



**TESTIMONY OF
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**BEFORE THE
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES**

**HEARING ENTITLED
“MITIGATION AND MULTIPLE LOSS PROPERTIES: FACTORS
INFLUENCING THE HIGH COST OF FLOODING”**

MARCH 26, 2026

Thank you, Chair Hill and Ranking Member Waters and members of the Committee for the opportunity to testify today. My name is Joel Scata, and I am a senior attorney for the Natural Resources Defense Council (NRDC). NRDC is a nonprofit organization of scientists, lawyers, and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than three million members and online activists nationwide, served from offices in New York, Washington, Santa Monica, San Francisco, and Chicago.

I have worked at NRDC since 2014. I focus on issues related to preparing the United States for the impacts of climate change, including federal flood policy reform. Prior to joining NRDC, I served as a Peace Corps volunteer in Mali, working to conserve land threatened by desertification.

I. Introduction

Flooding poses a significant threat to life and property and is one of the most common natural hazards in the United States. Ongoing and future changes to the climate, combined with growing population density in coastal and other flood-prone areas, are increasing flood risk, and thus the likelihood of displacement, injury and illness, loss of life, damage to homes, and the failure of critical infrastructure.

Congress intended the National Flood Insurance Program (NFIP) to be a key mechanism for protecting people and communities and reducing flood damages nationwide.¹ Yet, the rising incidents of flood damage across the nation, increasing numbers of repeatedly flooded properties, and the growing debts of the NFIP all indicate the program is failing to achieve its primary purpose.

One need only look at Federal Emergency Management Agency's (FEMA) statistics on Repetitive Loss Properties (RLPs) to see how the current NFIP is failing to address our long-term vulnerability to flooding, sea level rise, and the future impacts of climate change. A recent NRDC analysis of these data show that the number of RLPs has increased each year since the NFIP's inception, in direct contrast to the NFIP's goals. Between the creation of the NFIP in 1968 and 2024, nearly 250,000 properties met the criteria of an RLP.²

However, the number of repeatedly flooded homes in the United States is likely much higher. A property only meets the definition of an RLP based on its flood insurance claim history—so uninsured properties are not included, even if they have experienced multiple damaging floods. The Society of Actuaries estimates that 87 percent of flood damages to single-family homes are not covered by NFIP insurance.³ Expanding flood insurance coverage and reorienting the NFIP to

¹ 42 U.S.C. § 4001(e) (establishing a primary purpose of the NFIP is to encourage state and local governments to constrict development in and guide development away from flood prone areas).

² NRDC, Flooded Again: Flood Data Visualization Tool, *available at* <https://www.nrdc.org/resources/flooded-again-flood-data-visualization-tool>

³ *Id.*

center flood risk resilience would help address these issues. I urge Congress to consider the following recommendations to broaden flood insurance coverage and improve flood mitigation options.

- Increase funding for flood risk reduction and make it faster and easier to access
- Ensure flood-risk maps are up-to-date and account for climate change
- Update the NFIP’s national floodplain development standards
- Grant home buyers and renters the right to know their home’s flood risk

II. The Growing problem of repeatedly flooded properties.

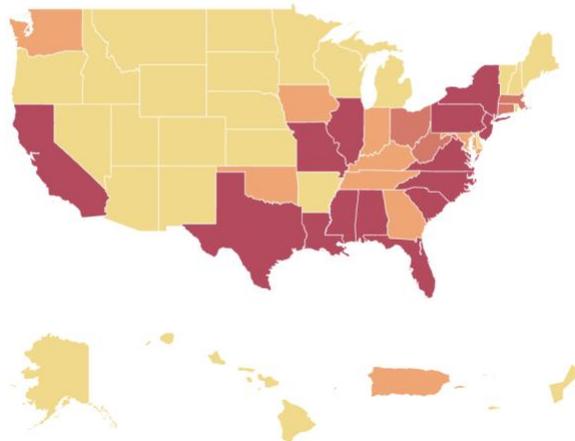
Hundreds of thousands of U.S residents have experienced the danger, stress, and expense of repeated flooding. Flooding happens in every state, but low-income communities and communities of color bear the brunt of flooding impacts⁴ and have the least access to the resources and support needed to reduce those harms.⁵ Data from the National Flood Insurance Program (NFIP) highlight areas that have the most repeated flood insurance claims and help us understand the ways in which the program falls short.

Repetitive Loss Properties (RLPs) are those that have been damaged in at least two floods, resulting in at least two claims to the NFIP. These properties represent some of the most-flood prone properties insured by the NFIP. Over 252,000 properties have repeated flood claims.⁶

HOW MANY PROPERTIES HAVE FLOODED REPEATEDLY?

Total # of Properties by State

Color	Range
Light Yellow	0-1,500
Orange	1,500-2,800
Red-Orange	2,800-3,800
Dark Red	3,800-41,041



⁴ Oliver Wing, et. al., Inequitable patterns of US flood risk in the Anthropocene, *Nature Climate Change* (2022). <https://doi.org/10.1038/s41558-021-01265-6>

Daniel Kusick, Racial Inequalities in Housing Extend to Flood Buyout Programs, *Scientific American* (2020) <https://www.scientificamerican.com/article/racial-inequalities-in-housing-extend-to-flood-buyout-programs/>

⁶ NRDC, Flooded Again: Flood Data Visualization Tool available at <https://www.nrdc.org/resources/flooded-again-flood-data-visualization-tool>

Over 63,000 RLPs are outside of FEMA's mapped high-risk areas.⁷ FEMA is responsible for creating flood risk maps. On these maps, the area identified as higher risk is referred to as the Special Flood Hazard Area (SFHA). Based on its calculations, FEMA expects these high-risk areas to have a 1 percent chance of flooding in any given year. During the lifetime of a standard 30-year mortgage, that equates to a home in the SFHA having a 26 percent chance of flooding at least once.

Surprisingly, about 25 percent of repeatedly flooded homes are outside one of these higher-risk areas.⁸ This illustrates how flood maps can be out of date and do not accurately reflect flood risk. In fact, we know that FEMA's flood maps do not account for sea level rise or changes in precipitation patterns due to climate change. We need up-to-date flood maps that do not just reflect past flood risk but also help us understand changing risks due to climate change.

However, only 16 percent of RLPs have had their risk reduced.⁹ "Flood mitigation" refers to an action taken to reduce risk and decrease the potential for future flood damage to a property. This could include actions like elevating or floodproofing a structure, implementing community flood protection (such as by improving drainage infrastructure or using nature-based solutions), converting a property to open space as part of a voluntary buyout, or even relocating a building outside of the floodplain. FEMA grant programs prioritize RLPs for mitigation assistance. Despite that, only 16 percent of RLPs have ever been mitigated. Grant programs that provide assistance for flood mitigation can be challenging to navigate for both homeowners and their communities. It can take years to get funding, and local governments need to have enough capacity to apply for grants and implement the projects. We need to build communities' ability to mitigate flood risk and make funding more accessible to the communities that need it most.

Nearly 57,000 RLPs were built after flood maps were adopted.¹⁰ FEMA's flood maps not only indicate locations that FEMA considers to be at higher risk of flooding, but they also are used by communities to adopt floodplain management plans regulating where and how floodplain development can take place. On average, we expect homes built before the adoption of local flood maps to have a higher risk, because they were not held to the NFIP's minimum location and construction standards when they were built. If many RLPs in a community were built after the adoption of local flood maps, it suggests that development has been allowed in areas that the local government knows are vulnerable to flooding, or that the minimum floodplain development standards are not sufficient

Nearly a quarter of RLPs have had four or more flood insurance claims over their history. In many cases, those properties qualify as Severe Repetitive Loss Properties (SRLPs), a designation similar to RLPs but for structures with even more frequent or costly flooding. SRLPs represent less than 1

⁷ Id.

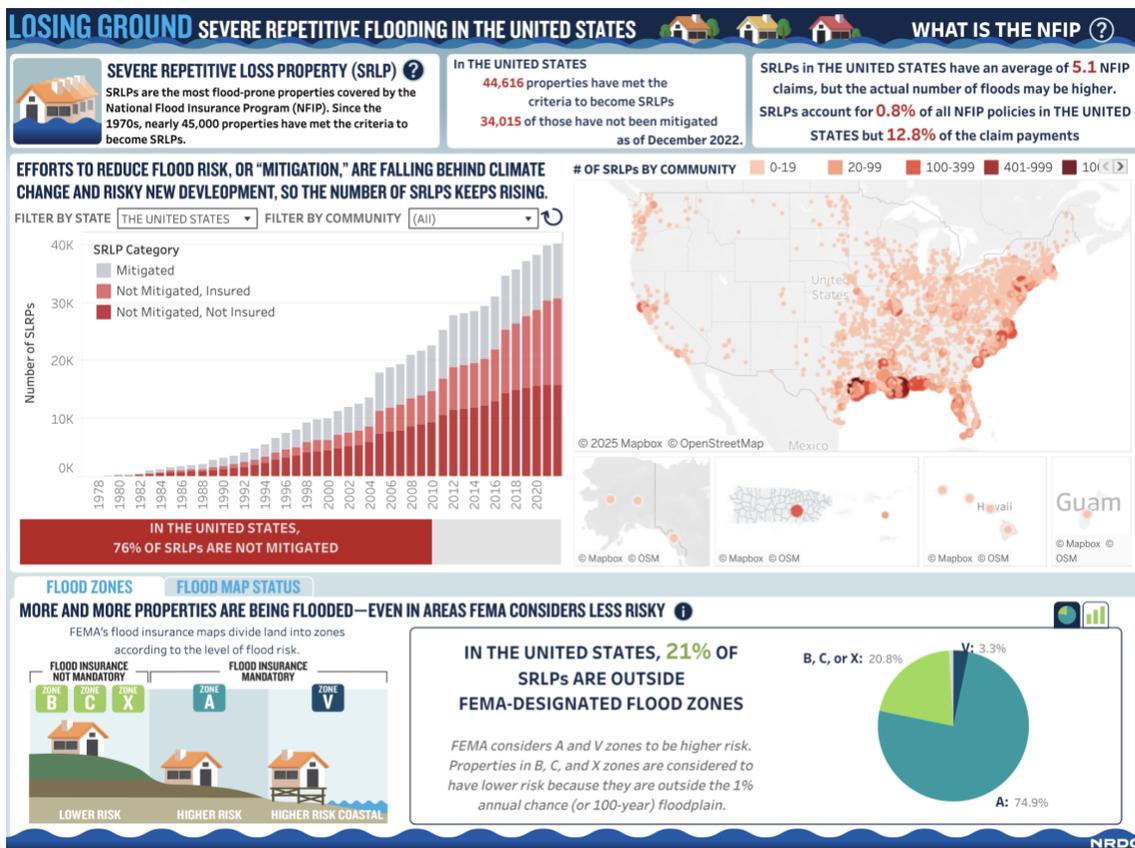
⁸ Id.

⁹ Id.

¹⁰ Id.

percent of all NFIP flood insurance policies, but they have accounted for over 10 percent of claim payments over the history of the program.¹¹ Despite FEMA prioritizing SRLPs for mitigation assistance and providing that assistance at no cost to local/state governments, the numbers of SRLPs continue to rise faster than they are mitigated.¹²

NRDC's Losing Ground dashboard tracks SRLPs across the country. Since the inception of the NFIP, nearly 45,000 properties have met the criteria to become one.¹³ These properties, the most flood-prone structures insured under the NFIP, have flooded about five times each, on average. Between 2018 and 2022, the total number of SRLPs increased by over 7,000, but only an additional 630 received mitigation assistance to reduce their vulnerability to future floods.¹⁴



¹¹ NRDC, Losing Ground: Severe Repetitive Flooding in the United States (2023) available at <https://www.nrdc.org/sites/default/files/losing-ground-severe-repetitive-flooding-faq-fs.pdf>

¹² Department of Homeland Security Office of Inspector General, FEMA Is Not Effectively Administering a Program to Reduce or Eliminate Damage to Severe Repetitive Loss Properties (2020) available at <https://www.oig.dhs.gov/sites/default/files/assets/2020-09/OIG-20-68-Sep20.pdf>

¹³ NRDC, Losing Ground: Severe Repetitive Flooding in the United States (2024) available at <https://www.nrdc.org/resources/losing-ground-severe-repetitive-flooding-united-states>

¹⁴ NRDC, Losing (More) Ground: Updated Severe Repetitive Loss Data (2024) available at <https://www.nrdc.org/bio/anna-weber/losing-more-ground-updated-severe-repetitive-loss-data#:~:text=The%20nation%20is%20falling%20even,SRLPs%20are%20uninsured%20and%20unmitigated.>

Policy gaps at the federal, state, and local level are all contributing to this lack of progress. And addressing these gaps is critical as climate change increases flood risk, putting the households and communities that can least afford it in greater physical and financial danger.

The nation is falling even further behind in addressing flood risk to the most repeatedly flooded properties: only 24 percent of SRLPs have seen action to mitigate their flood risk, down from 27 percent in 2018.¹⁵ In flood-prone states like South Carolina, Michigan, and Rhode Island, less than 10 percent of SRLPs have been mitigated. In fact, over the history of the NFIP, more SRLPs have become uninsured (for example, because the homeowner can no longer afford insurance) than have received mitigation. In West Virginia, for example, 73 percent of SRLPs are uninsured and unmitigated.

The states with the most SRLPs are:

1. Louisiana: 9,935 SRLPs (6,599 not mitigated)
2. Texas: 9,381 SRLPs (7,460 not mitigated)
3. New Jersey: 4,164 SRLPs (3,161 not mitigated)
4. Florida: 3,550 (2,821 not mitigated)
5. New York: 2,213 (1,966 not mitigated)¹⁶

More properties are flooding repeatedly in supposedly low-risk areas: 21 percent of SRLPs are outside FEMA's SFHAs, up from 19 percent in 2018.¹⁷ FEMA's flood maps divide land into zones according to the level of flood risk. Locations with a 1 percent chance of flooding in a given year are considered to be in the "special flood hazard area," which is sometimes referred to as the 100-year floodplain. Most SRLPs are located in these higher-risk areas, but some communities are seeing more flooding in areas outside the mapped floodplain. For example, in Texas, 43 percent of SRLPs are located outside the special flood hazard area, suggesting that the state's flood maps are not accurately capturing current flood risk.¹⁸

The states with the highest proportion of insured, unmitigated SRLPs outside the special flood hazard area (among states with more than 50 SRLPs) are:

1. Texas: 43% outside the SFHA
2. Rhode Island: 28% outside the SFHA
3. Tennessee: 28% outside the SFHA
4. West Virginia: 27% outside the SFHA
5. Georgia: 27% outside the SFHA

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

Newer properties, which should be built to higher standards, are increasingly flood prone: 18 percent of SRLPs post-date FEMA flood insurance rate maps (FIRMs), up from 14 percent in 2018.¹⁹ On average, we expect these “post-FIRM” properties, built after flood risks were mapped and floodplain management standards were required, to have lower risk than their “pre-FIRM” counterparts. Disproportionate flood damages among post-FIRM properties may point to outdated standards and increased risky construction in flood-prone areas.

The states with the highest proportion of insured, unmitigated SRLPs that are post-FIRM (among states with more than 50 SRLPs) are:

1. Alabama: 61% post-FIRM
2. Mississippi: 51% post-FIRM
3. North Carolina: 35% post-FIRM
4. South Carolina: 31% post-FIRM
5. Arkansas: 29% post-FIRM

SRLPs represent the tip of the iceberg when it comes to chronic flooding in the United States. Because all SRLPs have been insured by the NFIP, the dataset doesn’t include properties that have never had insurance coverage. This undoubtedly leaves out large numbers of homes and businesses, especially the homes of lower-income families who are less likely to have flood insurance. But steps to reduce flood risk will not only benefit NFIP policyholders—they are essential to creating a more flood-resilient nation overall.

III. Policy Solutions

There are many ways that homes can be made safer from flooding, and a key place to start is the National Flood Insurance Program. The NFIP not only provides insurance, but it sets the floor for building and land use standards in flood-prone areas nationwide, and its maps guide floodplain development decisions across the country. These policy changes would help address the challenges of repeated flooding and reduce risk for us all:

- a) Increase funding for flood risk reduction and make it faster and easier to access
- b) Ensure flood risk maps are up to date and account for climate change
- c) Update the NFIP’s minimum building and land use standards to account for worsening floods
- d) Give home buyers and renters more information about flood risk before they move into a new home

¹⁹ Id.

a. Increase funding for flood risk reduction and make it faster and easier to access

Multiple federal programs (including the NFIP itself) provide funding for projects to mitigate flood risk, like infrastructure improvements, home elevations, and voluntary buyouts. However, accessing these funds can take a very long time and often requires a substantial amount of effort on behalf of local governments. In addition to more funding for risk reduction, we need more accessible funding that works for both residents and localities and that serves the communities who need it most.

FEMA has funded thousands of voluntary buyouts, in which local or state governments purchase flood-damaged properties from willing sellers at pre-flood values and preserve the land as open space. However, FEMA's current buyout programs already struggle to meet existing need, with years-long wait times that can make this option difficult to pursue and contribute to inequities in disaster recovery.

NRDC reviewed nearly 30 years of FEMA data on buyout funding and found that it takes a median of more than 5 years between a flood and the completion of a FEMA-funded buyout project.²⁰ While every buyout project is different, one thing is clear: long wait times make buyouts less accessible, less equitable, and less effective for disaster mitigation and climate adaptation. Addressing this issue is essential to making FEMA-funded buyouts a more viable option as climate change increases flooding throughout the United States.

The NFIP should expand its practice of buying out severe repetitive loss properties. One, Congress should make direct assistance for buyouts available through the NFIP. Every NFIP insurance policy already includes "Increased Cost of Compliance" (ICC) coverage. Currently, ICC coverage provides an additional \$30,000 to policyholders to bring a substantially damaged home into compliance with modern building codes in the aftermath of a flood; this money is most often used to elevate houses. Congress should allow the NFIP's ICC coverage to be used for a buyout. Using ICC coverage could allow more localities to implement streamlined, expedited buyout projects similar to a successful, locally funded Quick Buy program in Mecklenburg County, North Carolina. There, Charlotte-Mecklenburg Storm Water Services uses a "rainy day" fund to support buyouts of eligible properties immediately after a flood event.

Because flood insurance claims (including ICC payments) are generally settled within weeks of a flood, rather than the months or years needed for mitigation grant funding, this approach would allow buyouts to happen within a shorter time frame that makes more sense for homeowners.

As such, any reauthorization of the NFIP should include the *Protecting Families and the Solvency of the National Flood Insurance Program Act of 2024*. The proposed act would:

²⁰ Anna Weber, Rob Moore, Going Under: Long Wait Times for Post-Flood Buyouts Leave Homeowners Under Water, NRDC (Sept 2019) <https://www.nrdc.org/sites/default/files/going-under-post-flood-buyouts-report.pdf>

- Address the problem of delays in buyouts by authorizing buyouts-in-lieu-of-claim-payments in high-priority cases.
 - If the property has been identified as a repetitive loss or severe repetitive loss property
 - Has been designated by the participating community as substantially damaged.
 - Would otherwise be filing a claim for the maximum level of coverage.
 - Right now, a buyout looks at an effective floodplain.
- Allows for additional assistance to residents who may wish to move but are unable to afford relocation by requiring FEMA to apply the special assistance provisions of the Uniform Relocation Act to buyouts.
- Provides FEMA with authorities to provide an additional measure of mitigation assistance to currently underserved communities, in line with provisions in the Infrastructure and Jobs Act that make this allowance for the next 5 years and expands the current narrow definition of “small and impoverished” communities.
- Incentivizes community action to address repeat flooding by offering access to and potentially a larger share of mitigation assistance funding for implementation of locally developed flood plans.
- Assures that FEMA assistance to address recurrent flooding, including buyout offers, is not limited to neighborhoods that have previously been mapped into FEMA-designated Special Flood Hazard Areas.

Two, Congress should allow FEMA to pre-approve and guarantee buyouts as a benefit of flood insurance coverage for people whose homes have flooded multiple times. NRDC has developed a mechanism that would guarantee these homeowners a buyout and alleviate their uncertainty.²¹ Qualifying homeowners could voluntarily commit to accepting a buyout of the home if it is substantially damaged (or reaches a certain damage threshold) in a future flood disaster.

As part of their flood insurance coverage through the NFIP, qualifying homeowners would be guaranteed future assistance to relocate in exchange for discounted flood insurance premiums. The local government or the state would be responsible for purchasing the damaged home using funds provided by FEMA through the National Flood Insurance Fund. Once the buyout is complete, the owners would move to a safer location, the damaged home would be demolished, and the property would become open space. Additional funding could be made available to families who have trouble

²¹ Rob Moore, Seeking Higher Ground: How to Break the Cycle of Repeated Flooding with Climate-Smart Flood Insurance Reforms (July 2017) available at <https://www.nrdc.org/resources/seeking-higher-ground-how-break-cycle-repeated-flooding-climate-smart-flood-insurance>

finding an affordable new home outside the flood zone but within the same community (this is already FEMA’s existing protocol for some traditional buyouts). As with the ICC proposal, routing buyout funding directly through the NFIP would avoid the long delays associated with HMGP funding, and preapprovals would eliminate the uncertainties of the current process.

Three, FEMA should increase assistance for capacity building, to ensure that lower-capacity communities can not only develop strong funding applications, but ultimately manage what can be complex projects. Preparing and submitting a federal grant application requires time, money, staff, planning, data, technical knowledge, and expertise in navigating government bureaucracy—a level of local capacity that is necessary not just for developing a successful project proposal but for addressing all sorts of environmental, social, and other community needs.

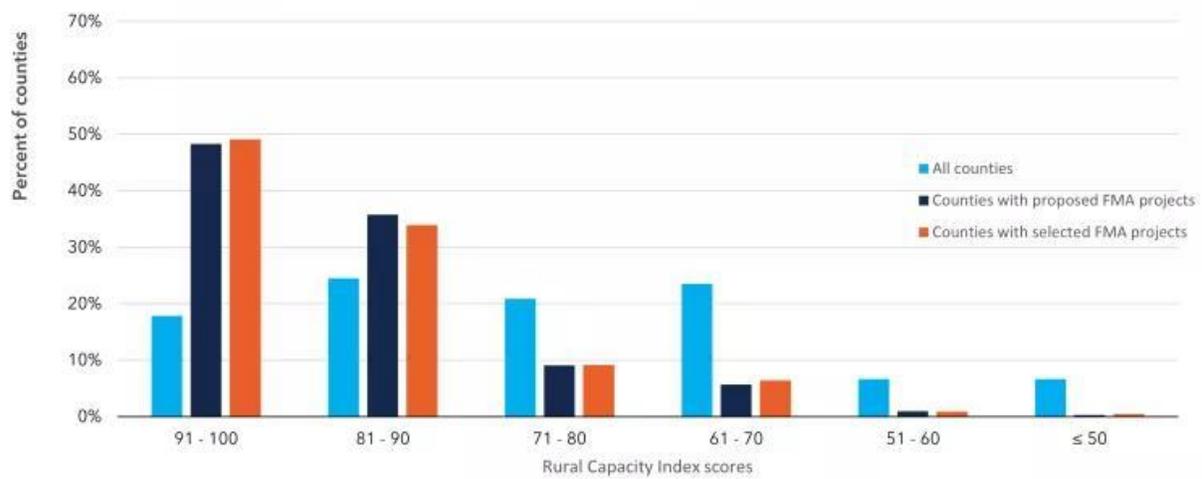
The Flood Mitigation Assistance (FMA) program is a competitive grant program that provides funding to states, territories, local governments, and federally recognized Tribal Nations. Created under the National Flood Insurance Reform Act of 1994, the program funds projects that reduce or eliminate repetitive flood damage to buildings insured by the NFIP.

NRDC analyzed data on FMA applications, looking for patterns not just among the winners but also of the whole applicant pool, including those who were not selected for funding. NRDC compared FMA applications using different metrics for local capacity and social vulnerability, using FEMA data from fiscal years 2016–2021. NRDC assigned each project to a county based on its title or description; while not all the grant applications are submitted by counties (and most hazard mitigation projects serve specific cities, towns, or neighborhoods), decisions about planning and funding often happen at the county level, and readily available county-level datasets allow NRDC to make nation-wide comparisons.

NRDC found that higher-capacity jurisdictions are over-represented among both the programs’ selected projects and the application pool. For example, the chart below shows the distribution of Rural Capacity Index scores among all counties in the United States (in light blue), counties with FMA applications (in dark blue), and counties with selected FMA projects (in orange). Despite the name, the Rural Capacity Index, created by Headwaters Economics, includes information for the entire country—but with a special focus on highlighting the challenges of rural areas. The Index ranks locations on a scale from 1 to 100, with 100 representing the highest capacity.

COUNTIES WITH FMA PROJECTS: RURAL CAPACITY INDEX SCORES

Includes FMA subapplications from Fiscal Years 2016 through 2021



Calculated by NRDC using data from FEMA and Headwaters Economics

NRDC

Counties with FMA projects (regardless of whether FEMA selects those projects for funding) tend to have higher capacity than the country overall.

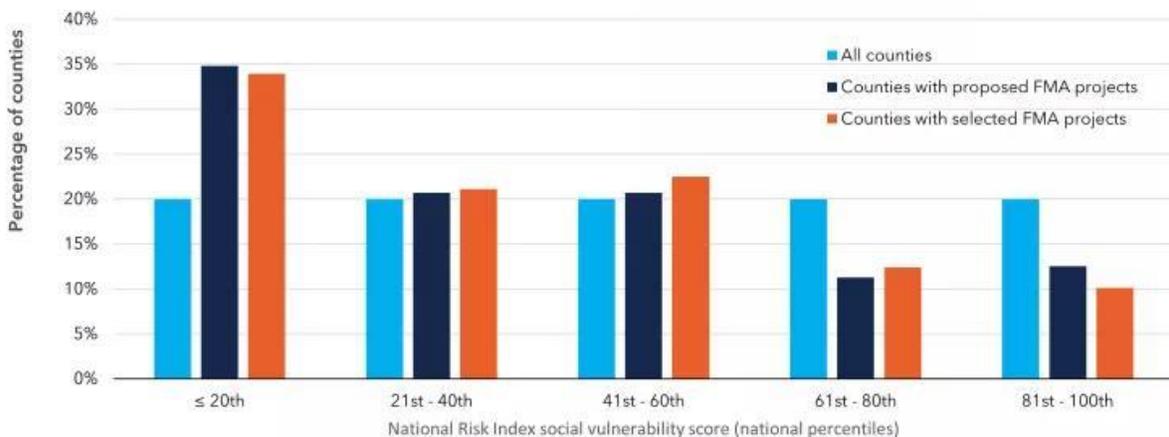
Higher Rural Capacity Index scores appear toward the left of the chart. Each bar shows the percentage of counties in a particular category; for example, 23 percent of the nation's counties score between 61 and 70 on the Index. Perhaps unsurprisingly, counties with selected FMA projects are over-represented in the higher-capacity categories, relative to the rest of the country. However, there is very little difference between the capacity distribution of counties with selected projects and counties with proposed projects. In other words, the FMA applicant pool overall has a high level of capacity.

The Rural Capacity Index is only one way to represent the characteristics of a place. Measures of social vulnerability can be used to describe a group's underlying susceptibility to the effects of natural hazards, which is influenced by social and economic factors like wealth, housing quality, and access to transportation.

The chart below shows the social vulnerability component of FEMA's National Risk Index for counties with FMA projects. The National Risk Index compares locations using national percentiles, so 20 percent of U.S. counties fall into each quintile. As shown in the chart below, counties in the FMA applicant pool tend to have low social vulnerability (that is, they are less vulnerable and more capable of adapting) compared to the country overall.

COUNTIES WITH FMA PROJECTS: SOCIAL VULNERABILITY SCORES

Includes FMA subapplications from Fiscal Years 2016 through 2021



Calculated by NRDC using data from FEMA

NRDC

Counties with FMA projects (regardless of whether FEMA selects those projects for funding) tend to have lower social vulnerability than the country overall.

FEMA should prioritize projects that center marginalized, disinvested, and disproportionately burdened areas through their grant selection criteria, but it is critical that federal funding programs also recognize—and address—the disadvantage that lower-capacity jurisdictions have in accessing federal funds. For example, FEMA could create a dedicated set-aside for capacity building in low-income communities, communities of color, and tribal communities through FMA. The agency could also allow high-priority capacity-building activities to be funded under the FMA, and incentivize these activities via increased prioritization points or a reduced cost share. FEMA could more quickly ramp up its program to provide technical assistance directly to communities or allow community-based organizations and other non-profits to apply for grants on behalf of local governments who can't do it themselves.

In addition, FEMA's Emergency Management Performance Grant (EMPG) program provides state, local, tribal, and territorial emergency management agencies with the resources required for the implementation of the National Preparedness System, working towards the National Preparedness Goal of a secure and resilient nation. EMPG funds assist state, local, tribal, and territorial governments in developing comprehensive emergency management programs and improving emergency preparedness through planning and training activities. Further, EMPG funding is essential for underserved communities to be able to plan, prepare, and adequately respond to disasters when they happen. These communities are underrepresented in FEMA's grant funding due to a lack of staff capacity to develop the necessary applications and supporting materials.

NRDC recommends changes to the cost-share requirements for EMPG under Section 611(j)(4) of the Stafford Act. EMPG funding is provided to state applicants and sub-applicants on a 50/50 cost-share basis. This cost share is prohibitive for many communities that already lack capacity. Congress should amend the Stafford Act to grant a 90 percent federal/10 percent non-federal cost share for qualifying communities. This will help with NFIP implementation.

b. Ensure flood-risk maps are up-to-date and account for climate change

NRDC recommends that Congress require FEMA to implement the recommendations of the Technical Mapping Advisory Council's (TMAC) 2023 Annual Report. Particularly, Congress should require FEMA to: (1) map flood risk with greater certainty for purposes of determining where people are required to purchase flood insurance, and (2) map the floodplain of the future, instead of the floodplain of the past.

Map flood risks with greater certainty

TMAC has recommended that the SFHA be determined using the 95th percentile confidence limit for the 1-percent-annual-chance flood. Currently, FEMA flood maps represent the 1-percent annual-chance flood at a 50th percentile confidence, meaning there's a 50 percent chance that flooding could occur beyond the so-called 100-year floodplain. Consequently, property owners, banks, developers, realtors, community planners, engineers, and others have all assumed that homes, businesses, infrastructure, and other features of the built environment are less vulnerable to flooding than is the case. This is borne out in the fact that NFIP policy holders outside of the SFHA, file more than 40 percent of NFIP claims.²² This is further illustrated by the fact that almost 20 percent of Severe Repetitive Loss Properties lie outside of the SFHA, as currently delineated. When so many of the nation's most flood-prone properties fall outside the areas mapped as having a high risk of flooding, there is certainly a problem (and likely several problems).

By defining the SFHA with a higher level of confidence, FEMA will identify a larger area that is at risk of flooding, more property owners will be told about the potential for flood damages, and more properties will be required to purchase flood insurance coverage. NRDC appreciates that this change will be significant. As TMAC pointed out, the new 95th percentile SFHA will typically be more than 3 feet higher in elevation than the current 50th percentile SFHA and will encompass a larger area and a larger number of properties as a result.

Map future floodplain conditions

FEMA's flood maps define flood risk based solely on past events. Historical storms are used to calibrate computer models that are used to map flood risk, on the assumption that the past should inform future decisions. However, sea levels are rising. Flood disasters are more frequent and severe

²² FEMA, Fact Sheet: Myths and Facts About Flood Insurance (July 15, 2022)

because of climate change. By not taking climate impacts and other factors into account, communities are using inadequate flood maps to decide where it's safe to build.

TMAC recommended that FEMA begin accounting for future development in its flood maps. When new areas are developed, it can radically change the amount of runoff and the extent of flooding, especially in sprawling urbanizing areas. TMAC recommended that FEMA map this future floodplain with the same 95th percentile confidence that was recommended above.

The areas that fall within this future floodplain will define where federal floodplain development standards will be in effect. All building and land use codes in the United States must be at least as protective as FEMA's federal floodplain development standards. Inside the line of the 100-year floodplain, FEMA's minimum standards apply. But outside that line, state and local governments are free to apply weaker siting and construction standards, if they choose, and many do.

When standards are weak, or do not apply to areas inaccurately mapped as low risk, then communities allow unsafe development in the wrong places. By capturing future impacts of climate change and development, the nation's flood maps will give a more accurate picture of current and future flood risks. By doing so, it will also ensure that the minimum federal floodplain development standards apply to a much larger area than before.

c. Update the NFIP's national floodplain development standards

The NFIP was created to provide affordable insurance against flood risk as well as to reduce the risk of flooding by setting the floor for floodplain development land-use decisions nationwide. Under the program, communities must adopt building codes and land use standards that are at least as stringent as the NFIP's national floodplain development standards.

However, these national standards have not been comprehensively updated since the 1970s. As a result, rules intended to protect communities are decades out of date, ill-equipped to address the floods of today, and wholly insufficient for the impacts of climate change.

Smart policy and the law both mandate that FEMA revise the NFIP-implementing regulations to adequately account for the increasing risk of flooding due to climate change. Safer and stronger construction and land-use standards—and adequately mapping future conditions—provide communities the opportunity to anticipate and reduce flood risk, saving lives and protecting property. Recommended changes include:

- Use the Best Science Available to Protect Against Building in Flood-Prone Areas: FEMA, by law, must incorporate the best available science regarding sea levels, precipitation, and intensity of hurricanes in any revision or update of NFIP flood maps. FEMA must also include multiple projections of flood elevations as advisory layers on Flood Insurance Rate Maps so they can be used for planning purposes.

- **Require Homes to be Safer from Flooding:** Require non-critical structures to be designed with a higher margin of safety against flooding. In A zones, FEMA should adopt a higher freeboard standard, requiring, at minimum, 2 feet of freeboard above the base flood elevation (BFE) for new construction and for substantial damage or improvements to existing structures. In V zones, FEMA should require a higher freeboard standard of 4 feet above the non-sea level rise adjusted BFE for new construction and for substantial damage or improvements to existing structures
- **Protect Critical Infrastructure from Floods:** Create a new standard for critical facilities and infrastructure. FEMA should: Prohibit new critical facilities/infrastructure, where feasible, from the 0.2 percent annual chance floodplain. If a location outside of the 0.2 percent annual chance floodplain is not feasible, require redeveloped, substantially improved, or new critical facilities/infrastructure to be elevated to the 0.2 percent chance flood elevation, plus freeboard to account for future conditions, or the historical flood of record, whichever is greater.

d. Grant home buyers and renters the right to know their home’s flood risk

The NFIP should improve its own transparency when it comes to sharing flood history and risk information. Currently, FEMA will not provide property owners with their property’s flood history unless they already have NFIP coverage. Even for NFIP policyholders, this information is not always provided consistently or in a timely manner (often homeowners will not know their property’s history of flood damages until *after* they have made their first damage claim). Providing such information to a current homeowner would allow for an informed decision about whether to purchase or maintain coverage.

In the 117th Congress, NRDC strongly supported H.R. 5256 - *Flood History Information Act of 2021*.²³ That bill would have provided for the sharing of NFIP policy and claim information. Specifically, the bill would have established that FEMA may share this data through an agreement with certain private insurance providers for the purposes of policy underwriting, establishing premium rates, and adjusting claims. Additionally, the bill directed FEMA to provide specified flood insurance information to a purchaser, lessee, or current owner of a property upon request. Both provisions of H.R. 5256 could have helped expand flood insurance coverage.

In addition, FEMA should be required to create a public, open-data system to share information related to a community or region’s flood risk, such as current and historical policy information, the total number of multiple-loss properties in a community, and whether a community was in compliance with the NFIP. A major shortcoming of the NFIP is the lack of transparency. This

²³ H.R.5256 – Flood History Information Act of 2021 117th Congress (2021-2022)

hinders academics, the public, and even members of Congress from truly understanding how the program operates, the issues that arise, and where the program needs improvement.

- Home buyers and renters often lack awareness about the property and community-level flood risk and history of the properties they purchase and rent. Would flood risk and history disclosure requirements between sellers/lessors and buyers/renters of properties before closing transactions help increase transparency and raise risk awareness? If so, what type of information should be disclosed between parties?

Prospective home buyers and renters deserve to know a property's flood history. Hundreds of thousands of Americans live in homes that have flooded. And a home that has flooded once is likely to flood again.

Floods are costly. Homes that have experienced flooding in the past are more likely to experience flood damage in the future, meaning buyers of previously flooded homes could be on the hook for tens of thousands of dollars in repairs.

Climate change is expected to increase flooding due to higher sea levels and more extreme rainstorms. This will likely increase the amount of expected flood damage for homes that have already been flooded previously. Over the course of homeownership, these costs can become significant expenses.

A [study](#) from Milliman, an independent actuarial consulting firm, found that a home buyer can incur tens of thousands of dollars in flood damage costs over the course of their mortgage, if they purchase a previously flooded home.²⁴ According to the study, over the typical 30-year loan period for a mortgage, the buyer of a previously flooded home can expect to incur on average more than \$55,000 in flood damages. Given an estimated 4 percent of homeowners in the United States have any flood insurance coverage, states with inadequate or non-existent disclosure laws are putting unsuspecting buyers of previously flooded homes at substantially more risk of paying out of pocket for unexpected flood damages.

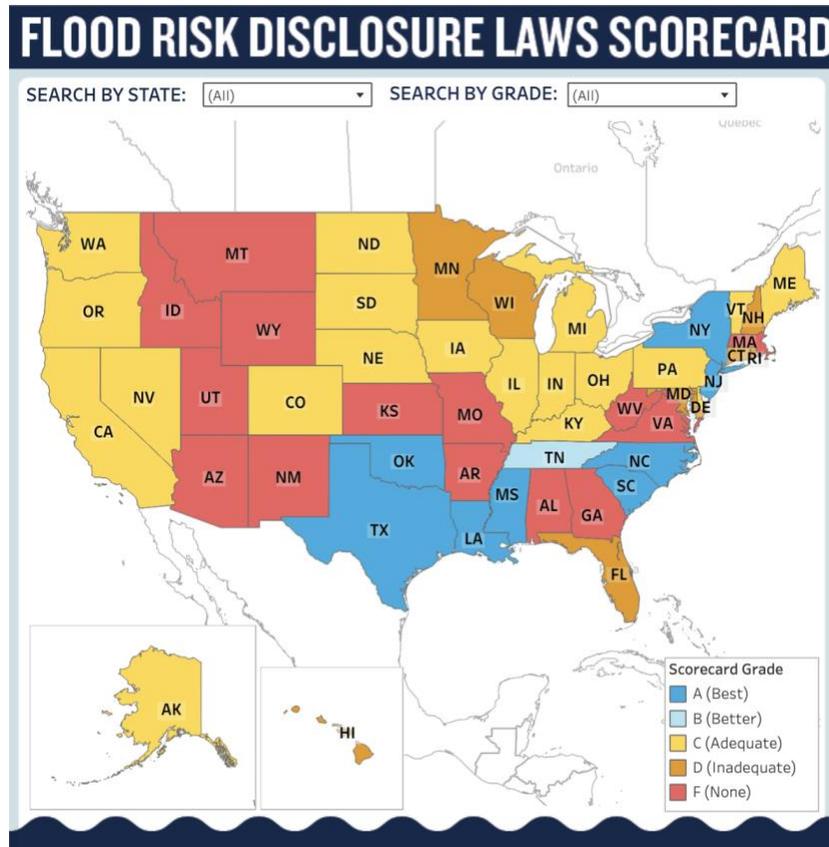
Information on a property's flood history and risk allows for informed decision-making about purchasing flood insurance, mitigating flood risk, and deciding whether to purchase or rent a property. Unfortunately, the provision of such information is not universal. A significant number of states have either inadequate or no statutory or regulatory flood risk disclosure requirements.²⁵

NRDC reviewed all 50 states' real estate disclosure laws and found that in many places, home buyers are not given the information that they need to make informed decisions about whether they should buy a house, which is a major financial investment. Further, as of 2021, only eight states required

²⁴ Larry Baeder, Sean Gao, and Greg Dietzen, Estimating undisclosed flood risk in real estate transactions

²⁵ Natural Resources Defense Council, How States Stack Up on Flood Disclosure, <https://www.nrdc.org/flood-disclosure-map>

renters to receive any information about potential flooding prior to signing a lease.²⁶ In June 2022, New York State became the eighth state by adopting legislation to require renters to be informed about a property’s history of flooding.²⁷



Flood-related disclosures would provide prospective home buyers and renters with the information necessary to make an informed decision concerning a home’s flood-risk, which could encourage the purchase of flood insurance. FEMA found “states with strong flood risk disclosure requirements often also have higher rates of residential flood insurance uptake.”²⁸

As such, states should be required to establish minimum flood risk reporting requirements for sellers or lessors as a condition for participation in the NFIP. The reporting requirements should establish an affirmative obligation on the part of sellers and/or lessors of residential properties to disclose information about flood risk to prospective buyers or renters.

²⁶ Dan Mathis, Risky Renting: Renters Should Have the Right to Know their Flood Risk, Next100, (May 26, 2022)

<https://thenext100.org/risky-renting-renters-should-have-the-right-to-know-their-flood-risk/>;

²⁷ Joel Scata, New York Renters Will Soon Know Their Flood Risk, NRDC (June 07, 2022) <https://www.nrdc.org/experts/joel-scata/new-york-renters-will-soon-know-their-flood-risk>

²⁸ Flood Risk Disclosure: Model State Requirements for Disclosing Flood Risk During Real Estate Transactions, FEMA (July 11, 2022) https://www.fema.gov/sites/default/files/documents/fema_state-flood-risk-disclosure-best-practices_07142022.pdf

The disclosure should be required as part of the real estate transaction to purchase or rent a home and must be delivered by, or on behalf of, the seller or lessor to the buyer or lessee before they become obligated under contract to buy or rent the property. Sellers of residential properties should be required to disclose, in writing, any actual knowledge of the following:

- prior physical damage caused by flood to any building located on the property;
- a prior insurance claim for loss covered under the national flood insurance program or private flood insurance with respect to the property;
- whether the home is in a FEMA-designated flood zone and, if so, flood zone classification (100-year or 500-year) of the property and the source and date of this information;
- any previous notification regarding the designation of the property as a repetitive-loss structure or a severe repetitive-loss structure, (as defined in 42 USC 4104c); and
- any obligation under Federal law to obtain and maintain flood insurance running with the property, such as any obligation because of a previous form of disaster assistance received by any owner of the property under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

Lessors of residential properties should be required to disclose, in writing, any actual knowledge of the following:

- any prior physical damage caused by flood with respect to the building and, if applicable, the unit being leased;
- whether the home is in a FEMA-designated flood-zone and, if so, flood-zone classification (100-year or 500-year) of the property and the source and date of this information;
- and the availability of coverage under this title for contents located in a structure on the property.

As FEMA has stated in a report on the lack of flood disclosure requirements in states, “disclosing flood risk information during real-estate transactions is a timely and effective way to enable [home buyers] to make better risk-informed investment decisions.”²⁹ FEMA has proposed that Congress amend the National Flood Insurance Act and explicitly require states to have flood disclosure laws.

IV. Conclusion

In sum, Congress must provide more mitigation assistance, give FEMA the clear authority and means to update floods maps to reflect sea level rise and other climate change impacts that influence flood risk, and increase transparency and disclosure of flood risk. As climate change

²⁹ *Id.*

continues to expose more Americans to devastating flooding, Congress should make NFIP reform a priority.