

STATEMENT  
OF  
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BEFORE  
THE  
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS  
SUBCOMMITTEE ON ECONOMIC POLICY  
U.S. SENATE  
WASHINGTON, D.C.

**“IMPLEMENTATION OF THE BIGGERT-WATERS FLOOD INSURANCE REFORM  
ACT OF 2012”**

Submitted  
By

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SEPTEMBER 18, 2013

## **Introduction**

Good afternoon Chairman Merkley, Ranking Member Heller and distinguished Members of the Subcommittee. My name is Craig Fugate, and I am the Administrator at the U.S. Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). It is an honor to appear before you today on behalf of FEMA to discuss the National Flood Insurance Program (NFIP) and our efforts to implement the Biggert-Waters Flood Insurance Reform Act of 2012.

In my testimony today, I will discuss the NFIP; the changes FEMA is making as a result of the Act; the role of flood maps and levees; and steps property owners can take to mitigate against flood damage.

## **Flooding and the Need for a National Program**

Flooding has been, and continues to be, a serious risk in the United States. Most insurance companies have historically excluded flood damage from homeowners insurance because of adverse selection – only those most susceptible to flooding will purchase coverage. To address this need, Congress established the NFIP in 1968 to make flood insurance available, identify flood risks and encourage sound local flood risk management. The NFIP is administered by FEMA.

The NFIP was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004. The most recent reforms have come after numerous short-term reauthorizations and lapses in Program authority over the past several years.

About 40 percent of the U.S. population lives in counties that border the ocean or Great Lakes and are directly or indirectly affected by flood risk, and most U.S. counties contain rivers and streams that present flood hazards. Moreover 5.6 percent of the U.S. population lives in the highest risk coastal and riverine flood hazard areas, making flooding the most costly and prevalent natural risk in the United States. Additionally, sea level rise, climate change, urbanization and other factors may lead to even more Americans living in high flood risk areas in coming years.

The NFIP serves as the foundation for national efforts to reduce the loss of life and property from flood disasters that may occur. The Program is designed to insure against, as well as minimize or mitigate, the long-term risks to people and property from the effects of flooding, and to reduce the escalating cost of flooding to taxpayers. The NFIP works closely in partnership with Write Your Own (WYO) insurance companies to market, sell, administer and adjust claims for policyholders. By encouraging and supporting mitigation and floodplain management efforts, the NFIP is estimated to save the nation \$1.6 billion annually in avoided flood losses.

Today, almost 22,000 communities in all states and territories participate in the NFIP, with 5.6 million NFIP policies providing over \$1.2 trillion in coverage.

The NFIP was, by statute and design, not actuarially sound. Specifically, 20 percent of policyholders, including many of the NFIP's highest risk structures, paid premiums that were less than actuarially sound and the government was subsidizing on average 60 percent of the loss. The debt resulting from Hurricanes Katrina and Sandy, the two costliest storms in NFIP history, illustrate the financial challenges for the NFIP that the Biggert-Waters Flood Insurance Reform Act of 2012 aimed to address. Significant concentrated losses in high policy coverage areas could set the program up for future losses beyond the authorized borrowing authority. In addition, the financial challenges are heightened due to subsidies and grandfathering that were established to encourage older structures to participate in the Program and make premiums affordable for these policyholders in high risk areas.

Pursuant to the statute before the Biggert Waters Flood Insurance Reform Act of 2012, FEMA established subsidies for owners of existing homes and businesses built prior to the initial Flood Insurance Rate Map (FIRM) and made them eligible to purchase insurance at subsidized rates. In other words, a building built before flood risk was known, and at an elevation below the one-percent annual chance flood, could be insured at a rate substantially less than their real risk rate.

The NFIP collects more than \$3.5 billion in annual premium revenue, and FEMA estimates that an additional \$1.5 billion annually is needed from subsidized policyholders.

FEMA also established grandfathered rates to address rates for structures built in compliance with existing FIRMs that experienced subsequent increases in flood risk. FEMA allowed those structures to grandfather according to the risk identified on the earlier FIRM, and did not adjust premiums to reflect the current risk. Grandfathered properties are not subsidized by the Program, and FEMA establishes cross subsidies within classes of structures to maintain the actuarial integrity of the rate structure.

This annual premium shortfall during catastrophic flooding events, such as Hurricanes Katrina and Sandy, required FEMA to use its statutory authority to borrow funds from the U.S. Department of Treasury. These funds were used to pay covered flood damage claims to policyholders. Although payments have been made to reduce this obligation, \$24 billion in debt remains.

### **Biggert-Waters Flood Insurance Reform Act of 2012**

Congress determined that further reforms were needed to make sure the NFIP was financially sustainable.

To execute these reforms, Congress passed the Biggert-Waters Act. The law required changes to all of the major components of the program, including flood insurance, flood hazard mapping,

grants and the management of floodplains. Many of the changes are designed to strengthen the fiscal soundness of the NFIP by ensuring that flood insurance rates more accurately reflect the real risk of flooding. The changes are being phased in over time, beginning this year. Biggert-Waters also reauthorized the NFIP for five years, which injected confidence and stability into the real estate and mortgage markets.

### **Removal of Subsidies and Grandfathered Rates**

Biggert-Waters ushered in changes that will lead to premium rate increases for some – but not all – policyholders over time.

Today, I would like to focus on the sections of the Act that remove subsidies and grandfathered rates.

Currently, approximately 20 percent of policyholders, representing approximately 1.1 million of the 5.6 million NFIP policies, now pay subsidized rates. As FEMA implements the changes stipulated in the Biggert-Waters legislation, these policyholders will eventually pay rates that reflect actual risk to their properties. The remaining 80 percent of policyholders will not see increases as a result of this change, although it is possible that their rates will increase if, in the future, new maps reveal higher risk under the phase-out of grandfathered rates required by the legislation.

Specifically, the following changes for subsidized policyholders will be or have already been implemented due to the legislation:

- Beginning January 1, 2013, owners of properties previously eligible for subsidized rates on non-primary/secondary residences in a Special Flood Hazard Area (SFHA), saw a 25 percent increase annually in their rates, as required by the law, which will continue until rates reflect true risk.
- We anticipate that under a final rulemaking, owners of substantially damaged or improved properties previously eligible for subsidized rates will see a 25 percent rate increase annually, as required by the law, until rates reflect true risk.
- Beginning October 1, 2013, owners of subsidized policies on business/non-residential properties and severe or repetitive loss properties in a Special Flood Hazard Area will see a 25 percent rate increase annually, as required by the law, until rates reflect true flood risk.

All subsidized properties, including primary residences, will move immediately to actuarial rates if:

- The policy lapses;
- The property suffers severe, repeated, flood losses; or
- The property is purchased.

Each property's risk is different. Some policyholders may reach their true risk rate after less than five years of increases, while other policyholder increases may go beyond five years to get to the full risk rate required by the new law.

With regard to grandfathered rates, additional changes to premium rates may also occur upon remapping. We are evaluating when it is administratively feasible to implement these rate changes.

When a map is revised or updated, grandfathering will no longer be available. Grandfathering is applied in two situations: to allow policyholders in a Special Flood Hazard Area built in accordance with flood maps to keep rates that reflected that compliance even if a later map would increase their premium; and to enable structures built outside of the Special Flood Hazard Area and later remapped into the Area to purchase insurance based on an average cross-subsidized rate. The Act replaces the policy of offering grandfathered rates with a five year phase-in to rates that reflect the current risk when a FIRM is revised or updated.

### **The Role of Flood Maps and Levees**

Mapping and identifying flood hazards enables informed, smart development and encourages communities to adopt and enforce minimum floodplain management regulations. These efforts minimize the financial impact of flooding on individuals and businesses, and mitigate the effects of flooding on new and improved structures.

FEMA consistently releases new flood maps and data, giving communities across America access to helpful, authoritative data that they can use to make decisions about flood risk, enabling safer development and rebuilding following disasters. FEMA is required to review community flood maps every five years and assess whether to revise or update them based on current conditions.

Flood hazard conditions are more accurately captured now as a result of FEMA's Risk Mapping, Assessment, and Planning (Risk MAP) program.

FEMA began implementing the Risk MAP program at the start of Fiscal Year (FY) 2009. Risk MAP not only addresses gaps in flood hazard data, but uses that updated data to form a solid foundation for risk assessment and floodplain management, and to provide local, state and tribal governments with information needed to mitigate flood-related risks. Risk MAP is introducing new products and services extending beyond the traditional digital flood maps produced in Flood Map Modernization, including visual illustration of flood risk, analysis of the probability of flooding, economic consequences of flooding and greater public engagement tools. FEMA is increasing its work with officials to help use flood risk data and tools to effectively communicate risk to citizens, and enable communities to enhance their mitigation plans.

FEMA has initiated 600 Risk MAP projects affecting 3,800 communities and addressed their highest priority engineering data needs, including coastal and levee areas.

Regarding levees, FEMA has also reviewed its approach to mapping flood hazards with respect to non-accredited levees. FEMA recognizes that levee systems that do not fully meet the requirements for accreditation may still provide some measure of flood risk reduction.

As a result, FEMA is introducing a new approach of targeted modeling procedures to replace the previous “without levee” approach, that did not recognize a non-accredited levee as providing any level of protection to communities behind the levees during the base (1-percent-annual-chance) flood. These procedures better characterize actual conditions that a community may encounter when addressing non-accredited levees or levee systems.

FEMA devised this new approach by leading a multidisciplinary project team comprised of representatives from FEMA, the U.S. Army Corps of Engineers, and experts from the academic and engineering communities to evaluate technical options for non-accredited levees. The FEMA-led team explored a broad spectrum of levee analysis and mapping procedures. Based on the results of the development, testing, review and public comment efforts, FEMA created and is implementing a levee analysis and mapping approach that is flexible and will produce more precise flood hazard maps and supporting data where levee systems are involved.

FEMA will use these new procedures to produce Flood Insurance Rate Maps (FIRMs), Flood Insurance Study reports, and related products for communities and Tribes impacted by non-accredited levee systems. A core goal of the new procedures includes identifying more precisely the flood hazard associated with levee systems and reflecting the results in the mapping. An important outcome of the effort is also increasing the credibility of FIRMs where non-accredited levee systems exist.

The new approach, accompanied by operating guidance, will be applied to a limited number of projects during FY 2013, and other future mapping projects will be prioritized as additional funding is available.

FEMA Regional Offices will be in contact with communities to identify participants for a discussion about their local levee system and to facilitate a Local Levee Partnership Team as needed.

This team will be comprised of FEMA and community representatives to provide input and guide the implementation of the approach.

### **Educating Stakeholders and Implementing the Provisions of Biggert-Waters**

FEMA has undertaken significant steps to inform its policyholders and stakeholders about these changes to the NFIP, including educating:

- Insurance agents selling flood insurance;
- Realtors, the banking community, floodplain managers, insurance executives and others;
- Political leadership at local, state, tribal and federal levels;
- Disaster survivors so they can be informed should they choose to rebuild; and
- Affected policyholders, who will receive notification from their insurance company in their bills explaining changes.

The Act has also necessitated programmatic changes to the NFIP itself, including its processes and regulations. Areas specifically impacted by Biggert-Waters include actuarial sciences, insurance underwriting, floodplain management and floodplain mapping.

FEMA is actively meeting with affected communities throughout the country to discuss these changes. This summer, Associate Administrator for Federal Insurance and Mitigation David Miller traveled to Louisiana and Mississippi to see and hear first-hand the potential impacts of the law on policyholders. Additionally, many FEMA staff participated in outreach meetings with national and regional associations and communities to provide information on the new law. While in the Gulf Coast region, it was very clear that there are challenges to implementing the law when premiums may exceed \$10,000 or in more high risk areas where homes are not easily elevated or bought out. In the Gulf Coast, many policyholders are required to have insurance and live near the industry jobs that support our national economy. In states with recent disasters like New Jersey and New York, communities are going through the process of adopting new maps as a result of increased risks found in mapping completed both pre-and post-disaster.

### **The Role of Mitigation in Affordability**

As the NFIP transitions toward full risk rates, there will be significant increases in premiums for some subsidized and grandfathered structures. Individuals whose properties are at risk of flooding may lack the resources to make prudent risk management and mitigation decisions, including the decision to relocate, mitigate or purchase adequate insurance.

Pursuant to the provisions in Biggert-Waters, FEMA is charged with completing a study with the National Academy of Sciences to explore ways to: encourage/maintain participation in the NFIP, methods to educate consumers about the NFIP and flood risk, and methods for establishing an affordability framework for the NFIP, including implications of affordability programs for the NFIP and the Federal budget. The Academy estimates that it will likely take at least two years to complete the study due to the need to obtain data on policy-holders and their incomes.

There are steps the public can take to minimize their risk of damage should a flood occur, as well as to reduce premiums. FEMA's Hazard Mitigation Assistance (HMA) programs provide funds for projects that reduce the risk to individuals and property from natural hazards. These programs enable mitigation measures to be implemented before, during and after disaster recovery. Local jurisdictions develop projects that reduce property damage from future disasters and submit grant applications to the state. The states submit applications to FEMA based on state criteria and available funding. The HMA programs include:

- Hazard Mitigation Grant Program (HMGP) - The Hazard Mitigation Grant Program provides grants to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during recovery from a disaster.
- Mitigation Assistance Grants - The Mitigation Assistance Grants program provides funds from the National Flood Insurance Fund on an annual basis so that measures can be taken to reduce or eliminate risk of flood damage to buildings insured under the NFIP.

FEMA encourages property and business owners concerned about potential rate increases as a result of Biggert Waters to contact their local community planning, emergency management or State Hazard Mitigation Officer to learn more about implementing these mitigation efforts.

### **Conclusion**

FEMA administers the NFIP to help communities increase their resilience to disaster through risk analysis, risk reduction and risk insurance. The NFIP helps individual citizens recover from the economic impacts of flood events, while providing a mechanism to reduce exposure to flooding through compliance with building standards and encouraging sound land-use decisions.

FEMA looks forward to working with the Congress as Biggert Waters is implemented.

Thank you again for the opportunity to appear before you today. I am happy to answer any questions you may have.