



Association of State Floodplain Managers, Inc.

575 D'Onofrio Drive, Suite 200, Madison WI 53719

Phone: 608-828-3000 | Fax: 608-828-6319 | asfpm@floods.org | www.floods.org

Executive Director

Chad M. Berginnis, CFM

Deputy Director

Ingrid D. Wadsworth, CFM

Director Emeritus

Larry A. Larson, P.E., CFM

January 11, 2016

Regulatory Affairs Division – Office of Chief Council
FEMA
500 C Street SW., 8NE
Washington, DC 20472-3100
RE: Docket ID FEMA2014-0005

To Whom It May Concern:

The Association of State Floodplain Managers appreciates the opportunity to comment on the notice of proposed rulemaking to review, update and revise the factors FEMA uses to measure the severity, magnitude and impact of a disaster in order to determine whether to make a declaration under the Individual Assistance (IA) program.

As a country, the United States has had a long tradition of providing generous assistance after a disaster. This is seen time and again as neighbors help neighbors, communities help communities, and if the disaster exceeds the capability of the community and state, the federal government then helps states, communities and individuals through an array of programs. However, this federal help also has a downside – the creation of the moral hazard. From an economics point of view the moral hazard occurs when one person takes more risks because someone else bears the burden and cost of those risks. As flood losses continue to increase, disaster assistance has been identified by many policy experts as a primary driver, forestalling any change of behavior by communities and individuals to be more resilient and take personal actions such as buying flood insurance. As a result, federal taxpayers have been shouldering an ever increasing burden of disaster costs.

A core principle of ASFPM is that before federal disaster aid is provided, communities should be participating in all voluntary programs that help reduce the risk of a particular hazard to which they are vulnerable. At the same time, communities, states and individuals must be incentivized and not penalized for investing in their own resilience. A better job has to be done monitoring and enforcing penalties for noncompliance that are tied to disaster assistance cost share. Federal taxpayers should provide less assistance to states and communities that do not take simple and reasonable steps to reduce the costs and suffering from predictable natural hazards.

Overall, ASFPM believes the proposed factors move in the right direction, yet we do have some specific concerns and recommendations. Specific comments on individual factors are as follows:

Dedicated to reducing flood risk and losses in the nation.

Chair

Ceil C. Strauss, CFM
State Floodplain Manager
MN Dept. Natural Resources
651-259-5713
ceil.strauss@state.mn.us

Vice Chair

Maria Cox Lamm, CFM
State Coordinator
SC Dept. Natural Resources
803-734-3672
coxmd@dnr.sc.gov

Secretary

Leslie Durham, P.E.
Chief, Floodplain Management
AL Water Resources
334-242-5506
leslie.durham@adeca.alabama.gov

Treasurer

Karen McHugh, CFM
Floodplain Management Officer
MO Emergency Mgmt. Agency
573-526-9129
karen.mchugh@sema.dps.mo.gov

State Fiscal Capacity and Resource Capability

ASFPM supports the use of the Total Taxable Resources (TTR of the State) to evaluate a state's fiscal capacity. It is important to use the measure of state fiscal capacity versus the state's current fiscal policy, which could lead to an increase or decrease in state capability to assist communities and individuals. From a floodplain management point of view, ASFPM tracks the ebb and flow of state floodplain management capability and has seen increases and decreases in capability over the years – usually due to the fiscal and policy priorities of state leadership in power at a given time.

Of the four factors being proposed to enable FEMA to evaluate a state's resources post disaster, ASFPM has comments on two of them. ASFPM strongly supports the logic behind the new factor *state services* and believes that it should be given significant weight overall. As some comments already submitted have expressed, triggering IA should not be a disincentive to states from investing their own resources and having their own programs. In fact, ASFPM would go further to suggest that when a state has demonstrated it has invested in state services/capability, the non-federal cost share could be reduced. Similarly, the new *planning after prior disasters* factor is not only important, but should act as a go/no-go trigger point for IA. ***Specifically, all federal disaster assistance should be contingent on the state and community having a current hazard mitigation plan.*** States and communities have had ample time – since 2000 – to develop and update their hazard mitigation plans. ASFPM also recommends the following be considered:

- States must have adopted effective building code standards for significant hazards identified in the state's hazard mitigation plan prior to providing any form of disaster assistance.
- For flood-prone communities, assistance should be contingent on National Flood Insurance Program participation, compliance and maintenance of insurance for public structures in the Special Flood Hazard Area.
- For small and under-resourced communities and tribes, ensure availability of technical assistance to initially help them with participation in the mitigation program(s).
- For all communities, consider limiting future federal disaster recovery assistance in areas protected by structural projects to only those buildings that are elevated above the 1 percent annual chance flood elevation (100-year flood elevation. From a flooding perspective, the current policy of generally providing disaster recovery assistance to all properties, regardless of their elevation in relation to the base flood, undermines communities' incentive to mitigate existing and future development in areas protected by structural measures because they can collect tax revenue from the development, but externalize the consequences to the federal taxpayer.
- Consider not providing IA or Public Assistance disaster relief for any flooding in SFHA.

Uninsured Home and Personal Property Loss

ASFPM recommends adding one more data point to the seven proposed – the number of uninsured or underinsured losses from individuals who were required to carry flood insurance as a result from previously accepting disaster assistance. Anecdotally, ASFPM understands there is not a good tracking or enforcement system in place today to determine whether an individual had experienced a previous loss, received disaster assistance, and in the case of flood, maintained the requisite amount of flood insurance. These individuals should be prohibited from receiving additional disaster assistance funds or

January 11, 2016

at least the disaster assistance be reduced by the amount that the insurance would have otherwise covered.

Also, this factor must carefully balance the moral hazard of an individual not purchasing flood insurance when it is widely available with the availability or even the perception of availability of disaster assistance that would discourage them from purchasing flood insurance. That is why the recommendation in the preceding paragraph is important.

Impact to Community Infrastructure

This proposed factor is an interesting and confusing addition and one ASFPM has some concerns about, especially since this factor is supposed to better define "trauma." For example, would a disaster that would traditionally be a PA-only disaster now possibly trigger IA due to this factor? It seems this factor would have the effect of being a multiplier for the disaster assistance programs. Will emergency managers and states be confused when submitting for a major disaster declaration that shows a significant impact to community infrastructure to somehow get an IA declaration but not a PA one?

Instead, trauma, from the framework of IA should represent trauma to the individuals based on the event itself, not necessarily the cascading effects of poor or no investment in community infrastructure to make it more resilient. At a minimum, a better explanation as well as contrast with PA is needed here.

Disaster Related Unemployment

It is estimated that as many as 50 percent of businesses experiencing a major flood never reopen. Indeed, disaster-related unemployment can be a significant issue after a flood disaster and is a factor that ASFPM supports, especially in light of the fact that FEMA had not previously focused on this population.

While not a specific factor mentioned in the proposed rulemaking, mitigation needs directly related to the disaster event should factor into the decision to provide federal aid, and FEMA should consider additional ways to flexibly and cost-effectively meet critical disaster unmet needs and mitigate future losses even if Individuals and Households Program (IHP) is not made available. For instance, Increased Cost of Compliance (ICC) funding through the NFIP could be triggered for insured flood-impacted properties even if they do not meet the threshold for Substantial Damage (under ICC, one option for triggering is upon a determination by the FEMA administrator that it is cost effective and in the best interest of the National Flood Insurance Fund). This could reduce future risk to flooding and save on repetitive flood claims to the NFIP. Even if the IHP is not declared, this tool could help to effectively meet disaster needs and reduce the long-term burden on the federal government.

If you have any questions about these comments, please contact me at 608-828-3000 or by email at cberginnis@floods.org.

Respectfully,



Chad Berginnis
Executive Director