned that the NFIP does not fully address how protection or enhancement of the natural and beneficial functions of the nation's floodplain can significantly contribute to the reduction in flood losses. We believe that while a national framework and minimum standards are critical, it is also necessary to empower and incentivize local communities (states and individuals included) to accept responsibility for their actions and reward those that do. The recommendations are based upon the reality under our Constitution that communities possess the primary legal ability to reduce flood risk. They are also based on our No Adverse Impact approach to development that we provide to communities and the many recommendations found in ASFPM's "National Flood Programs and Policies in Review, 2007". The NFIP can fulfill a significant federal government role by ensuring that the alternatives examined include prohibitions and/or severe disincentives for actions that adversely impact existing development, existing land uses, and endangered

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species or actions that would transfer the impacts of flooding from one property owner to another or transfer those impacts from one generation to the next. This is what we would call a No Adverse Impact approach to floodplain management.

It is well recognized that since its establishment in the late 1960's, the NFIP has made major contributions to the nation's approaches to identifying, managing and reducing the risks of flood hazards, to encouraging active floodplain management and helping to moderate the often devastating impacts floods have on the nation's people and their communities. But despite these efforts, flood damages have continued to increase and it has been widely recognized for years that much more could and should be done to avoid or reduce these and future damages. One area that has lagged is that of strengthening and better integrating the NFIP with a broad range of efforts to protect and restore the natural and beneficial functions and values of our rich heritage of floodplain ecosystems and resources. Floodplains represent some of our most important water resources, constitute basic natural resource infrastructure, and contribute in a myriad of ways to the health and vitality of our communities and our future.

Vision for the PEIS

The ASFPM believes the forthcoming NFIP PEIS effort has the potential to bring together the necessary resources, agencies, and stakeholders at all levels to consider and make long-needed changes and improvements in the NFIP. If conducted thoughtfully this effort has the potential to address program shortcomings and make significant improvements in how the nation, through a partnership approach, manages flood risk and improves how the NFIP relates to and interacts with other federal programs.

Concerns Regarding PEIS Scoping

In any National Environmental Policy Act (NEPA) process, especially where complex programs are subject to this kind of broad level of analysis and potential for change, the Scoping of a PEIS is one of the most important exercises, because it establishes the breadth and type of information and inquiry that will be explored in the effort. At this particular point in time, we would note first that Congress and the President have only just passed and signed into law, major NFIP reform legislation. This legislation has yet to be fully explored as to how it will impact many aspects of the NFIP. Second, while most recently FEMA has been engaged for more than two and a half years in a major review and "Rethinking" of the NFIP, the results of this effort have not yet been made public. One of the preliminary scoping documents placed in the Docket entitled "Proposed Alternatives" suggests five possible proposed alternatives; however, these are not sufficiently detailed to define or predict what would be their implications for the NFIP, and how they might actually change the NFIP and outcomes, if implemented.

We understand that FEMA has for some time intended to release the results of the Rethinking process. ASFPM urges FEMA to make these results and recommendations available to the public as part of the PEIS process, and not to circumscribe the scope of the PEIS or preclude additional options, alternative approaches and additional potential areas of analysis until the public has an opportunity to comprehend the new NFIP legislative reforms and the Rethinking findings and recommendations in the weeks and months ahead. We therefore ask that FEMA not take a final position that no public scoping hearings will be conducted, pending the opportunity for the public to comment on the Rethinking recommendations and request a public hearing, if members of the public believe such a hearing may be warranted.

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Purpose and Need for a PEIS.

ASFPM appreciates FEMA's first effort to identify a Purpose and Need for the PEIS, but also believes that this document falls short of what is needed to define the target for a successful PEIS. While ASFPM agrees with the elements that are presented as being relevant to this study, we believe many other aspects are not yet captured within this definition.

First, more definition should be included as to what are the full range of needs that should be addressed and met in the PEIS. The initial "need" for an NFIP, as identified by Congress in the 1968 National Flood Insurance Act, came in part as an identified need for a complementary approach to the nation's previous heavy reliance on structural approaches to the problem of flooding. Since then, however, Congress has passed scores of laws, many related programs and policies have changed, and a large body of studies now exists which can lend much more definition to the "need" for the PEIS. The early PEIS process should be used to compile and identify these needs and receive public review and comment to assure the adequate identification of the "need". Additionally, in passing the NFIP, Congress identified the need to have this program in order to reduce taxpayer costs for disaster relief. The current administration of the NFIP does not integrate with the disaster relief program, and alternatives in the PEIS should ensure that nexus is fully explored.

Second, the principal purpose put forward for the PEIS is defined, we believe, too narrowly, and is primarily based upon Congress' early vision of an NFIP, along with identification of some of the important environmental laws and two relevant Executive Orders that have been adopted since the last PEIS regarding the NFIP was completed in 1976. Once again, while we believe these purposes are important, we urge FEMA to refine this definition to include a broad, comprehensive look to modernize and update the NFIP in the context of the many subsequent laws, programs, policies, and conditions, present and future, that are currently in place and relevant to how the NFIP operates or will operate into the future. We particularly want to point out the critical importance of the NFIP risk identification and communication functions, making sure that those who locate where flood risks are high are also responsible for the costs and consequences of those risks, and that there is a heightened importance to recognize, protect, and restore the natural and beneficial functions of the nation's floodplains. These issues have been recurrent themes in dozens of high-level studies over the past three decades regarding the NFIP and the nation's water resources.

Outreach and Engagement of Other Agencies

ASFPM also urges FEMA to use the PEIS process to reach out and engage other agencies with programs, expertise and responsibilities affecting floodplain resources in order to identify areas where improved coordination could strengthen the effectiveness of the NFIP in meeting its full range of objectives. The success of this PEIS will, in part, be linked to bringing together resources and expertise from many sectors and disciplines to address the various aspects of NFIP activities and policies and can contribute to improving floodplain management through the NFIP and potentially adjustments in a range of related programs. Because the NFIP inherently interacts with and depends upon so many other programs, it will be vital that this effort draw in the active and focused participation of a wide range other federal, state and local agencies and private sector stakeholders and the public.

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Again, ASFPM commends you for beginning the PEIS process. We encourage you to have as open, collaborative and thorough process as possible to examine a wide range of alternatives and explore all the potential impacts of each alternative.

A handwritten signature in black ink, appearing to read "Chad Berginnis", with a long horizontal flourish extending to the right.

Chad Berginnis, CFM
Executive Director