



National Association of Flood & Stormwater Management Agencies

PO Box 56764, Washington, DC 20040
202-289-8625 | www.nafsma.org

NAFSMA Position On Flood Management Issues

(Reviewed July 2018)

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 risk management, ecosystem 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. It is imperative that we collectively find ways to reduce costs, expedite studies, minimize reviews and accelerate permitting so we can deliver projects to the community that reduce the loss of life and property from flood threat, improve the natural environment, and create and sustain jobs.

II. Flood Management Committee Mission Statement

The Flood Management Committee coordinates and resolves member issues related to planning, funding, constructing, and maintaining flood risk management projects. The committee maintains active liaison relationships primarily with the US Army Corps of Engineers (USACE), but also the Federal Emergency Management Agency (FEMA) and other federal agencies involved with federal flood risk management programs, regulations, policies, 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 similar acts, programs, implementation and/or policy guidance originating in the federal government.

III. General Statement

- a. NAFSMA encourages active engagement 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, USACE and FEMA have worked closely together in recent years on levee and other flood risk management issues. NAFSMA encourages continued coordination especially in the levee certification, planning, risk communication, operation, and maintenance areas.

- b. NAFSMA 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 federal policies that are promulgated in response to specific localized flood events. Applied broadly, such policies often create procedures or programs that impede, not improve the planning and implementation of flood risk management projects.

For example, some of the requirements instituted after the 2005 Gulf Coast hurricanes resulted in more requirements and reviews that increased the time and cost of planning studies without improving the projects themselves. Also, vegetation management guidelines for levees that are contradictory to some existing USACE operation and maintenance manuals have led to confusion and uncertainty for some local sponsors on how to proceed with maintenance.

- d. NAFSMA understands the need for certain changes to federal policies and laws and wants to engage in the deliberations in a timely manner.

NAFSMA provided comments on the National Committee on Levee Safety Report, the initial drafts of the proposed update of the Principles and Standards for Water and Land Related Resources Implementation Studies, Draft Guidelines for Implementing Executive Order 13690, and draft legislation. NAFSMA also presented testimony to the Senate Committee on Environment and Public Works on WRDA, and to the House Committee on Transportation and Infrastructure on WRDA, the Waters of the US Rule, and the Recommendations of the National Committee on Levee Safety.

- e. NAFSMA recommends that when a new federal policy is issued 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 dams and levees and other flood risk management infrastructure.

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

- g. NAFSMA supports the interagency Climate Change & Water Working Group’s (C-CAWWG) action plan to provide scientific collaborations in support of water management as climate changes.

The action plan calls for the development and implementation of a multi-agency research and knowledge transfer agenda that spans the hydrologic cycle. Furthermore, the plan is driven by sound water management and planning principles and encourages the inclusion of state and local officials in the research, knowledge transfer, and policy development. (The agencies are USACE, USGS, NOAA, and Bureau of Reclamation.)

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 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. Furthermore, 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 (WRDA) 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.

There have been 11 WRDA (and WRRDA) bills passed since they began in 1974 – 1974, 1976, 1986, 1988, 1990, 1992, 1996, 1999, 2000, 2007, and 2014. The biennial goal has not been met very often. To efficiently manage and implement a national comprehensive and effective water resource program, biennial WRDAs are needed.

- b. NAFSMA encourages the federal government to make sufficient annual appropriations and to provide total funding for flood risk management projects.

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

- c. NAFSMA recommends USACE develop a process with stakeholders for establishing flood risk management and ecosystem restoration study and project priorities in the U.S.

With decreasing budgets and increasing need for flood risk management, 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.

- d. NAFSMA supports the development of a National Levee Safety Program that is voluntary and incentive based and includes qualified states, local and regional flood control districts.

A levee rehabilitation and repair fund and incentives for sound flood risk management at all levels of government are critical elements of a National Levee Safety Program.

- e. NAFSMA supports the current federal project cost sharing of sixty-five percent federal/thirty-five percent local, but would support options to provide for a sliding cost share formula for federally-partnered flood risk management projects.

NAFSMA members urge that the 35% local cost share be reduced for non-federal sponsors where the community is carrying out sound floodplain management activities and have or would have

achieved a strong rating from FEMA as part of the Community Rating System program, or are taking special actions to preserve natural areas and increase community resiliency. Such incentives have been successful at the state level.

- f. NAFSMA supports laws, policies, and programs that allow local implementation of federal projects and reimbursement or credit of the project's federal share advanced by the non-federal sponsor where advantages and effectiveness can be demonstrated.

Current examples are Section 1014, WRRDA 2014 (local lead for planning, design, and construction; reimbursement); Section 221 of the Flood Control Act of 1970, as amended by Section 2003 of WRDA 2007 and Sections 1018-1022 of WRRDA 2014 (crediting); Section 1043, WRRDA 2014 (local lead for feasibility studies, design and construction pilot program; federal funding transferred to local lead); and advanced and contributed funds.

- g. NAFSMA supports full funding of the U.S. Geological Survey's stream gaging 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 daily operations. Over time, the USGS has not picked up the cost increases in the Cooperative Water Program (initially 50% federal/50% cooperator), resulting in a current cost share of about 25% federal/75% local. Many cooperators cannot afford the increasing costs and have discontinued critical stream gages. Restoring the 50/50 cost share for the Cooperative Water Program and increasing the National Streamflow Information Program (100% federal) is needed for government agencies and the public to make better water supply, flood control, navigation, environmental, flood warning and life safety design and operation decisions.

- h. NAFSMA supports USACE development of scope and cost estimates for work needed on USACE-owned and operated projects that do not meet National Flood Insurance Program accreditation criteria or the USACE Inspection of Completed Works criteria, to bring those projects into conformance with the more stringent of those criteria. NAFSMA also supports USACE performing the needed work.
- i. NAFSMA encourages USACE 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.
- j. NAFSMA encourages USACE to complete the levee vegetation policy review required under WRRDA 2014.

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 studies, and improve the federal/local partnerships, specific issues are presented below.

- a. NAFSMA supports the evaluation of reasonable project alternatives ranging from structural to nonstructural flood risk management solutions and programs.
- b. NAFSMA supports a planning process that encourages multi-objective projects that balance economic, environmental, and social benefits. NAFSMA further supports project objectives that include flood risk management, water quality, ecosystem restoration, environmental preservation and enhancements, aesthetics, and/or recreation where feasible.

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- c. NAFSMA supports collaborative planning and partnerships that are formed among all parties, including local, state, and federal agencies, with the goal of seeking participant consensus on recommended flood risk management and water resource projects.
 - d. NAFSMA supports USACE's current Civil Works Transformation effort that includes expediting completion of feasibility studies.
 - e. NAFSMA supports non-federal sponsors receiving full credit for project related expenses, similar to credit received by USACE for project related expenses.
 - f. NAFSMA supports non-federal sponsors receiving credit (including LERRD costs) for CERCLA activities necessary for project execution.
 - g. NAFSMA supports selection of a USACE National Economic Development Plan (NED) that represents a viable and permissible project in the location where it would be constructed.

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

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 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 encourages federal support and financial assistance with research and development of economical ways to perform operation, maintenance, repair, rehabilitation and replacement of federal flood risk management infrastructure such as levees, dams, channels, drainage structures, tide-gates, and floodgates that have outlived their useful life.
- b. NAFSMA supports the active development of the National Levee Database.
- c. 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.

If there is no financial commitment by the federal government to recapitalize and rehabilitate projects, then more of the long term service and/or decommissioning decision-making should reside with the local sponsors.

- d. NAFSMA advocates USACE, Natural Resource Conservation Service and FEMA develop clear and concise rules and/or regulations to eliminate any conflicts regarding which agency is responsible to provide federal assistance for repair, rehabilitation, or replacement after a federal emergency declaration.

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 encourages USACE to better coordinate with local, state and federal agencies to streamline the issuance of federal permits, and to reconcile any differences in USACE policies and regulations.
- c. NAFSMA supports appropriate funding and staffing levels at USACE District Regulatory offices for the timely processing of permits for infrastructure projects and maintenance.
- d. NAFSMA supports and encourages USACE to make personnel available to participate with non-federal sponsors early and throughout the planning, design and permitting phases of new civil works projects.
- e. NAFSMA supports amending the Clean Water Act, Section 404 to allow longer terms for routine channel and basin maintenance general permits (currently limited to 5 years).
- f. NAFSMA urges USACE to provide environmental permits and complete its mitigation requirements before a new civil works project is turned over to the non-federal sponsor, thereby reducing future issues that would restrict or prohibit operations and maintenance activities.