



National Ground Water Association

Comment on

Federal Emergency Management Agency's Proposed Rule:

Updates to Floodplain Management and Protection of Wetlands Regulations To Implement the Federal Flood Risk Management Standard

Publication Date: 10/02/2023

Comments Close: 12/01/2023

Document Citation: 88 FR 67870

CFR: 44 CFR 9

Agency/Docket Number: Docket ID: FEMA-2023-0026

SUMMARY:

The Federal Emergency Management Agency (FEMA) proposes to amend its regulations to implement the Federal Flood Risk Management Standard (FFRMS) and update the agency's 8-step decision-making process floodplain reviews. FEMA also proposes a supplementary policy that would further clarify how FEMA would apply the FFRMS for critical actions within the 0.2 percent flood area to which even slight flood risk is a significant impact. The proposed rule would change how FEMA defines a floodplain with respect to certain actions, and FEMA would use natural systems, ecosystem process, and nature-based approaches, where possible, when developing alternatives to locating a proposed action in the floodplain.

The revised definitions in the proposed regulation allow for consideration of both current and future flood risks in defining the floodplain to minimize the impact of floods on human health, safety, and welfare and reduce the risk of flood loss. For actions subject to the FFRMS, FEMA proposes to use the updated definition of "floodplain" contained in the Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (Revised Guidelines).

Electronic Link: <https://www.federalregister.gov/documents/2023/10/02/2023-21101/updates-to-floodplain-management-and-protection-of-wetlands-regulations-to-implement-the-federal>

National Ground Water Association Comments

The NGWA applauds FEMA's recognition under § 9.4 Definitions of "Natural and Beneficial Values of Floodplains and Wetlands" of the processes of storing floodwater and groundwater recharge that may occur in the floodplain in response to climate change addressed at § 9.10 - Identify impacts of proposed actions; (d) (2) Natural values-related factors. These values and factors may not be as well understood as the other examples given in the rule and its preamble.

NGWA recommends that the rule be clear that, while floodwater storage and groundwater recharge are actions potentially being funded by federal agencies or through federal financial assistance to other entities, these funded actions may have activities and functions that extend beyond the time and area of a flood and may in fact continue to inundate an area. Structures, including new construction, may be placed in the floodplain or in coastal high hazard areas to provide for floodwater storage and groundwater recharge. Structures may result in continued inundation of floodplain areas, including wetlands. Structures may also be needed to convey stored floodwater away from the floodplain or coastal high hazard areas to groundwater recharge sites such as infiltration basins.

Any damage to managed aquifer recharge (MAR)-related structures (floodwater storage and conveyance and groundwater recharge) could result in a detrimental effect on a community and its water supply beyond the time of a flood event.

The definition of 'New Construction' should include as 'allowed new construction' managed aquifer recharge floodwater storage retention, spillways, injection wells and other built systems that must be located in the floodplain for their intended purpose of supplementing water supply, a positive result for the affected communities.

When managing floodwater for use in water supply storage, caution should be taken to prevent groundwater contamination. The proposed rule should require that consideration be given to avoid the injection of the first flush of stormwater runoff (generally the first runoff from a 1 ½ inch of rainfall) which can contain higher concentrations of potential pollutants or to provide pretreatment of the first flush stormwater prior to injection. These initial responses may require structures in the floodplain to inject floodwater and manage the quality of water prior to injection.

The rule should also acknowledge that MAR-related activities may be subject to state and/or federal regulation such as the U.S. Environmental Protection Agency Underground Injection Control (UIC) program.

Thank you for the opportunity to comment on the proposed rule.

Basis for NGWA comment on the proposed rule

The National Ground Water Association is the largest organization of water well contractors, scientists and engineers, manufacturers and distributors of services and equipment supporting the prudent development of groundwater.

NGWA's position is that groundwater should be managed, drawing on natural processes and water reuse, for providing safe sustainable water supply to communities. (NGWA Position Paper "Sustainable

Groundwater Resources”, 2016, https://www.ngwa.org/docs/default-source/default-document-library/advocacy/position-papers/sustainable-groundwater-resources.pdf?sfvrsn=9faa01bf_2)

For further information and follow up, please contact:

Charles Job
Regulatory Affairs Manager
National Ground Water Association
202-660-0060
cjob@ngwa.org



Address 601 Dempsey Road, Westerville, Ohio 43081-8978 U.S.A.

Phone 800 551.7379 • 614 898.7791 **Fax** 614 898.7786

Email ngwa@ngwa.org **Websites** NGWA.org and WellOwner.org