



May 6, 2015

VIA REGULATIONS.GOV

Mr. Craig Fugate
Administrator
Federal Emergency Management Agency
500 C Street, S.W.
Washington, D.C. 20472-3100

Re: Comments on “Guidelines for Implementing Executive Order 11988, Floodplain Management, as Revised” (Docket No. FEMA-2015-0006).

Dear Mr. Fugate:

The Interstate Natural Gas Association of America (INGAA), a trade association that advocates regulatory and legislative positions of importance to the interstate natural gas transmission pipeline industry in North America, respectfully submits these comments in response to the Federal Emergency Management Agency (FEMA)’s Revised Guidelines for Implementing Executive Order 11988, Floodplain Management.¹

The Executive Order (Order) and the Implementing Guidelines (Guidelines) direct all federal agencies to avoid floodplain development whenever there is a practicable alternative. INGAA supports this notion. However, INGAA is concerned with the implementation and details of the Order including the following:

- (1) the level of discretion afforded to individual agencies to select “choose-your-own” floodplain definitions potentially determined on a project-by-project basis;
- (2) the possibility that agencies could apply the Guidelines retroactively; and
- (3) the lack of guidance available to help agencies implement the “climate-informed science” approach.

I. FEMA should reconsider the “choose your own” definition of a floodplain.

In the revised Order, the Obama Administration expanded the definition of floodplains. The Order requires federal agencies to expand their floodplain oversight from the current base flood elevation associated with the 100-year floodplain to a higher flood elevation and more expansive area. Prior to the issuance of the revised Executive Order, federal agencies relied on the 100-

¹ “Guidelines for Implementing Executive Order 11988, Floodplain Management, as Revised,” 80 Fed. Reg. 6530 (February 5, 2015).

year floodplain (1 percent chance in any year); however, the Order and Guidelines now direct agencies to use one of four methods to define a floodplain:

- A climate-informed approach that uses best available actionable hydrologic and hydraulic data methods that integrate current and future changes in flooding based on climate science;
- A “freeboard approach” that would allow adding two or three feet to the base flood elevation depending on the type of action;
- A 500-year flood approach; or
- The “other” approach that allows the use of an elevation and hazard area calculated from using any other method identified in the Revised Federal Flood Risk Management Standard.²

Allowing the use of multiple definitions will encourage confusion and inconsistency particularly in the context of NEPA reviews where multiple agencies could review a single project. FEMA should reconsider this “choose your own” floodplain definition.

Furthermore, the expansion of floodplain oversight could overly burden the permit process requiring project applicants to undertake costly local climate projections and potentially unnecessary engineering studies. FEMA’s new definition of a floodplain raises potentially significant economic impacts. INGAA urges FEMA to review the foreseeable costs and impacts of using such an expansive definition in relation to the associated reduced risk of flooding. It is not clear from the Order or Guidelines that this analysis has occurred. FEMA should publish an evaluation of the potential regulatory implications of this new definition and request public comment.

II. FEMA should direct federal agencies that these new requirements are not retroactive.

Federal agencies should not apply these new requirements to projects that are currently under review or were approved prior to the issuance of the revised Executive Order. Agencies should be directed to wait until the Guidelines are finalized before they apply these new requirements.

III. FEMA should reconsider the climate-informed science approach.

FEMA’s preferred method to define a floodplain is the climate-informed science approach. However, this approach lacks any supporting methodology or standard for data quality which would create a consistent application across agencies. Without clear guidelines, some agencies could interpret datapoints differently than other agencies and inadvertently create a larger flood plain than necessary. FEMA should take a second look at this approach to determine if clarifications are needed. The climate-informed science approach should not be based on speculation or assumptions.

² “Revised Guidelines for Implementing Executive Order 11988, Floodplain Management”, Section 6, FEMA-2015-0006-0003 (February 5, 2015).

INGAA appreciates your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "BKurdock", with a long horizontal flourish extending to the right.

Brianne Kurdock
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