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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2012-0012]

National Flood Insurance Program Nationwide Programmatic Environmental Impact Statement

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability of a draft nationwide programmatic environmental impact statement and notice of public meetings.

SUMMARY: The Federal Emergency Management Agency (FEMA) has prepared a draft nationwide programmatic environmental impact statement (NPEIS) evaluating the environmental impacts of proposed modifications to the National Flood Insurance Program (NFIP). This Draft NPEIS includes an evaluation of the potential impacts to the natural and human environment associated with the NFIP at a nationwide programmatic level, as well as an evaluation of impacts of alternative proposals to modify the NFIP. Public meetings and public outreach opportunities will be held during the comment period on the Draft NPEIS. The Draft NPEIS is available for download at www.regulations.gov under Docket ID FEMA-2012-0012.

DATES: FEMA will conduct public meetings and webinars on the Draft NPEIS. For information on the dates, times, and locations for the public meetings or to register for an online webinar, visit <https://www.fema.gov/programmatic-environmental-impact-statement>.

The public comment period on the Draft NPEIS starts with a concurrent publication through the U.S. Environmental Protection Agency of a notice in the Federal Register and will continue until June 6, 2017. FEMA will consider all comments recorded at the public meetings and all electronic and written comments on the Draft NPEIS received or postmarked by June 6, 2017. Agencies, interested parties, and the public are invited to submit comments on this Draft NPEIS at any time during the public comment period.

ADDRESSES: FEMA will hold public meetings to allow the public an opportunity to learn more about the project and to provide comments on the Draft NPEIS. In addition to the public meetings, FEMA has organized a series of online webinars. Similar to the in-person public meetings, during the webinars, FEMA will present information about the Draft NPEIS and accept comments on the Draft NPEIS. For information on the dates, times, and locations for the public meetings or to register for an online webinar, visit <https://www.fema.gov/programmatic-environmental-impact-statement>.

You may submit comments, identified by Docket ID FEMA-2012-0012, using one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Search for Docket ID FEMA-2012-0012 and follow the instructions for submitting comments.

Mail/Hand Delivery/Courier: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C St. SW., Washington, DC 20472.

Instructions: All submissions received must include the FEMA Docket ID.

Regardless of the method used for submitting comments or materials, all submissions will be publically available, become part of the public record, and may be printed in the

Final NPEIS. Therefore, submitting this information makes it public. All personally identifiable information, such as name or address, voluntarily submitted by the commenter may be publicly accessible.

FOR FURTHER INFORMATION CONTACT: For more information on the NPEIS, contact Bret Gates, FEMA, Federal Insurance and Mitigation Administration, Floodplain Management Division, 400 C Street SW., Washington, DC 20472, or via email at Bret.Gates@fema.dhs.gov, or by phone at 202.646.2780.

SUPPLEMENTARY INFORMATION: Flooding has been, and continues to be, a serious risk in the United States. To address the need, in 1968, Congress established the NFIP as a Federal program to provide access to federally backed flood insurance protection. The NFIP is a voluntary Federal program through which property owners in participating communities can purchase Federal flood insurance as a protection against flood losses. In exchange, communities must enact local floodplain management regulations to reduce flood risk and flood-related damages. However, the power to regulate floodplain development, including requiring and approving permits, establishing permitting requirements, inspecting property, and citing violations, requires land use authority. The regulation of land use falls under the State's police powers, which the Constitution reserves to the States, and the States delegate this power down to their respective political subdivisions. FEMA has no direct involvement in the administration of local floodplain management ordinances or in the permitting process for development in the floodplain.

In addition to providing flood insurance and reducing flood damages through floodplain management, the NFIP identifies and maps the nation's floodplains. Maps

depicting flood hazard information are used to promote broad-based awareness of flood hazards, provide data for rating flood insurance policies, and determine the appropriate minimum floodplain management criteria for flood hazard areas.

On average, flooding continues to be the single greatest source of damage from natural hazards in the United States, causing about 82 deaths and \$8 billion in property damage annually. Today, more than 22,000 communities participate in the NFIP, with more than 5.1 million flood insurance policies in effect, providing over \$1.2 trillion in insurance coverage. The NFIP serves as the foundation for national efforts to reduce the loss of life and property from flood disaster. In 2011, former FEMA Administrator Craig Fugate reported to the Senate Committee on Banking, Housing, and Urban Affairs that implementation of the NFIP minimum floodplain management requirements is estimated to save the nation about \$1.7B annually through avoided flood losses.

The proposed modifications to the NFIP are needed to (a) implement the legislative requirements of the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) and the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA); and (b) to demonstrate compliance with the Endangered Species Act (ESA). As stated in the draft NPEIS the need to implement the legislative requirements of BW-12 and HFIAA arises from the recent concerns over the fiscal soundness of the NFIP.

This Draft NPEIS considers four alternatives and describes the potential environmental effects of each alternative. The four alternatives include:

- Alternative 1 (No Action)
 - The No Action Alternative refers to the current implementation of the NFIP. The No Action Alternative is prescribed by Council on

Environmental Quality regulations (40 CFR 1502.14(d)) and serves as a benchmark against which impacts of the alternatives can be evaluated.

- Alternative 2 (Legislatively Required Changes, Floodplain Management Criteria Guidance, and Letter of Map Change [LOMC] Clarification) (Preferred Alternative)
 - Phase out of subsidies on certain pre-FIRM properties (non-primary residences, business properties, severe repetitive loss properties, substantially damaged or improved properties, and properties for which the cumulative claims payments exceed the fair market value of the property) at a rate of 25 percent premium increases per year.
 - Phase out of subsidies on all other pre-FIRM properties through annual premium rate increases of an average rate of at least 5 percent, but no more than 15 percent, per risk classification, with no individual policy exceeding an 18 percent premium rate increase.
 - Implement a monthly installment plan payment option for non-escrowed flood insurance policies.
 - Clarify that pursuant to 44 CFR 60.3(a)(2), a community must obtain and maintain documentation of compliance with the appropriate Federal or State laws, including the ESA, as a condition of issuing floodplain development permits.
 - Clarify that the issuing of certain LOMC requests (i.e., map revisions) is contingent on the community, or the project proponent on the

community's behalf, submitting documentation of compliance with the ESA.

- Alternative 3 (Legislatively Required Changes, Proposed ESA Regulatory Changes, and LOMC Clarification)
 - Phase out of subsidies on certain pre-FIRM properties (non-primary residences, business properties, severe repetitive loss properties, substantially damaged or improved properties, and properties for which the cumulative claims payments exceed the fair market value of the property) at a rate of 25 percent premium increases per year.
 - Phase out of subsidies on all other pre-FIRM properties through annual premium rate increases of an average rate of at least 5 percent, but no more than 15 percent, per risk classification, with no individual policy exceeding an 18 percent premium rate increase.
 - Implement a monthly installment plan payment option for non-escrowed flood insurance policies.
 - Establish a new ESA-related performance standard in the minimum floodplain management criteria at 44 CFR 60.3 that would require communities to obtain and maintain documentation that any adverse impacts caused by proposed development, including fill, to ESA-listed species and designated critical habitat will be mitigated to the maximum extent possible.

- Clarify that the exception to the no-rise performance standard in the floodway applies only to projects that serve a public purpose or result in the restoration of the natural and beneficial functions of floodplains.
- Increase the probation surcharge applicable to NFIP communities placed on probation from \$50 to \$100.
- Clarify that the issuance of certain LOMC requests (i.e., map revisions) is contingent on the community, or the project proponent on the community's behalf, submitting documentation of compliance with the ESA.
- Alternative 4 (Legislatively Required Changes, ESA Guidance, and LOMC Clarification)
 - Phase out of subsidies on certain pre-FIRM properties (non-primary residences, business properties, severe repetitive loss properties, substantially damaged or improved properties, and properties for which the cumulative claims payments exceed the fair market value of the property) at a rate of 25 percent premium increases per year.
 - Phase out of subsidies on all other pre-FIRM properties through annual premium rate increases of an average rate of at least 5 percent, but no more than 15 percent, per risk classification, with no individual policy exceeding an 18 percent premium rate increase.
 - Implement a monthly installment plan payment option for non-escrowed flood insurance policies.

- Utilize the existing performance standard in 44 CFR 60.3(a)(2) to implement a new policy/procedure requiring communities to ensure that, for any floodplain development for which a floodplain development permit is sought, the impacts to ESA-listed species and designated critical habitat are identified and assessed and, if there are any potential adverse impacts to such species and habitat as a result of such development, that the community obtain and maintain documentation that the proposed floodplain development will be undertaken in compliance with the ESA.
- Clarify that the issuance of certain LOMC requests (i.e., map revisions) is contingent on the community, or the project proponent on the community's behalf, submitting documentation of compliance with the ESA.

Public Involvement and Comments

During the public comment period, FEMA will host several in-person public meetings and online webinars to receive comments on the Draft NPEIS. Public meetings will include an overview presentation and an opportunity for the public to present oral comments or submit written comments on the Draft NPEIS. Meeting locations and times are listed under the project Web site <https://www.fema.gov/programmatic-environmental-impact-statement>.

Speakers will be asked to provide brief comments to allow adequate time to hear all comments. Should any speaker desire to provide further information for the record that cannot be presented within the designated time, such additional information may be submitted at the meeting, electronically, or by letter at the address provided on this notice

by June 6, 2017. Speakers are encouraged to provide a written version of their oral comments at the in person meetings to ensure that their comments are completely and accurately recorded.

FEMA requests that reviewers provide specific information and comments on factual errors, missing information, or additional considerations that should be corrected or included in the Final NPEIS. Comments on the Draft NPEIS should be as specific as possible and address the adequacy of the NPEIS or the merits of the alternatives discussed (40 CFR 1503.3).

Individual respondents may request confidentiality. The names, street addresses, and city or town information of those providing comments will be part of the administrative record, and will be subject to public disclosure unless confidentiality is requested. Such a request must be stated prominently at the beginning of the comment. We will honor requests to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety, consistent with applicable law.

Comments submitted during this public comment period will be considered in preparation of a Final NPEIS and used by FEMA in its decision-making process for the Federal action. After gathering public comments, FEMA will review and provide

responses in the Final NPEIS according to 40 CFR 1503.4. A Record of Decision addressing the Federal action will be issued by FEMA no sooner than 30 days following the distribution of the Final NPEIS.

Authority: 42 U.S.C. 4331 et seq.; 40 CFR part 1500; FEMA Instruction 108-1-1.

Dated: March 29, 2017

Robert Fenton,
Senior Official Performing the Duties of the Administrator,
Federal Emergency Management Agency.
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