



National Association of Flood & Stormwater Management Agencies
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NAFSMA Position On Flood Risk Management Issues *(Modified and Approved June 17, 2010)*

I. Introduction

The National Association of Flood and Stormwater Management Agencies (NAFSMA), since its founding in 1978, has represented state and local public agencies nationwide. It is an association committed to improving and ensuring the continuation of water resource projects and programs of interest to flood and stormwater management agencies.

NAFSMA's mission is to advocate public policy, encourage technologies and conduct education outreach to facilitate and enhance the achievement of the public service functions of its member agencies. NAFSMA is committed to working with federal agencies and other groups to resolve flood risk management issues.

Needed flood damage reduction, environmental restoration and watershed planning projects face significant cost increases and missed opportunities for safety, economic, and environmental improvements while waiting for federal approval and funding. Local, regional, and state agencies are facing severe economic hardships, many facing layoffs and furloughs within their own individual organizations. While it is always important, during these tough economic times it is imperative that we all find ways to reduce costs, expedite studies, minimize reviews and accelerate permitting so we all can be proud in building projects that reduce the loss of life and property from flood threat while at the same time using public dollars to put people to work.

II. Flood Management Committee Mission Statement

The Flood Management Committee coordinates and resolves member issues related to federal flood risk management programs, regulations, and funding. The committee maintains active liaison relationships with the Army Corps of Engineers, Federal Emergency Management Agency (FEMA) and other federal agencies involved with federal flood risk management programs, regulations and funding. Particular emphasis is on the Water Resources Development Act, Clean Water Act, Watershed Protection and Flood Prevention Act, National Dam Safety Program, National Levee Safety Act and other acts, programs, implementation and/or policy guidance originating in the federal government.

III. General Statement

- a. NAFSMA encourages coordination among the federal agencies involved in flood risk management and related activities so that federal policies are developed and implemented in an integrated and consistent fashion.**

For example, the Corps of Engineers and FEMA have worked work closely together in recent years on levee and other flood risk management project issues. NAFSMA encourages continued coordination especially in the levee certification, planning, risk communication, operation, and maintenance areas.

- b. NAFSMA strongly encourages the recognition of regional diversity and local responsibility in the development of new, and implementation of existing, policies and programs; and inclusion of local, regional, and state entities in the development of policies, programs, regulations, and guidance.**

NAFSMA understands the need for national policies and programs. However, NAFSMA also encourages recognition of the regional diversity in the United States, the difficulty of a “one size fits all” approach, and that local and regional entities have the lead role and responsibility in local land use decision making.

- c. NAFSMA is concerned about emerging policies, procedures, programs and/or laws that have been, and continue to be, promulgated after the Gulf Coast Hurricanes of 2005.**

For example, NAFSMA supports development and implementation of quality projects; however, the additional internal and external reviews now required will increase the time and costs, but are not likely to improve project quality. Also, NAFSMA supports the risk based analysis method being developed for evaluation of alternatives for new projects, but recommends that non-federal sponsors be included in the development of guidelines for such analysis and reporting of results.

- d. NAFSMA understands the need for certain changes to federal policy and laws and is willing and ready to assist in the deliberations in a timely manner.**

NAFSMA has provided comments on the National Committee on Levee Safety Report, the initial drafts of the proposed update of the Principles and Standards for Water Resources Implementation Studies, and draft legislation. NAFSMA also presented testimony to the House Committee on Transportation and Infrastructure on the Recommendations of the National Committee on Levee Safety and WRDA 2010.

- e. NAFSMA recommends that when a new policy, guidance, or law is enacted, a reasonable transition period or grandfather clause is allowed for studies, issued permits, and projects underway to avoid unreasonable and undue hardships or time delays, subject to the non-Federal sponsor’s request for accelerated implementation**

- f. NAFSMA supports the Department of Homeland Security’s efforts to study and deploy security measures to help protect levees and other flood risk reduction facilities.**

NAFSMA is actively participating and currently chairs the Levee Sub-Sector Coordinating Council.

- g. NAFSMA recommends a federally-led unified, targeted climate change research effort to establish public policy based on best-available scientific research, and estimate future climate change conditions for each hydrological region. NAFSMA encourages strong and deliberate interagency cooperation and coordination among federal agencies, and the inclusion of state and local officials in the research and policy development.**

IV. Federal Authorization/Appropriation Issues

NAFSMA members utilize all available means (private, local, state, and federal programs and funding sources) in order to provide and maintain the flood protection projects, emergency repairs, and programs necessary to reduce the risk of loss of life and property damage in a cost effective and environmentally sensitive manner. Many projects are of such a scope and magnitude that local and state programs do not have the resources to implement them and the federal government is called upon to aid in their realization. NAFSMA members and the federal government realize that projects and programs that reduce flood risks are beneficial and that minimizing flood

losses, either structurally or non-structurally, is a better posture for the government than responding to a flood disaster with local, state and federal recovery programs.

Members are only afforded certain opportunities to seek federal projects and federal funds. Further, projects and policies evolve over time to respond to local, state and federal needs. The federal authorization and appropriation bills are the mechanism to pursue policy changes, project language and funding of needed flood risk management and watershed projects.

- a. **NAFSMA supports biennial Water Resources Development Acts as a means to seek new projects, modify previously authorized projects, and to seek policy changes that support programs that reduce flood risks, restore ecosystems, provide quality recreation, and improve the environment in our communities.**
- b. **NAFSMA recommends that NAFSMA representatives be included in the development of the Policy Guidance for applicable sections of WRDA 2007 and for subsequent Water Resource Development Acts.**

This recommendation supports positions III. b, c, and d. above.

- c. **NAFSMA encourages the federal government to make sufficient annual appropriations and to provide total funding for individual studies that support flood risk reduction projects, programs, and studies.**

Specifically, increase the amount of funding for water resource projects, rather than reallocate current appropriations. Providing total funding for studies will reduce the time and costs to complete studies by reducing the numerous slowdowns and restarts that currently occur due to lack of funding or funding uncertainty.

- d. **NAFSMA recommends developing a process for establishing flood risk reduction study and project priorities in the U.S.**

With increasing budget limitations and increasing need for flood risk reduction, it is time to develop a process to establish national priorities that are both realistic and fair. The priority recommendations would be provided to the Congress and the President who make the ultimate decisions.

- e. **NAFSMA supports periodic review and modification of all laws, regulations, policies, procedures, and guidance to expedite implementation of flood risk management and water resource projects.**

For example,

- the Corps of Engineers efforts to reduce the time to identify projects and reduce redundancies and unnecessary steps by utilizing the Lean Six Sigma Process,
- the inclusion of Section 2033, “Planning” in WRDA 2007 establishing a goal to complete feasibility studies in 2-4 years, and
- the inclusion of Section 2045, “Streamlining” in WRDA 2007 that reduces delays by addressing reviews and dispute resolution.

The ongoing effort to update the Principles and Guidelines is also a good opportunity to reduce the planning and study time and costs.

- f. **NAFSMA supports implementation of 18 of the 20 recommendations made by the National Committee on Levee Safety and continuation of the committee to assist with accomplishing the**

national objectives. (For NAFSMA's comments on the recommendations and their implementation, see nafsma.org.)

NAFSMA urges prompt implementation for those recommendations for which there is broad support and consensus. For those recommendations where support and consensus has not yet been reached NAFSMA supports continued evaluation and discussions.

- g. NAFSMA supports the current federal project cost sharing of sixty-five percent federal/thirty-five percent local. NAFSMA further supports the development of incentives that, if implemented by the community, would allow the project cost sharing to be modified upwards to seventy-five percent federal/twenty-five percent local.**
- h. NAFSMA supports policies and programs that allow local implementation of federal projects where advantages and effectiveness can be demonstrated and agreements that allow for reimbursement of the project's federal share such as Section 211 of WRDA 1996.**
- i. NAFSMA supports full funding of the U.S. Geological Survey's streamgaging programs – the Cooperative Water Program and National Streamflow Information Program. Stream gage data is the backbone of our national and local water resources projects, programs, and everyday operations.**
- j. NAFSMA supports Corps of Engineers development of scope and cost estimates for work needed, for those Corps-owned and operated projects which do not meet National Flood Insurance Program accreditation criteria or the Corps' Inspection of Completed Works criteria, to bring those projects into conformance with the more stringent of those criteria. NAFSMA also supports the Corps of Engineers performing the needed work.**
- k. NAFSMA encourages the Corps of Engineers to develop guidance and policies for deauthorizing all or portions of federally authorized and constructed projects that have exceeded their useful life or where other preferred alternatives (e.g. nonstructural) exist that can provide the same benefits.**

V. Planning and Feasibility Study Issues

NAFSMA members and the federal government work together on Feasibility Studies to identify projects that qualify for federal involvement and are acceptable to local communities. To improve the quality of the projects, reduce the time to complete the study, and improve the federal/local partnerships, specific issues are presented below.

- a. NAFSMA supports the evaluation of all reasonable project alternatives ranging from structural to nonstructural flood risk management solutions and programs.**
- b. NAFSMA supports multi-objective efforts within an entire watershed, also known as integrated water resources planning and management, that includes flood risk management, water quality, ecosystem restoration, environmental preservation and enhancements, aesthetics, and/or recreation.**
- c. NAFSMA supports a planning process and procedures that strive for a balance between economic, environmental, and social benefits and encourages multi-objective flood risk management projects.**

The current effort to update the Principles and Guidelines for Water Resources Implementation Studies is a good opportunity to incorporate factors such as environmental enhancement or preservation in addition to economics in plan evaluation and selection. More “weight” needs to be given to environmental and preservation activities to reflect more accurately the true benefit to the community and ultimately to encourage more widespread incorporation of such measures.

- d. NAFSMA supports collaborative planning and partnerships that are formed amongst all parties, including local, state, and federal agencies, with the goal being to seek participant consensus on recommended flood risk management and water resource projects.**
- e. NAFSMA advocates the federal government use of true costs and benefits incurred by the local sponsor for lands, easements, rights-of-way, utility or public facility relocations, and dredged or excavated material disposal areas (LERRDs), construction, environmental mitigation, operation and maintenance during the feasibility phase of the project. The true costs include those costs mandated by laws, rules, and regulations of local, state, and federal governments.**
- f. NAFSMA recommends the elimination of Preconstruction Engineering and Design cost sharing agreements.**
- g. NAFSMA supports non-federal sponsors receiving full credit for all legitimate project related expenses, similar to credit received by the Corps of Engineers for project related expenses.**
- h. NAFSMA supports non-federal sponsors receiving credit (include in LERRD costs) for CERCLA activities necessary for project execution.**

VI. Operation, Maintenance, Repair, Replacement and Rehabilitation Issues

It is essential to perform maintenance activities before a project becomes functionally impaired or failures begin. NAFSMA advocates normal operations and maintenance activities be allowed to be performed so that the flood risk mitigating aspects and multi-objective aspects of a project can be met and the community can realize the project benefits. NAFSMA members are also seriously concerned about aging flood risk management infrastructure throughout the nation. Flood risk management projects constructed under Public Law 566 and other federal programs are nearing the end of their useful life (50-year design life). NAFSMA advocates the rehabilitation of the aging flood risk management infrastructure in order to address critical public health and safety issues throughout the nation.

- a. NAFSMA recommends federal assistance with federal environmental permitting from the Corps of Engineers and other federal agencies, to enable timely and needed operations and maintenance activities for federal flood damage reduction projects and other non-federal projects.**
- b. NAFSMA supports the inclusion of federal permitting in operation and maintenance manual or a watershed or watercourse plan that allows the local agency to perform the required maintenance and/or construction without the need to obtain additional federal permits.**

For example, the permit should include provisions in Engineering Technical Letter 1110-2-571 which addresses vegetation maintenance on levees and embankments, and should preempt enforcement of other regulations and policies inconsistent with the ETL.

- c. **NAFSMA encourages federal support and financial assistance with research and development of economical ways to perform operation, maintenance, repair, rehabilitation and replacement of flood risk management infrastructure such as levees, dams, channels, drainage structures, tidegates, and floodgates, that have outlived their useful life.**
- d. **NAFSMA supports a review of all flood risk management projects that have been constructed in partnership with the federal government to determine what programs and funding are required to repair, replace, and/or rehabilitate the aging infrastructure.**
- e. **NAFSMA supports changes to the Project Partnership Agreement (PPA) that would limit the contractual liability of operation, maintenance, repair, replacement and rehabilitation (OMRR&R) requirements on the local sponsor to the design life of the project.**
- f. **NAFSMA advocates the Corps of Engineers, Natural Resource Conservation Service and FEMA develop clear and concise rules and/or regulations to eliminate any conflicts as far as which agency is responsible to provide federal assistance for repair, rehabilitation, or replacement after a federal emergency declaration.**
- g. **NAFSMA strongly recommends that the Corps of Engineers reconcile conflicting requirements arising between internal Corps of Engineers policies and regulations involving construction projects, routine maintenance, emergency repair work, habitat analysis, vegetation management, and environmental regulations. The Corps of Engineers should internally resolve issues rather than rely on local agencies to resolve and pay for conflicting direction.**

For example, the conflict between Corps-promulgated maintenance requirements (e.g. R.I.P. requirements to remove vegetation near levees) and Corps environmental requirements (e.g. costly mitigation for removing riparian vegetation).

VII. Permitting

NAFSMA members understand that environmental issues must be addressed and/or mitigated to allow project construction. Of concern to NAFSMA members is the reasonable application of Section 404 permits nationwide.

- a. **NAFSMA supports the development of reasonable guidelines, standards and mitigation requirements that recognize regional differences.**
- b. **NAFSMA advocates environmental permits be issued and mitigation requirements be completed for long term operations and maintenance activities before a new civil works project is turned over to the local sponsor thereby avoiding any future issues that would restrict or prohibit the operations and maintenance activities.**
- c. **NAFSMA encourages the Corps of Engineers to better coordinate with all local, state and federal agencies to streamline the issuance of federal permits, and to reconcile any differences in Corps of Engineers policies and regulations.**
- d. **NAFSMA supports and encourages the Corps of Engineers to make personnel available to participate with members early and throughout the planning, design and permitting phases of new civil works projects to address all environmental issues and regulations in order to obtain the necessary permitting in a timely and uncontested manner. Also, NAFSMA supports the**

development of mechanisms, such as the use of mediation, to encourage the resolution of policy discrepancies.

- e. NAFSMA supports adequate Agency funding for regulatory permitting.**