

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
ARMED SERVICES
BANKING, HOUSING, AND
URBAN AFFAIRS
ENVIRONMENT AND PUBLIC WORKS
VETERANS' AFFAIRS

December 11, 2019

The Honorable Peter T. Gaynor
Acting Administrator
Federal Emergency Management Agency
500 C Street, SW
Washington, DC 20472

Administrator Gaynor:

I am writing to request the Federal Emergency Management Agency (FEMA) to issue guidance regarding the definition and application of its Flood-In-Progress (FIP) standard. Revised guidance for the FIP standard has been under consideration since 2014, which is over five years to date. I understand FEMA is currently working on this guidance; additionally, I understand the FEMA National Advisory Committee submitted draft recommendations on FIP standards. I strongly support FEMA considering these recommendations and issuing FIP guidance expeditiously.

As you are aware, the determination of the start date of a flood-in-progress is based on a number of factors. Currently, a flood-in-progress is generally declared at the time that an insurance policy adjuster is sent out after a flood insurance claim is made. In many instances, an individual may have purchased flood insurance and may believe they have met the 30 day waiting period as required under a National Flood Insurance Program (NFIP) Standard Flood Insurance Policy (SFIP). However, they could still be denied a claim if an adjuster determines that there was a flood-in-progress before the start of the 30-day waiting period. In some instances, different adjusters have identified different flood-in-progress dates for the same community. As a result, some individual claims are not paid. There have been a number of significant flood events that have occurred in South Dakota that have led to recent claim denials because of a flood-in-progress finding.

South Dakota has experienced an extremely wet year in 2019. I am also concerned about the upcoming spring. Snowpack could further saturate the ground leading to additional significant flooding that could potentially extend for months. In recent communications with FEMA, I have been told that guidance on how the agency will address extended periods of floods-in-progress would be coming shortly. I would like to reiterate that this guidance is extremely important and should be issued as soon as possible. Specifically, I request that FEMA issue the revised guidance no later than the end of calendar year 2019 or state by that date in time when new guidance will be issued.

In multiple parts of South Dakota, rivers and lakes both are above their normal levels. Ordinarily, whenever a claim is filed under the NFIP, local adjusters gather information about when a flooding event began. However, thanks to abnormally high water levels in South Dakota, floods develop more slowly – stretching over a time that lasts anywhere from weeks to months to up to a year – which can make it virtually impossible to buy new insurance policies. Because anything

that causes water to pool or flow across normally dry land can create a flood, South Dakota is replete with cases in which the vagueness of flood-in-progress is problematic. Some consumers may also purchase a flood insurance policy without knowing a flood-in-progress has already been identified within their community, thus giving these individuals a false sense of security.

Given these challenges, FEMA's expedient action is critical. Many communities across South Dakota and throughout the country have no private sector alternative to the National Flood Insurance Program. Without additional certainty from FEMA clarifying the definition of flood-in-progress, countless families and businesses will continue to face the challenges I've described.

I look forward to your prompt response to these concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Michael Rounds", with a stylized flourish at the end.

M. Michael Rounds
United States Senator