

October 21, 2016

Submitted via [www.regulations.gov](http://www.regulations.gov)

Adrian Sevier  
Regulatory Affairs Division  
Office of Chief Counsel  
Federal Emergency Management Agency  
8NE-1604, 500 C Street SW  
Washington, DC 20472-3100

RE: Seeking Public Comment on FEMA's Proposed Implementation of the FFRMS;  
Docket ID: FEMA-2015-0006

Dear Mr. Sevier:

On behalf of the 55 undersigned conservation and taxpayer organizations, we are pleased to submit this letter of comment on the Federal Emergency Management Agency's (FEMA) proposed rule (81 Fed. 57402) to implement Executive Order 13690 and the Federal Flood Risk Management Standard (FFRMS).

Flooding is already the most common and costly natural disaster in the United States and its economic, environmental, and social impacts are of great concern to our members. These impacts are anticipated to increase over time due to the effects of climate change. Recognizing, climate change is exacerbating the nation's vulnerability to flooding, we strongly believe action must be taken at the Federal level to improve the resilience of our communities, and to preserve and protect the nation's floodplains. Executive Order 13690 and the FFRMS not only reinforces the original intentions of Executive Order 11988 – "to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains" but expands upon it by requiring the Federal government to "take action, informed by the best-available and actionable [climate] science," to improve the nation's resilience to flooding.

Thus, how FEMA chooses to implement the Executive Order and the FFRMS will have long lasting fiscal, social, and environmental implications. FEMA is a leader in disaster management, preparedness, and response, and a significant funder of infrastructure at the state and local level through its pre- and post-disaster mitigation programs. In general, we support FEMA's proposal, but believe reforms must be made to the proposed rule to truly attain the intentions of the executive order to preserve and protect our floodplains and increase community resilience to flooding.

- I. FEMA's approaches to protecting non-critical infrastructure and describing flood conditions are good policy decisions.
  - a. FEMA's use of the Freeboard Value Approach for non-critical projects is an effective mitigation approach

We support FEMA's use of the Freeboard Value Approach for non-critical projects as an effective means to mitigate flood risk. Multiple states and local communities have already implemented elevation requirements that either meet or exceed the elevation requirements required under the FFRMS. Also, we are pleased FEMA will comply with higher state, tribal, territorial, or local government flood risk standards when such standards are more protective than those indicated in the proposed framework. Complying with higher state and local elevation requirements helps to encourage and support communities to adopt higher floodplain protection standards.

- b. FEMA's change of flood terminology is a sound decision

We appreciate FEMA's decision to replace references to the "100-year flood" and "500-year flood" with the "1 percent annual chance flood" and "0.2 percent annual chance flood." Labeling floods using the former terms can cause confusion, and an underestimating of the true flood risk. This change in terminology more accurately portrays the risk.

- c. FEMA's commitment to coordinate with other agencies is necessary to achieve the important goals of Executive Order 13690

We appreciate FEMA's commitment, as outlined in its supplementary policy guidance, to coordinate with other agencies in the implementation of the FFRMS. Such coordination amongst the federal agencies that may play a role in implementing the FFRMS is essential to avoid contradictory rules and duplicative procedures that undermine the important goals of the Executive Order, fail to adequately protect public safety, produce projects that unnecessarily harm the environment, and waste taxpayer dollars.

- II. FEMA must change certain aspects of the proposed rule to satisfy the intentions of the executive order to protect our floodplains and to encourage resilient communities.

- a. FEMA must provide more direction on the use of nature-based approaches

We support ensuring that natural features, including green infrastructure, are included as practicable alternatives for preserving the floodplain, but remain concerned that the proposal does not provide adequate guidance on how to incorporate natural systems, ecosystem processes and nature-based approaches. We urge FEMA to define how to consider natural systems, ecosystem processes and nature-based approaches specifically for riverine systems and to direct recipients of FEMA grants who must comply with these standards to credible sources of information.

- b. FEMA must utilize the Climate-Informed Science Approach as the first choice to determine the flood risk for critical projects

Additionally, we believe FEMA's proposal concerning the protection of critical, federally-funded projects falls short. FEMA's proposed use of the Climate Informed Science Approach (CISA) as a secondary option for determining the FFRMS floodplain and corresponding level of resiliency to which critical projects must be built is not acceptable. Given that critical projects, such as the rebuilding of hospitals and nursing homes after a flood, are deemed projects for which

even a slight chance of flooding would be too great, these projects must account for the impacts of climate change. This is especially true for coastal areas. Sea level rise must be accounted for in planning and designing of critical projects to fully account for future flood risk. Failure to evaluate sea level rise over the next several decades would be an egregious oversight when deciding what to build, where to build, and how to build in coastal environments. As such, the CISA should be the primary approach for determining the FFRMS floodplain and the corresponding level of resilience to which critical infrastructure projects must be built. The FVA should only be used if it provides a higher level of protection over the CISA.

c. FEMA must narrowly define what constitutes an “emergency action.”

Lastly, while we understand the provision in EO 13690 that exempts “emergency actions” from application of the FFRMS, we urge the agency to narrowly define what constitutes an “emergency action.” In the proposed revisions to 44 CFR 9.7, FEMA proposes to adopt the exceptions outlined in Executive Order 13690 in their entirety, which includes an exception for “emergency actions.” However, FEMA has failed to adequately define and differentiate the term “emergency action” from “emergency work.” The latter provides an exception to work performed under sections 403 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988. However, FEMA makes clear in its definition of the term “emergency work” the two are different terms. Thus, FEMA must provide a definition to ensure the “emergency action” exception is not abused.

We look forward to working with you on this important matter. For any further information, please contact Marisa Escudero at Water Protection Network at [EscuderoM@nwf.org](mailto:EscuderoM@nwf.org).

Sincerely,

**American Rivers**

Eileen Shader  
Director, River Restoration

**Atchafalaya Basinkeeper**

Dean Wilson  
Basinkeeper

**Apalachicola Riverkeeper**

Dan Tonsmeire  
Riverkeeper

**Butte Environmental Council**

Natalie Carter  
Executive Director

**Arkansas Wildlife Federation**

Ellen McNulty    Jim Wood  
Vice President    Board Member

**The Citizens Committee to Complete the  
Refuge [San Francisco Bay Area]**

Carin High  
Co-Chair

**Association of Northwest Steelheaders**

Bob Rees  
Executive Director

**Center for Biological Diversity**

Jaclyn Lopez  
Florida Director

**Columbia River Crab Fisherman's Association**  
Dale Beasley  
President

**Committee on the Middle Fork Vermilion River**  
Clark Bullard  
Director

**Conservation Council for Hawai'i**  
Marjorie Ziegler  
Executive Director

**Delaware Riverkeeper Network**  
Maya Van Rossum  
Delaware Riverkeeper

**Endangered Habitats League**  
Dan Silver  
Executive Director

**Environmental Action Committee of West Marin (EAC)**  
Morgan Patton  
Executive Director

**Florida Wildlife Federation**  
Manley Fuller, III  
President

**Freshwater Future**  
Cheryl Kallio  
Associate Director

**Friends of Black Bayou**  
Robert Eisenstadt  
President

**Friends of Blackwater**  
Judith Rodd  
Director

**Friends of the Mississippi River**  
Alicia Uzarek  
Policy Advocate

**Friends of the Santa Clara River**  
Rom Bottorff  
Chairman

**Galveston Bay Foundation**  
Bob Stokes  
Executive Director

**Great Egg Harbor Watershed Association**  
Fred Akers  
Administrator

**Great Rivers Environmental Law Center**  
Bruce A. Morrison  
General Counsel

**Great Rivers Habitat Alliance**  
David Stokes  
Executive Director

**Hoosier Environmental Council**  
Indra N. Frank, MD, MPH  
Director of Environmental Health and Water Policy

**Izaak Walton League of America**  
Scott Kovarovics  
Executive Director

**Kentucky Resources Council, Inc.**  
Tom FitzGerald  
Director

**Kansas Wildlife Federation**  
Steven Sorensen  
Conservation VP

**Kentucky Waterways Alliance**

Bijaya Shrestha  
Water Policy Director

**League of Ohio Sportsmen**

Larry Mitchell, Sr.  
President

**Miami Waterkeeper**

Rachel Silverstein  
Executive Director, Waterkeeper

**Michigan Environmental Council**

James Clift  
Policy Director

**Minnesota Division Izaak Walton League  
of America**

John Crampton  
President

**Mississippi River Network**

Jennifer Browning  
Executive Director

**Missouri Coalition for the Environment**

Heather Navarro  
Executive Director

**MnDak Upstream Coalition**

Trana Rogne  
Steering Committee Chair

**National Wildlife Federation**

Adam Kolton  
Vice President of Federal Advocacy

**Natural Heritage Institute**

Gerald Meral, PhD  
Director, California Water Program

**Nebraska Wildlife Federation**

Duane Hovorka  
Executive Director

**The Passaic River Coalition**

Laurie Howard  
Chair, Board of Trustees

**The Ozark Society**

Alice B. Andrews  
Conservation Chair

**Prairie Rivers Network**

Carol Hays  
Executive Director

**Rivers Alliance of Connecticut**

Margaret Miner  
Executive Director

**The River Project**

Melanie Winter  
Founder, Director

**Save Our Wild Salmon Coalition**

Joseph Bogaard  
Executive Director

**Save the River/Upper St. Lawrence  
Riverkeeper**

Lee Willbanks  
Executive Director/Riverkeeper

**Save the Cape, Inc.**

Michael Rice  
Director

**Sound Rivers Inc.**

Travis Graves  
Lower Neuse Riverkeeper

**Sound Rivers, Inc.**

Matthew Starr  
Upper Neuse Riverkeeper

**Southern Environmental Law Center**

Sierra Weaver  
Senior Attorney

**Surfrider Foundation**

Stefanie Sekich-Quinn  
Coastal Preservation Manager

**Water Culture Institute**

David Groenfeldt  
Director

**Taxpayers for Common Sense**

Steve Ellis  
Vice President

**West Virginia Rivers Coalition**

Angie Rosser  
Executive Director

**Water Alliance**

Paul Schwartz  
Director