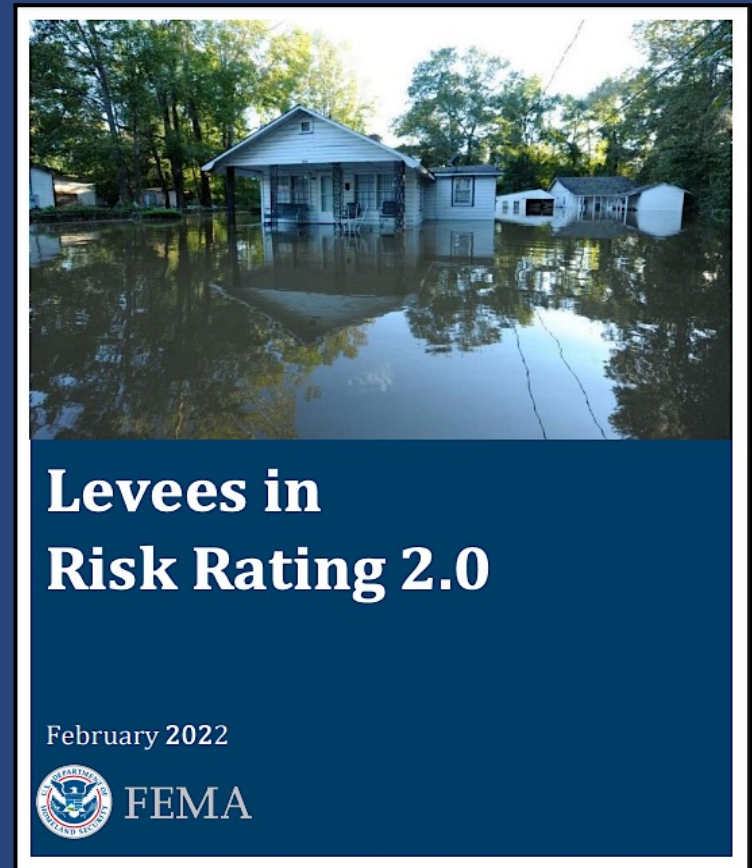


NFIP and Fed Levee Safety Programs

Three Things to Know...

Dan Delich

NWC Annual Meeting, October 3, 2023
Sacramento, California



(1) Our Intergovernmental (democratic) Response to Flooding is Being Eroded (part a)

- Flood Insurance Act requires FEMA to “consult with ... State and local agencies having responsibilities for flood control, flood forecasting, or flood damage prevention, in order to assure that the programs of such agencies and the flood insurance program ... are mutually consistent.” (42 U.S.C. §4024)

...this consultation never happened on Risk Rating 2.0, an “entirely new system,” “generational change” and “transformational leap,” says FEMA

(1) Our intergovernmental (democratic) response to flooding is being eroded (part b)

- WRRDA 2014 reauthorized a non-Federal stakeholder Committee on Levee Safety “to submit... ..an annual report regarding the effectiveness of the levee safety *initiative*” with information “that describes the independent recommendations of the Committee”. (33 U.S.C. §3302)
- In a January 20, 2022, *Federal Register* notice, the Corps revealed that, “After each time the Committee provides recommendations, USACE and FEMA will inform the Committee within a reasonable amount of time whether the recommendations were incorporated or reasons the recommendations were not incorporated.”

(1) Our Intergovernmental (democratic) Response to Flooding is Being Eroded (part c)

- Under the **USACE** “Risk-Informed Decision Making” (RIDM) process for levees, decisions are consigned to the Fed and...
 - Like w/ FFRMS, an arbitrary tolerable risk standard is set in isolation from cost
 - It’s unclear how alternatives are objectively evaluated and under RIDM
 - Local risk preferences?
 - Willingness to pay?
 - Why RIDM instead of CBA as is widely practiced and applied throughout Fed regulation?

(1) Our Intergovernmental (democratic) Response to Flooding is Being Eroded (part d)

- Corps-FEMA National Levee Safety Initiative...

Where are...?



National Levee Safety Guidelines Team Composition

Jamie Mcvicker

- Author Teams (Multi-discipline/ Technical Subject Matter Experts)
 - Develop individual chapter content
- Guidelines Management Team (Federal Partners)
 - Help ensure technical accuracy and national applicability
- Publication Support Team
 - Perform technical editing and provide graphic support

24:10 / 1:15:44

https://mmc.sec.usace.army.mil/NLSP_website/Videos/NLSP%20Stakeholder%20Webinar%20-%20National%20Levee%20Safety%20Guidelines-20230411%201627-1.mp4

(2) Administrators of the NFIP Require Competent Oversight (part a)

- We rely on state-based insurance oversight and regulation for private auto, homeowners, etc.
 - For flood insurance, i.e., NFIP, policyholders rely on Congress to serve as FEMA's overseer and regulator... and it isn't going well
 - ensure premium rates be "reasonable" to "encourage prospective insureds" (42 U.S.C. §4014)
 - 1 in 3 premium dollars goes private insurers; not claims, flood map improvements
 - FEMA declared in 2017 PEIS that "Congress made it clear that it was their intent to continue the existing cross-subsidies within the NFIP" under HFIAA 2014 and eliminating grandfathering "is an alternative that can only be implemented through legislative action."
- ... Four years later FEMA eliminated grandfathering without an Act of Congress

(2) Administrators of the NFIP Require Competent Oversight (part b)

- Current **FEMA** Office of the Flood Insurance Advocate (HFIAA 2014) should be overhauled
 - Proposed “Flood Insurance Fairness, Oversight, Integrity, and Transparency Act of 2023” would overhaul OFIA to—
 - install new Oversight unit in IG office of HSD
 - review and advise on soundness and reasonableness of NFIP premiums
 - Make public and fully transparent all data and methods
 - Require use of recurrent APA-style rulemaking
 - Establish policyholder premium appeal process
 - Examine impact of premiums on low-moderate income policyholders, home values, local property tax revenues
 - Review and audit Flood Insurance Fund and Flood Insurance Reserve Fund
 - Examine and assess contributions of community wide flood mitigation (e.g., levees)

3. Transparency Breeds Legitimacy



FEMA and the Corps fail to reconcile their model data with observational data... and block public disclosure and scrutiny