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January 25, 2022

The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency
500 C St SW, Washington, DC 20024

**RE: Request for Information on the National Flood Insurance Program's
Floodplain Management Standards (Docket ID: FEMA-2021-0024; 86 FR 56713
[October 12, 2021])**

Dear Administrator Criswell:

Thank you for the opportunity to respond to the above-captioned request for information. As FEMA considers updating minimum floodplain management regulations for communities to receive flood insurance through the National Flood Insurance Program (NFIP), REALTORS® appreciate the invitation to help inform these efforts prior to a regulatory proposal.

REALTORS® support encouraging communities to adopt higher building standards in order to avoid future flood damage and costly retrofits. The design requirements and current standard to build to the 100-year flood height generally do not vary between inland and coastal areas where flooding is more damaging. FEMA has demonstrated that these standards do not provide the same level of protection they did 50 years ago¹ and that the benefits of setting higher standards (e.g., one foot above the 100-year flood height) would exceed the additional cost of construction especially in coastal areas.² Building with a reasonable margin of safety would also reduce the number of property owners who inadvertently build too low in high-risk areas and are later surprised by significant NFIP rate increases or costly retrofit requirements after a property is substantially damaged by a flood.

¹ FEMA conducted several NFIP evaluation studies including one assessing the adequacy of the 1 percent annual (100-year flood) standard and one evaluating the NFIP's building standards. Both of these studies can be found at <https://www.fema.gov/flood-insurance/rules-legislation/2006-evaluation>

² For FEMA's cost benefit analysis, please see the 2008 Supplement to the 2006 Evaluation of the NFIP's Building Standards (2013) at <https://www.fema.gov/flood-insurance/rules-legislation/2006-evaluation>; also please see the 2019 Natural Disaster Mitigation Saves report at <https://www.nibs.org/projects/natural-hazard-mitigation-saves-2019-report>



REALTORS® support the full transparency, disclosure, and accurate mapping of flood risk so that property buyers and owners can make informed decisions, including:

1. Continuing to implement Risk Rating 2.0: Equity in Action to provide up front the full cost of insuring each property.
2. Flood mapping by property rather than flood zone. The Technical Mapping Advisory Council has recommended property-specific mapping which has been successfully implemented by the state of North Carolina.³
3. Expanding mapping to all of the U.S. and including areas at high risk due to urban, repeated, and future flooding.⁴ While detailed engineering studies may be required for regulatory determinations, a scientific methodology like the one used by realtor.com⁵ could help consumers to make more informed real estate decisions.

REALTORS® would not support excluding states from the NFIP for not adopting or enforcing a real estate disclosure requirement. All 50 states already require the disclosure of known material adverse facts or conditions, including past flood damage, and many states have additional requirements related to flooding.⁶ However, these requirements vary from state to state and are often established by a state agency, not the legislature, or found in common law as interpreted by the courts. It is unclear how the local governments which administer NFIP's floodplain management regulations, would legally enforce standards governed by a separate state agency or court. Congress would also have to significantly expand FEMA's resources, expertise, authority and personnel to oversee such requirements.

NAR is not aware of any studies by FEMA or other entities showing that a NFIP disclosure requirement would enable communities to constrict or avoid the development of special flood hazard areas, assist in reducing flood damage, or otherwise improve land use and management pursuant to 42 USC §4102. Meanwhile, excluding states including Florida, New Jersey, and South Carolina, which collectively represent more than 40 percent of NFIP's policyholders, would be costly to both property owners and taxpayers.

Instead, REALTORS® recommend that FEMA disclose the full NFIP claims history of each property to buyers and renters, as well as owners before real estate transactions are completed. This is critical additional information for consumers, and could be achieved by issuing a routine use exception to the Federal Privacy Act.

Again, thank you for the opportunity to comment. REALTORS® applaud FEMA for requesting public input at such an early stage in the rulemaking process, and we look forward to working with the Agency to assist in updating the NFIP's floodplain management regulations to address modern flooding challenges across the United States.

Sincerely,



Leslie Rouda Smith
2022 President, National Association of REALTORS®

³ Please see TMAC's annual reports, particularly from 2015 and 2016, at <https://www.fema.gov/flood-maps/guidance-reports/technical-mapping-advisory-council/reports>

⁴ According to the Association of State Floodplain Managers, FEMA currently maps less than one third of the nation's stream miles and only half the coastline: <https://www.floods.org/whats-new/flood-mapping-for-the-nation/>

⁵ See <https://firststreet.org/flood-factor/> for more about the methodology.

⁶ The Legal Research Center identifies the flood-related disclosure requirements in every state here: <https://www.nar.realtor/national-flood-insurance-program/state-flood-hazard-disclosures-survey>