Challenges of Agricultural Structures in the Floodplain

2018 FMA Annual Conference
September 5, 2018
Challenges of Agricultural Structures in the Floodplain

TODAY’S PANELISTS

- Scott Shapiro – Downey Brand
- Mike Inamine - Sutter Butte Flood Control Agency
- Sergio Vargas, CFM, PE - Ventura County Watershed Protection District
- Larry Larson, CFM, PE – Association of State Floodplain Managers
- Rhonda Montgomery – Office of the Flood Insurance Advocate, FIMA

Facilitator – Bruce A. Bender, CFM – ASFPM Insurance Committee Co-Chair
Proposed NFIP Changes for Agricultural Structures

Presented at ASFPM Insurance Committee Early Bird Session on June 20, 2018 by:

Erin Cobb
Floodplain Management Division, FEMA
Congress Directed GAO to Evaluate the Effects of NFIP on Agriculture

- 7/6/2012: Biggert-Waters Act
- 3/21/2014: Homeowner Flood Insurance Affordability Act
- 6/30/2014: GAO Report Published
- 6/15-6/16: GAO Audit
- 12/28/2016: CA AFOTF Tech Memo Published
- 10/4/2017: Final Study Report Published
- 3/7/2018: Phase 2 Kickoff
- Mar 18 - Dec 18: Phase 2 - Policy Development
- April 2019: Insurance Updates to FIM
- 12/31/2018: Publish Final FPM Policy
Phase I: Stakeholder Engagement and Analysis

- Study Achievements: technical foundation for proposed changes
  - Engaged over 300 Stakeholders across 14 States
  - Analyzed stakeholder input to determine common themes
  - Analyzed changes in agriculture industry
  - Analyzed legislative, regulatory, and insurance requirements

What are recent trends in agricultural development?

What challenges do stakeholders have implementing NFIP construction standards?

What challenges do stakeholders have insuring agricultural structures?
Phase I: Observations

There are varying interpretations of “Agricultural Structure”

There are varying interpretations of “Insurable Agricultural Structure”

The process and requirements to allow wet floodproofing for agricultural structures is unclear

Agricultural structures may have a lower damage potential and current insurance rates may be too conservative

Lending requirements drive the purchase of flood insurance

Insurance policy fees and surcharges are a concern to stakeholders
From Analysis to Implementation...

FEMA aims to promote a culture of preparedness and resilience through **smart development** and **mitigation** for agricultural structures.

- **Floodplain Management** – how to meet NFIP standards for construction, especially in wide and deep floodplains.
- **Insurance** - Address required insurance and associated mitigation credits; reduce adverse effects of mandated insurance for low-cost, low-damage potential agricultural structures.
Floodplain Management of Agricultural Structures

- Clarification of “Agricultural Structure”
- Clarification of construction standards for agricultural structures

Proposed Actions

- Floodplain Management Policy for Agricultural Structures
- Floodplain Management Guidance for Agricultural Structures
- Update to Technical Bulletin 7 – Wet floodproofing

Outcomes

*Enhanced policy and guidance will provide clarity and consistency for Floodplain Administrators and owners of agricultural structures*
Insuring of Agricultural Structures

- Clarification of “Insurable Agricultural Structure”
- Development of Insurance Credits for Agricultural Structures

Proposed Actions

- Agricultural Structure Risk Factor Rating Form
- Guidance in Flood Insurance Manual for using Risk Factor Rating Form

Outcomes

Special rating options for agricultural structures address financial concerns from insurance requirements
Path Forward

Concurrent Tasks

1. Brief stakeholders and collect feedback at ASFPM
2. Create Agricultural Structure Rating Form
3. Draft Policy Development and Outline Guidance
4. Conduct Public Comment Period
5. Finalize Policy and Prepare Guidance

June 2018 ................................................................. Final FPM Policy 12/31/18 ............ Implementation
Resources

• GAO Study on Ag Structures in High-Risk Areas (2014) - www.gao.gov/products/GAO-14-583


• www.Floods.org – go to Insurance Committee Webpage; look under Features and Documents
  • FEMA White Paper: Study Recommendations for Agricultural Structures in the Floodplain (7/21/2016)
  • 2018 ASFPM Ag Early Bird FEMA Presentation (June 2018)
Example Questions to the Audience

• The current list of Ag Structures is: Farm Storage Structures, Grain Bins, Corn Cribs, General Purpose Barns.
  • Is that a) too broad, b) too restrictive, c) missing structure types?

• Would model ordinance language for allowing wet floodproofing by-right be an effective tool for you?
  • Yes/No/Maybe

• If the 21st Century Bill passes (no mandatory purchase on commercial structures), would this be a benefit to the farmer?
  • Yes/No/Maybe
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Agricultural Floodplain Management
Scott L. Shapiro
Where did this effort come from?

- Senator Feinstein and Congressman Garamendi submitted a request for a GAO study on the negative impacts of the NFIP on agricultural communities and economies.
- The GAO performed its study and agreed that changes could/should be made to address the impacts of the NFIP on agricultural communities and economies.
- The Agricultural Floodplain Ordinance Task Force approached the issues by examining what is within FEMA’s authority.
- This legislative effort was to address the rest.
H.R. 2170

- The **Flood and Agriculture Risk Management Cost Reduction Act of 2017**
  - Requirement for State and Local Land Use Control (Variance)
  - Levee Impacted Areas
  - Multiple Ag Structure Policy Pilot Program

- No movement in House; now trying Senate.
H.R. 2170 - Variance

- New construction:
  - Neither floodproofing nor elevation is practicable; and
  - That the structure is not located in (i) a designated regulatory floodway; (ii) an area riverward of a levee or other flood control structure; or (iii) an area subject to high velocity wave action or seaward of flood control structures.

- Existing structures:
  - Neither floodproofing nor elevation to the base flood elevation is practicable; and
  - If such structure is located within a designated regulatory floodway, such official has determined that the repair or improvement does not result in any increase in base flood levels during the base flood discharge.

- The variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- Not more than one claim payment exceeding $1,000 has been made for the structure under flood insurance coverage under this title within any period of 10 consecutive years at any time prior to the granting of the variance.
section of law, if a community that applies to the Administrator for the remapping of a levee-impacted area in which the pertinent levee system fails to meet the National Flood Insurance Program’s minimum design, operation, and maintenance standards required for levee accreditation on a flood insurance rate map—

“(A) the Administrator shall establish flood risk zones for those areas on such maps to be known as AL zones; and

“(B) flood insurance shall be made available to properties located within such zones at actuarial rates based upon the risk associated with structures within the applicable AL zones.
Multiple Ag Structures
Multiple Ag Structure Policy Pilot Program
NFIP Reauthorization

- The House Financial Services Committee introduced a suite of bills that were amended and passed the house.
  - Commercial exemption included.
- The Senate Banking Committee did not introduce any bills.
- House and Senate passed short term extensions until after election.
- Our focus has been Senate Committee Members in states with Farm Bureau and HR 2170 support.
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