

X. The Roles of Federal, State, and Local Governments

This chapter is a brief review of the Federal system's established and potentially useful future roles in flood hazards management in relation to its own internal directions, and in its relationships to State and local government and the private sector. As new public institutions take initiatives in policy areas that were traditionally influenced by individual decisions or by the decision of local political jurisdictions, roles must be clarified to reduce uncertainty and promote more cohesive program implementation.

FEDERAL ROLES

This report is written from the perspective of Federal actions and options with regard to the floodplain. Therefore, the question of what the Federal role could or should be with respect to each key element involved in flood hazards management is crucial. Some of these elements are:

- Federal agencies;
- State agencies;
- regional agencies;
- county agencies;
- municipal agencies;
- local groups generally favoring development of flood hazard areas (realtors, builders, developers, local banks, local businesses, and some people and companies that migrate into the region);
- local groups relatively opposed or hostile to development (those with a desire for historical or environmental preservation, and those wishing to preserve community amenities by controlling size and growth);
- the majority of local citizens who often seem to have no fixed opinion in the matter, largely because of inadequate information about risks, hazards, and options; and
- local planners and those involved in response to emergencies whose views of local development vary widely.

The Federal relationship to these public and private elements in the flood hazards system should include a minimum of five functions:

- information production and dissemination,
- managing uncertainty,
- financial assistance,
- technical assistance, and
- coordination within the Federal system and with State and local government and the private sector.

Information

The generation and dissemination of information by the Federal Government through its commitment to research and in its central role in pulling together national and international data could be a major factor in flood hazards mitigation.

Uncertainty

Organizing for the purpose of managing uncertainty is an important role of the Federal Government. The uncertainty may be on the part of the private sector concerning investments, on the part of local community about options and opportunities regarding Federal activities, or on the part of citizens at large or individually about their choices and obligations.

Financial Assistance

Traditionally, financial assistance has taken the forms of physical structures for controlling floods and assistance for emergencies and disasters. Even assuming that established levels of assistance have been sufficient, the Federal system is now trying to determine whether those kinds of investments would be best directed to other functions. As the relative roles in land management of the State and, more particularly, local governments increase, the professional and financial limitations of resources in these communities will limit their ability to respond to community needs and to statutory and regulatory demands. Attention should be given to accurately defining the alternative Federal financial assistance, including technical

assistance and training, offered to State and local governments. As suggested below, in the section discussing policy options, attention could also be given to the utilization of flood insurance premiums as one major financial incentive for implementing regulations at the local level.

Technical Assistance

Disseminating information through technical assistance is also an important Federal role. The increased demands on local governments for setting floodplain management standards, and the initiation of such activities and their promotion through the flood insurance program, are hampered by the inadequate size and experience of local professional planning staffs for drawing up, adopting, and implementing floodplain regulations. Local governments, whether assisted directly or through State governments, need continuing technical assistance from State and Federal agencies. An indication of this need is the fact that the Corps of Engineers had approximately 1,000 requests for technical services in 1968. This has grown to over 30,000 in 1977, for a total of 100,000 requests for technical services in guidance during the intervening years.¹ The Federal Insurance Administration (FIA) had only 100 employees nationwide to offer assistance to 16,000 identified flood program communities and 1,700 comprehensive plan adoptees. It would appear that the level of effort is not adequate relative to the size of the problem. Even in the narrower area of early warning, the demands for technical assistance from the National Weather Service seem to exceed, by a significant degree, its ability to respond.

Studies of innovation and change have established that face-to-face personal communication is the single most effective way to deliver information. Federal, State, and local governments are failing to provide this type of direct technical information. There is an immediate need, therefore, to analyze what must be done to provide such information delivery.

Coordination

There is a need to improve Federal coordination of its own programs, and of its programs with State, local, and private agencies. As of mid-1976, there were at least 28 agencies and 9 programs

dealing with floodplain management alone.² In fiscal year 1974, there were 797 projects involving \$795 million, implemented by 11 agencies operating in 44 different legislative authorities. This fragmentation was shown by a Water Resources Council study. (See table 20.)

The Water Resources Council, the principal organization for achieving Federal coordination, finds that "this service has been done most successfully when technical issues are involved as in the case of the flood frequency procedures bulletin prepared by the Interagency Hydrology Committee." The traditional Federal coordination mechanisms are largely mechanisms for information exchange. It may be that the needed managerial coordination could be achieved under the President's Reorganization Plan for Federal Emergency Preparedness and Response.

Flood hazards management must continue to attend to riverine problems. There are, however, other major opportunities needing attention in metropolitan areas, recreation areas, and the coastal zone. To a great extent, the problems of rural areas are the consequence of poor planning, or the absence of planning accompanied by unchecked, unregulated development. Urban areas, suburban areas, metropolitan fringes, recreational areas and coastal zones, which are continuing to be developed at a relatively vigorous rate, offer opportunities to avoid these historical errors. To implement a long-term plan in new problem areas first may call for interim prohibition of development in questionable areas, and second for positive planning and comprehensive, regulatory management of growth.

In the development of flood hazards management in urban areas, a conflict exists between flood protection and the desire to redevelop urban waterfront areas for such purposes as housing and recreation. The redevelopment of waterfronts is a high-priority community-development project supported by block grant programs in many cities, thus subject to Federal influence. Urban fringes and undeveloped suburban areas at present appear to be giving little attention to hazards or other developmental long-term considerations. Recreational area problems involve second homes to a substantial, but by no means exclusive, degree. It is possible that many people have a lower absolute stake in a second home than they do in their main residence.

¹Alex Shwaiko, Army Corps of Engineers, personal communication, Apr. 3, 1978.

²John A. Kusler, "Discussion Notes" prepared for a Water Resources Council meeting, December 1977.

Table 20.—Federal Elements in Floodplain Management

	Department of Agriculture	Agriculture Research Service	Agriculture Stabilization and Conservation Service	Economic Research Service	Farmers Home Administration	Forest Service	Soil Conservation Service	Department of the Army	Corps of Engineers	Department of Commerce	National Oceanic and Atmospheric Administration	Economic Development Administration	Bureau of Economic Analysis	Department of Health, Education, and Welfare	Public Health Service	Department of Housing and Urban Development	Community Planning and Development	Federal Housing Administration	Federal Insurance Administration	Federal Disaster Assistance Administration	Department of the Interior	Bureau of Land Management	Bureau of Reclamation	Bureau of Outdoor Recreation	Geological Survey	Fish and Wildlife Service	Department of Transportation	Coast Guard	Federal Aviation Administration	Federal Highway Administration	Federal Railway Administration	Federal Power Commission	Small Business Administration	Tennessee Valley Authority	Water Resources Council	
Federal floodplain management and related programs by agency																																				
Flood insurance studies *																																				
Floodplain management services																																				
Floodplain information studies and reports																																				
Riverine																																				
Coastal																																				
Technical and planning services **																																				
Full program																																				
Program element																																				
Flood modifying construction																																				
Flood preparedness, emergency, and recovery																																				
Warning and forecasting																																				
Research																																				
Open space																																				

* Administered by the Federal Insurance Administration through reimbursable technical studies by agency shown.

** Land and water resources.

SOURCE: United States Water Resources Council, *A Unified Program for Flood Plain Management*, 1976, p. VI-3.

S—Staff and funds

F—Funds

G—Grants and loans

I—Incidental

THE ROLES OF THE STATES

The States have both a constitutional and, by custom, an essential role in flood hazards management. They are the intermediaries between the national bureaucracies and the local communities. The police powers constitutionally vested in States are basic for using most of the instruments of effective flood hazards management. The new approach to flood hazards management, would integrate the programs and effectively involve regulations, zonings, codes, land acquisition, and land use planning. All of these tools are closely related to State and local government prerogatives backed by statutory police power.

As the size of disasters increase, the States often require assistance to meet their needs. They are the principal agent requesting Federal assistance. For example, the Presidential declaration of emergency or disaster is initiated by a Governor's request for assistance. Emergency response measures must be coordinated at the State level, since local communities lack the complex infrastructure required to deal with the range of hazards and disasters facing them.

The States are a key element in flood hazards management. They have the option of selectively overriding the local interests of smaller political subdivisions with respect to land use management.

THE ROLE OF LOCAL GOVERNMENT

The local government's role, which is perhaps the most critical to flood hazards management, has relatively the fewest professional, financial, and political resources at its disposal for effectively dealing with problems.

Local government has traditionally been, and still remains, the main target of intervention by short-term parochial interests. Flood hazards management, however, must, of necessity, involve a long-term perspective, thus deferring some short-term benefits. Consequently, the political pressures against effective flood hazards management are particularly strong at the local level. A general sense that growth is good, the desire to improve the tax base, and other local community interests that support building and construction tend to work against long-range planning and management. Local governments are notably lacking both

technical assistance and the resources, to identify the crucial problems they face.

The adequacy of regulatory powers of local governments to comply with the floodplain management provisions of the National Flood Insurance Act of 1968 (with subsequent amendments) and the administrative guidelines promulgated pursuant to the Act were studied in a report prepared in 1976 for FIA by J. A. Kusler Associates. J

They found that more than 10,000 cities, counties, towns, villages, and boroughs have initiated floodplain regulatory programs (at least to the extent that they qualified for national flood insurance). In addition, State agencies are authorized in 23 States to directly regulate floodway and floodplain areas, or to establish minimum standards for local regulations.

In general, local units of government and State agencies only possess those regulatory powers expressly granted or necessarily implied by State enabling statutes. Regulations that exceed the scope of such authority are invalid. However, State or local floodplain zoning, subdivision controls, building codes, and other special regulations adopted and administered in a manner that is consistent with enabling authority are likely to withstand legal challenge.

The Kusler study concluded that:

- In some instances, the adoption of regulations has been hindered by a concern that agencies or local units of government lack sufficient power to adopt specific floodplain regulations or broader zoning, subdivision controls, or building codes containing provisions for the reduction of flood damage.
- With minor exceptions, enabling statutes in all States provide sufficient authority for municipal (city and village) adoption of zoning, subdivision controls, and building codes with flood hazards provisions.
- Rural units of government (counties in most States, towns or townships in others) in all but a few States have been delegated sufficient authority to adopt both zoning and subdivision controls with flood hazards provisions.

¹J. A. Kusler Associates, *Statutory Land Use Control Enabling Authority in the Fifty States*, prepared for the Federal Insurance Administration, November 1976.

- Despite generally adequate enabling authority, issues arise with respect to the scope of particular regulations.
- The types of regulations that have been most frequently authorized and employed for controlling floodplain uses at local and State levels are zoning and subdivision regulations, building codes, and other codes.
- Most floodplain regulation continues to take place at the local level. However, States have assumed some measure of direct or indirect State control over floodplain areas in almost one-half of the States. Direct State control through permit procedures has been authorized for dams, floodway uses, and, to some extent, floodway and flood fringe uses. More often States establish standards for local regulation of flood hazard areas but do not themselves directly regulate areas unless local units of government fail to adopt or enforce regulations meeting State standards.
- Forty-three States have expressly authorized one or more classes of local government (e.g., cities, counties) to specifically adopt zoning, subdivision regulations, or building codes for flood hazard areas or drainage control purposes.
- At the State level, 23 States authorize some measure of floodplain regulation or set standards for local regulations.

Intervention in order to reduce the uncertainties associated with flood hazards management programs is a major challenge faced by the Federal Government. Providing technical information directly, clarifying risks and options, enforcing the adoption, principally through the National Flood Insurance Program, of adequate regulatory plans, and attentiveness to the problems and effectuality of compliance, are all necessary and legitimate Federal interventions.