

A CUMULATIVE STANDARD FOR SUBSTANTIAL IMPROVEMENT : OUR ROCKET TO THE MOON

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SETTING THE STAGE - WHY GO TO THE MOON?

- NFIP critiques – and reform proposals – have increased over the program’s life.
- The increase in scrutiny faced by the NFIP is directly related to the increase in frequency and severity of significant flood disasters.
- NFIP reform proposals often attempt to address symptoms and can have serious unintended consequences.
- A true reform solution would have a central focus on flood risk reduction, using risk as the driver for policy.
- By recognizing and addressing compromises that have been made over the life of the NFIP, a risk-based reform solution can be workable, fair and politically feasible.



WELCOME TO OUR ROCKET – PLEASE FASTEN YOUR SEATBELTS AND PREPARE FOR BLAST OFF

- Please join us on a brief trip to escape the current atmosphere of NFIP reform proposals and gain a fresh perspective on a risk-based reform that could change the way we address flood risk across the nation.
- Our trip has 4 phases:
 - A look at current critiques of the NFIP that are driving reform
 - A discussion of why these reforms are inadequate to truly address the core issue, which is reduction of flood risk
 - A proposal for simple, transformative reform that would reduce flood risk while addressing all of the issues found in the current critiques
 - A brief example of how adopting a cumulative standard for Substantial Improvement could be implemented



THOUGHT EXERCISE – NATURE OF NFIP REFORMS

- Since BW12, NFIP reform proposals have focused on fiscal solvency, focusing on concepts like actuarial rates, surcharges and privatization.
- Risk Rating 2.0 allows some risk reduction to enter the reform conversation, but still within the primary context of restoring financial soundness.
- Is this sort of reform actually treating a symptom of a flawed program that was inadequately focused on reducing risk? What if there was a way to reform the program that shifted the primary focus to risk reduction and the long-term financial stability that comes with reduced exposure to losses?



NFIP CRITIQUES

Discussions related to NFIP reform tend to focus on four core topics:

- Financial Solvency
- Fundamental Fairness
- Affordability
- Efficacy

These topics are not necessarily related to positive outcomes such as increasing the overall number of flood policies or the percentage of flood risk that is indemnified or mitigated, but the nature of the reform conversation means that addressing these issues in some way is a prerequisite to making our moon journey.



CRITIQUE 1: FINANCIAL SOLVENCY

- The debt incurred by the NFIP from paying claims has been the primary discussion related to flood insurance reform since Hurricane Katrina.
- The perception or reality of insolvency is the basis for discussions of program changes, including rate increases, privatization, repetitive losses, actuarial rates.
 - Some of these possible changes may actually have adverse impacts on the program's ability to be financially viable (e.g. proliferation of private flood insurance).
 - Simply increasing policy count, such as with FEMA's current moonshot initiative, may not be a financial positive when viewed solely in the context of the NFIP's finances, as more insured property means more exposure. Reinsurance and spreading risk (both geographically and within the identified flood risk stratification) could offset some of the potential increased exposure.
- The NFIP was not designed to be solvent, so justifying reform based solely on insolvency is disingenuous and myopic.



CRITIQUE 2: FUNDAMENTAL FAIRNESS

- Many argue that continually “bailing out” the NFIP is unfair to those who live out of harms way. Often this commentary is accompanied by photos of multimillion dollar beach homes.
- If the choice is subsidizing the NFIP, where policyholders are at least paying a portion of the total claims payment, or paying out the full amount of recovery costs in disaster assistance, perhaps the NFIP “bail outs” are more fair in the context of this critique.



CRITIQUE 3: AFFORDABILITY

- Raising premiums is a natural response to NFIP solvency and fairness concerns.
- Through BW12 and HFIAA, the reality of a move toward actuarial rates has been made clear, even if the path to achieve full actuarial rating may have been slowed.
- As soon as the first rate increases took effect, flood insurance affordability became a discussion topic.
- Affordability concerns are not surprising – if we take as a given that the program exists because the private sector could not provide reasonably priced flood insurance, we should no be surprised that reducing the premium subsidy actually represents a dramatic change in the flood insurance model.
- The affordability discussion raises important social justice and equity questions.



CRITIQUE 4: EFFICACY

- Efficacy of the NFIP is difficult to measure, in part because of the program's multiple objectives.
- Some measures of efficacy could be policy penetration, risk depiction/map modernization, repetitive loss mitigation or mandatory purchase requirement compliance.
- Looking at the bigger picture, efficacy analysis must be tied to risk reduction, even if that is not the primary stated goal of the program, leading to the following questions:
 - Does the program reduce flood risk?
 - Does the program actually facilitate increased risk?



CRITIQUING THE CRITIQUES

- For the most part, the common critiques of the NFIP have merit.
- These critiques, generally from lawmakers, pundits and talking heads, may not go far enough or may miss the big picture.



CRITIQUE 5: THE FOCUS MUST BE ON RISK

- Looking at common conversation in the floodplain management industry, a 5th critique of the NFIP emerges.
- Put simply, the NFIP was designed to indemnify risk, not reduce it.
- Subsidized premiums are a disincentive to mitigation.
- Available credit in risk-prone areas increases risk in the absence of higher regulatory standards for development and construction.
- NFIP minimum regulatory standards were developed with the assumption that risk would increase (built in surcharge), and that is before accounting for the effects of climate change.
- There has been no wholesale effort to incentivize mitigation.
- In all, there is too little focus on reducing risk.



TRANSFORMING THE DISCUSSION

- Nationally and locally, the discussion about NFIP reform does not advance beyond the point of highlighting program failures and looking for ways to treat symptoms. There is too much to talk about and too many moving parts.
- We need a way to reframe the discussion about flood insurance and the national flood hazard -- and the best way is to go back to the beginning and reframe the discussion as one focused on risk reduction.
- Say the NFIP was merely a bank bailout program, say that it was a pilot program that never matured, say that it was a stopgap to address market failure – but understand that it was not a primary risk reduction program. Perhaps if we change that paradigm we will find the answers we seek.



A WORD ABOUT RISK IDENTIFICATION

- Regardless of the program's origins or goals, we do a very good job at risk identification.
- Risk identification is critical because the risk is inherently location based and the nature of the risk is catastrophic in terms of frequency and severity.
- We can build on risk identification successes in any solution, but we can also find a solution that allows us to address risk outside of our traditional mapped floodplains.
- Even our risk identification paradigm can change, and the current developments with increased LIDAR coverage and proliferation of BLE and nonregulatory products is a giant step in that direction.



REMAINING AT RISK IS THE CURRENT REALITY

- Currently, it is not realistic to have people stop living in risky areas, even after a serious disaster. **Not politically realistic, but also not logistically realistic.**
- At the same time, our predisaster mitigation activities have been a mere drop in the bucket. The BRIC program has interesting potential, but is still operating within the old paradigm that fails to incentivize mitigation on the level of economic decisionmaking.
- The NFIP land use provisions, the NFIP claims payment practices, our overall mitigation strategy and how we handle disaster recovery set us up for continued losses. Even our handling of “repetitive losses” is only scratching the surface, with few properties that are being continually affected by losses even being part of the discussion.



WHAT IF WE COULD CHANGE THE PARADIGM?

- What if structures in flood risk areas had a “time limit”? What if there were a mechanism to make the need to mitigate real, either on an individual property level or on a larger scale?
- What if this shift could be done fairly, in a way that respected the investment that property owners have made and understood that often those who live in flood hazard areas have the fewest resources?
- What if the “time limit” was not arbitrary, but was determined by the actual level of risk?



CUMULATIVE SI AS THE MECHANISM

- Currently, a structure only has to be removed from an area of risk (whether by being moved, demolished or otherwise mitigated) if it is damaged by 50%. This sets property owners and occupants up for loss of life and property.
- Similarly, investment in these structures is allowed without removing the risk, as long as the investment does not exceed 50% at any given time. Again, this sets property owners and occupants up for loss of life and property.
- Viewing SD and SI together, as a joint SI value, and viewing that value as cumulative over the life of the structure, would stop this continued investment and use of structures that are inherently at risk.



CUMULATIVE SI IS MORE FAIR AND MORE COMPASSIONATE THAN OUR CURRENT SYSTEM

- Based on clear regulations that are fairly applied.
- Geographic boundaries based on sound risk identification.
- The frequency and severity of the risk would determine the exact length of the “compliance period” but all existing investment would be allowed time to amortize based on the actual level of risk present.
- Mitigation would be encouraged, because the status quo would not be allowed to continue forever. Mitigation would become a “rational actor” decision.
- Politically viable because prior mitigation opportunity can be offered.
- Logistically feasible because pre-disaster mitigation can reduce disaster response demand.
- Insurance penetration would increase, because individuals would be encouraged to have ICC coverage in place for the eventuality of having to move or elevate.
- After a disaster, ICC could be assigned and pooled and used to help fund mitigation where in-place mitigation is feasible (wholesale elevation, structural projects, etc.).
- At the end of the day, all the mitigation costs would pale in comparison to the disaster response costs, because the mitigation is done in a controlled and planned manner.
- This paradigm shift respects affordability of insurance and takes away the meanspiritedness that often comes when addressing high rates of uninsured properties, and which often fails to consider socioeconomic inequality.



IMPLEMENTATION

- Implementation would need to be universal or at least widespread within an area in order to work.
- Some question exists about what extent of flood hazard area would be the best to use – is the 1% chance standard the best for wholesale mitigation decisions.
- Mitigation framework would need to be updated and be more proactive.
- ICC coverage would need to be expanded to all perils.



TWO IMPORTANT BENEFITS TO THIS APPROACH

- Significant reduction in urban blight – could serve as a real catalyst for redevelopment of aged and blighted areas.
- The only reform proposal that proactively addresses social justice concerns.



IMPLEMENTATION

- A small number of jurisdictions currently implement this cumulative standard in various ways. Largely, these are CRS communities with resources that are likely to have strong outreach and mitigation programs.
- Widespread implementation will be much more difficult, remembering that many participating communities still struggle with basic permitting and post-disaster response.
- In truth, however, once the political hurdles in the local communities are overcome, the actual implementation is easier because resources are available from sources such as NFIP state coordinating offices and State Associations (and their Disaster Response Teams).



IMPLEMENTATION DETAILS

- In Del City, OK (Class 6 CRS Community), we have had cumulative SI in our ordinance since 2009.
- We track based on permit value as a percentage of total structure value at the time of issuance.
- When total percentage of improvements reaches 50% (or more likely, when it would if a structure were to be repaired following a loss), the structure is no longer eligible for a permit (other than one related to demolition).
- Demolition of dilapidated structures is handled outside of the flood damage prevention ordinance (using the provisions of the International Property Maintenance Code).
- The exclusion for work “to correct existing violations” found in 44 CFR § 59.1 was removed so that all investment would be captured.



A NOTE ABOUT URBAN FLOODING

- Cumulative SI, if applied outside of the mapped SFHA, could have real potential with regard to the urban flooding problem.
- That said, this would be a dramatic expansion because individuals making investment in these properties would lack the benefit of pre-investment risk identification that exists in the SFHA.
- There are other ways to address the urban flooding problem that should be evaluated first – but it is important to remember that a significant portion of repetitive loss structures are outside of the SFHA and this number would likely be far larger but for terrible insurance penetration rates in these areas.



ITS WORTH A TRIP TO THE MOON

- What we have is broken – not because it is talk radio fodder, but because our system does very little to address the real people living at risk of loss of life and property.
- Cumulative SI addresses all of the common NFIP critiques, while having real benefits in the area of community redevelopment and blight remediation. Cumulative SI is the only reform proposal that respects the social justice considerations that are inherent to the nature and history of the NFIP.
- Cumulative SI could be our spaceship – allowing us to break free of a seriously flawed paradigm and move forward with real risk reduction while indemnifying that risk where necessary through a more financially viable insurance program.



We hope you enjoyed your trip!

Questions?

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