



Association of State Floodplain Managers, Inc.

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TESTIMONY

FEMA Priorities for 2022: Stakeholder Perspectives

Before the

House Transportation and Infrastructure Committee
Subcommittee on Economic Development, Public Buildings and Emergency
Management

February 16, 2022

The Association of State Floodplain Managers is pleased to offer our perspective on priorities for FEMA in 2022. We appreciate that the Subcommittee is seeking views on this subject from a variety of FEMA partner and stakeholder organizations.

ASFPM is a national non-profit organization of over 20,000 members and 38 state chapters representing 41 states. Our members are state and local officials as well as private sector and other professionals engaged in all aspects of floodplain management and flood hazard mitigation, including management of local floodplain ordinances, flood risk mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources development, and flood insurance. Our mission is to promote reduction of flood risks to life and property and to support the natural and beneficial use of the nation's floodplains as well as avoiding adverse impacts on others properties. For more information on the association, visit www.floods.org.

We are strong supporters of FEMA's mission and, in particular, its flood mapping, hazard mitigation and floodplain management activities. Our testimony today will focus on several subjects we see as essential priorities for FEMA to address this year.

- Adjustments to FEMA's Building Resilient Infrastructure and Communities (BRIC) program. to better address economic and social equity and to better support and utilize FEMA's traditional property specific or minor infrastructure mitigation activities.
- Improve all FEMA mitigation programs to address equity and social and environmental justice issues.
- Reestablishing floodplain management and flood hazard mitigation connections to flood insurance under Risk Rating 2.0.
- Improve access to NFIP insurance and claims data for state and local officials to support mitigation plans and grant applications.
- Promote disclosure of flood risk information for home buyers and renters.
- Update the 44-year-old minimum land use requirements associated with the National Flood Insurance Program (NFIP) using information provided in response to FEMA's recently closed Request for Information (RFI).
- Clarify FEMA's responsibilities with regard to compliance with the Endangered Species Act, also using information provided in response to the RFI.
- Move expeditiously on implementation of the Flood Risk Management Standard (FFRMS) for FEMA's own programs and to provide leadership on FFRMS implementation for other federal agencies through interagency resiliency and other work groups.

Adjustments to FEMA's Building Resilient Infrastructure and Communities (BRIC) program

The creation of the BRIC program in the Disaster Resilience and Recovery Act of 2019 (DRRA) was a landmark recognition of the importance of making major federal investment in pre-disaster hazard mitigation to protect lives and property and to reduce skyrocketing natural disaster costs to

taxpayers. Congressional appropriations and funding included in the recently enacted Infrastructure and Jobs Act (IIJA) have supported the importance of investment in mitigation of risks before disasters occur.

The first years of any new program provide evidence of problems or inadvertent errors in pursuit of the program's objectives. BRIC is no exception. Many of our members have been involved in working with the state allocations and competitive grant processes and have important "boots on the ground" suggestions for course corrections during the program's nascency. We see these as constructive contributions. The ASFPM Board of Directors unanimously adopted a (rare) Resolution making observations and recommendations for BRIC program improvements. Our comments here are derived from that Resolution, which is included as an attachment to this testimony.

1. Results of the first funding round show an excessive emphasis on major infrastructure projects to the detriment of FEMA's traditional expertise in mitigation for individual properties and/or smaller-scale infrastructure projects, such as neighborhood drainage improvements. Issuance of the next Notice of Funding Opportunity (NOFO) for fiscal year 2021 showed no change in criteria to address this problem. Although the authorizing legislation made little mention of major infrastructure precedence and no changes to the eligibility of traditional hazard mitigation actions, FEMA's implementation has had this result.
2. While the BRIC guidance stresses the importance of building state and local capabilities and capacity, unfortunately, there is little funding made available to support such a key function. At present this is only one of many functions eligible for funding via the state set-asides. To support economic and social equity, many rural, economically-disadvantaged, and hazards-vulnerable communities need technical assistance with mitigation planning and grant application expertise. Direct federal-to-community technical assistance cannot possibly reach the nation's 22,000 communities that participate in the NFIP. States are often better positioned to provide such assistance, but currently there is no stable funding in BRIC and other hazard mitigation programs to support states for this activity. Some state legislatures provide funds to support the planning and implementation of hazard mitigation activities, but most states must rely on management cost funds from prior major disasters, so usually state capacity is sporadic, when it needs to be and should be consistent and ongoing.
3. ASFPM urges that state set-aside amounts be increased and that capacity-building should be included as an eligible activity for competitive grants. We also urge the establishment of a set-aside within BRIC for a mitigation capacity building program similar to the Community Assistance Program (CAP) under the NFIP to assist states with floodplain management land use issues.
4. Only five states received competitive grant funds via the first round of BRIC funding and most were coastal. Reports from many states indicate significant discouragement and reduced interest investing the considerable effort and time to develop BRIC applications. Evaluation of the reasons for this geographic inequity is necessary.

5. Revisions in the uses of benefit/cost analysis (BCA) and the Uniform Relocation Act (URA) are needed.

Improve all FEMA mitigation programs to address equity, social, and environmental justice issues

Socially vulnerable populations are more susceptible and exposed to flood risk in a number of ways:

- Low-income and minority communities are often located in areas with higher exposure to flooding.
- Communities with limited budgets or capacity to hire or contract floodplain expertise may not be able to address flooding and/or mitigate flooding issues.
- Socially vulnerable communities are more likely to be located near less desirable lands, such as hazardous waste sites, landfills, power plants, and industrial sites that can contaminate floodwater—creating additional safety hazards during a flood.
- Socially vulnerable communities are more prone to displacement post flooding events as they have a more difficult time meeting federal cost-share requirements to access infrastructure investments, as well as federal mitigation grants.

In the past year, it has been clear that FEMA has several initiatives underway to advance equity and it is the first goal of FEMA's recently issued strategic plan. However, ASFPM has identified three approaches where equity issues can be better addressed; removing barriers in FEMA mitigation programs to achieve equitable outcomes.

First, is to build capacity at the state level to address equity and social justice at the local level, especially in mitigation programs. As we indicated previously, establishing a set-aside in the BRIC program modeled after FEMA's existing CAP program would result in more trained and capable state staff who are in a much better position than FEMA to assist their own communities on issues of technical assistance, grant program/project application assistance, and mitigation project implementation assistance. It will never be feasible for FEMA to provide direct assistance to the thousands of communities that have equity, social justice, or environmental justice issues. However, as we have seen with the CAP program in floodplain management, state technical assistance can provide help to some of the smallest least capable communities that have flood risk.

Second, is that FEMA should evaluate its benefit-cost analysis (BCA) approach to mitigation project development and approval to accommodate equity, social justice, and environmental justice issues. How might this be done? One idea may be to exempt the cost of meeting federal or state environmental and safety programs and relocation assistance from costs as part of a BCA. For example, the cost for remediating underground storage tanks, asbestos, or the costs of additional relocation assistance can often eliminate a home from consideration for a FEMA mitigation program because those costs, plus the cost of the flood mitigation activity itself, exceeds a benefit-cost ratio of 1. This leaves underserved populations vulnerable to flooding and other risks. Also, current BCA methodology favors the benefits accrued from mitigating higher value structures. This results in lower benefit-cost

ratings for less valuable properties, which especially lowers the probability of mitigation assistance for disadvantaged communities.

Third, is to be more flexible and provide additional assistance under the Uniform Relocation Act (URA). Currently, FEMA mitigation programs allow for assistance in lieu of URA benefits as the mitigation project is seen as voluntary. Unfortunately, FEMA's assistance in this regard is widely viewed as limited. However, when faced with a flood mitigation project where additional benefits are needed, state mitigation programs often steer them to HUD programs like CDBG-DR as their relocation assistance support is much more robust. In many instances, lower value homes and businesses that are currently subject to or are soon expected to be subject to repetitive flood loss conditions due to increasing flood risks, find it very difficult to find replacement housing or business space located away from flood prone areas at reasonable cost. Adjustments are needed in evaluation and benefit-cost methodologies, and in some instances, increasing public support is needed for risk mitigation that can assist residents in relocations away from areas of increasing flooding risk, especially before disasters

Reestablishing floodplain management and flood hazard mitigation connections to flood insurance under Risk Rating 2.0

ASFPM has long been supportive of one of the primary objectives of Risk Rating 2.0, which is to communicate flood risk through providing true risk rating information so property owners can make more informed decisions about their flood risk. However, during the early implementation of Risk Rating 2.0, ASFPM has become concerned that some new disconnects could have significant unintended consequences, such as communities lowering their floodplain management standards because it is unclear how much higher standards improves flood insurance rates and/or discourage flood hazard mitigation because it is not well understood how flood insurance rates may be reduced for taking certain flood mitigation activities. For example, elevating structures, along with other measures such as proper flood openings and flood resistant materials, has been shown to significantly reduce flood risk. With no tables to help illustrate the potential cost savings, floodplain managers have no way to advise (financially "sell") the benefits of mitigating so that other local officials, developers, and property owners can understand how mitigation will help reduce their flood insurance costs. The floodplain administrators need tools to help the property owner understand the financial benefits of mitigating; e.g., online estimator, examples, simple charts.

ASFPM has recently provided FEMA these and other Risk Rating 2.0 concerns and recommends that a priority for this year would be for FEMA to ensure adequate staffing and resourcing to begin addressing these concerns so, in partnership, floodplain and mitigation managers can help FEMA drive successful outcomes and lower flood risk.

Access to flood Insurance claims Information

States and communities need access to the basic flood insurance and claims data in order to manage flood risk by ensuring that repetitively flooded buildings are identified and mitigated. In addition, such information is essential for communities and states to use in hazard mitigation plans and for mitigation grant applications, required under the Stafford Act. Unfortunately, the Department of Homeland Security General Counsel's office has defined all such data as covered by the Privacy Act, as Personally Identifiable Information (PII), rather than identifying only the key private information. Prospective buyers and renters also need claims histories for prudent investment decisions. FEMA is the primary source for all such data.

When the new PIVOT data management system was instituted two years ago to consolidate flood insurance information data on a common platform, ASFPM—along with the National Emergency Management Association (NEMA) and the International Association of Emergency Managers (IAEM)—wrote to the FEMA Administrator to point out difficulties in appropriate access to claims data, noting:

“delays for appropriate user access impact activities including but not limited to hazard mitigation and flood management plans, flood mitigation grant applications with adequate information to satisfy FEMA requirements, participation in the Community Rating System (CRS), disaster recovery and floodplain management. Without access in a timely and reasonable manner, states and localities face additional hurdles in order to carry out their NFIP and disaster job duties effectively. It also has significant real-world implications for funding, as states and localities without access to this data are not able to complete the Benefit-Cost Analysis that is requisite for receiving Hazard Mitigation Grant Program funding.”

Attempts by FEMA to address the problem and to restore availability of this critical information on a timely basis have not succeeded. ASFPM urges that FEMA and Congress consider an exemption from the Privacy Act for non-privacy claims data. We also suggest that DHS be directed to address this problem, which is, inadvertently, undermining FEMA's programs to mitigate disaster risks and implement effective floodplain management.

Promote disclosure of flood risk information

Too often prospective buyers or renters are unaware of the past histories of flooding and damages associated with properties they are considering for residences or businesses, and many communities themselves lack access to the same information. Disclosure of flood risk needs substantial improvement, and active support is needed from FEMA and other federal agencies to assist current and prospective residents, communities, and states to effectively manage existing and future flood risk.

- Communities and states need immediate access to historical coverage and claims loss data, including repetitive flood loss data to help reduce a continuing drain on NFIP funds.
- Prospective buyers, renters, property owners, and lessees must have full access to NFIP flood claims and disaster assistance data (IA and PA if applicable) and information to support effective decision making, risk awareness and management, and, where appropriate, mitigation or removal of buildings from high risk areas.

- Congress should consider establishing a national flood disclosure requirement similar to the lead paint disclosure rule (P.L. 102-550, as amended).

Update FEMA’s minimum land use requirements under the NFIP

The minimum NFIP criteria and standards for land management and use have not been updated in more than 40 years. In the intervening decades, it has become abundantly clear that the present standards are inadequate to accomplish the basic purposes set out in the original NFIP legislation to guide the development of proposed construction away from locations threatened by flood hazards and to reduce the costs and damages caused by floods, while improving the long-range land management and use of flood-prone areas.

ASFPM and the Natural Resources Defense Council filed a petition in early 2021 requesting FEMA to update these standards. In October 2021 FEMA published a Request for Information (RFI) in the Federal Register and more than 360 sets of comments were received by the close of the comments period on January 27, 2022. ASFPM filed comments reflecting input from many of our 14 policy committees whose members are all volunteer ASFPM members committed to effective floodplain management and flood loss reduction. A letter to FEMA Administrator Deanne Criswell summarizing our comments is attached to this testimony.

Of note for the jurisdiction of this committee are

- A recommendation that the NFIP’s new Risk Rating 2.0 program for more property-specific risk rating be adjusted to better support and encourage property owners and communities to undertake true flood-hazard risk mitigation, such as building freeboard elevations, utility elevations, and other mitigation measures.
- Disaster relief programs at FEMA and other federal agencies (HUD, USAÇE, NOAA, NRCS) should improve disaster relief and mitigation coordination and collaboration to better support NFIP regulations, mapping, and mitigation.
 - Disaster programs must promote equity and help property owners understand their flood risk and effective mitigation approaches.
 - Individual Assistance (IA) and Public Assistance (PA) must always consider NFIP regulations and mitigation options.

ASFPM very much appreciates FEMA’s publication of this RFI pursuant to the petition filed by ASFPM and NRDC and urges swift movement toward rulemaking based on comments received.

Improve implementation FEMA’s compliance with the Endangered Species Act

ESA and Threatened and Endangered (T&E) species must be appropriately integrated into the NFIP. While this is most efficiently done programmatically, implementation will likely need to be done locally.

- ESA and T&E provisions and requirements for NFIP must be clearly laid out by the NFIP and provided to communities and states. This should include practical and easy-to-use tools recognized by FEMA and the relevant federal and state fish and wildlife services that can be applied in either a programmatic case or on a permit-by-permit basis (i.e., IPAC or FRESH).
- The NFIP cannot simply direct communities and states to comply with ESA; FEMA and federal fish and wildlife agencies must provide the tools and resources to assist with this requirement as well as incentivize compliance.

ASFPM urges FEMA to proceed to the rulemaking process as expeditiously as possible based on comments received in response to the RFI.

Continue implementation of the Federal Flood Risk Management Standard (FFRMS)

President Biden issued Executive Order 14008 in 2021, which reinstates the Federal Flood Risk Management Standard, (FFRMS), {originally created in 2015 by EO 13690 and then revoked by the next President}. This EO directed that all federal taxpayer-funded activities must be designed and constructed to be protected from future-expected flood conditions resulting from more intense rainfalls and storms.

ASFPM urges FEMA to place a high priority on implementation of the FFRMS and on playing a leadership role for other federal agencies' compliance with the EO. This will result in large cost savings to taxpayers and to society at large, and will be a significant contribution for adaptation at all levels to help reduce the adverse impacts of climate change and to enhance future disaster resilience.

Thank you for this opportunity to share some of our thoughts on FEMA priorities for 2022. Please direct any questions or comments to ASFPM Executive Director, Chad Berginnis.

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Resolution Regarding the FEMA Building Resilient Communities & Infrastructure (BRIC) Grant Program and Recommended Changes

WHEREAS, the Board of Directors of the Association of State Floodplain Managers, a national non-profit scientific and educational organization of over 7,000 members with a mission to reduce flood losses in the nation and recognize the natural functions of floodplains has heard numerous concerns from members about the implementation of the 2020 Building Resilience and Infrastructure (BRIC) program; and

WHEREAS, FEMA's Pre-Disaster Mitigation program was established in 1997 with the purpose to implement hazard reduction measures prior to a disaster event and made eligible a wide range of mitigation activities including a focus on mitigation planning, as well as projects that included but are not limited to retrofitting buildings against hurricane winds or flooding, acquiring and relocating buildings out of a floodplain, elevating structures in a floodplain, stormwater management projects, and construction of safe rooms. Funding from PDM ranged from \$25 million to \$300 million annually and in 2008 nearly 44% of PDM funds were Congressionally directed (earmarked); and

WHEREAS, as a result of hazard mitigation planning requirements since the enactment of the Disaster Mitigation Act of 2000, states, local communities, tribes and territories have a much greater understanding of where their vulnerable populations exist, as well as the extensive hazard mitigation needs within those populations as well as the community as a whole than FEMA does; and

WHEREAS, the Disaster Recovery Reform Act of 2018 (DRRA) reformed the Stafford Act's Pre-Disaster Mitigation Program (PDM -Sec 203) to increase the emphasis on pre-disaster mitigation, authorized a new six percent set-aside source of funding for pre-disaster mitigation, allowed funds to be used to establish and carry out enforcement activities and implement the latest codes and standards, and expanded the criteria to be considered in awarding mitigation funds; it did not fundamentally change the eligibility of an array of flood mitigation project types, including traditional property-specific mitigation actions; and,

WHEREAS, FEMA was granted significant discretion to shape the new program which was named the Building Resilient Infrastructure and Communities (BRIC) and this led to the creation of a program with a significantly different focus and priorities—including a focus on community infrastructure and lifelines as well as FEMA pre-disaster mitigation priorities, as compared to the legacy PDM program;

WHEREAS, the 2020 BRIC Notice of Funding Opportunity revealed several major concerns including:

- A proportionally significant reduction in the state set aside amount when considering the total funding available,
- Significant limitations on the eligibility of mitigation planning funding (including a complete disallowance of mitigation planning projects from the competitive grants),

- Similar limitations on the eligibility of capacity building projects as they were limited to state set aside projects only,
- Heavy weighting of the adoption of the most recent building codes when other standards — like strong state floodplain management programs, or rigorous state land use standards that limited flood prone development were not considered at all,
- Heavy weighting of infrastructure and lifeline projects which greatly reduced the ability of traditional “incremental” flood mitigation projects under PDM to compete,
- FEMA’s definition of “small and impoverished communities” does not include the disadvantaged communities that need FEMA mitigation grant assistance; and

WHEREAS, the complexity of the BRIC application process is a main reason why disadvantaged communities do not apply for the program; and

WHEREAS, an ASFPM evaluation of the 2020 BRIC awards revealed several major concerns including:

- A significant bias toward large scale infrastructure projects rather than more traditional “incremental” hazard mitigation projects,
- An award bias toward coastal communities vs. inland communities (\$474.6 million awarded for projects in coastal communities vs. only \$27.3 million for non-coastal projects¹) with only one competitive project selected for all of the non-coastal states (94% of BRIC funds will go to nine coastal states. Four coastal states (CA, WA, NY, & NJ) and DC will get 61% of the total BRIC funding),
- More dollars and projects went to wealthier, greater resourced communities rather than to less wealthy communities with fewer resources (\$464.3 million for all others vs. \$35.7 million for small and impoverished communities²); and more than half of BRIC funding will go to these three wealthy states: CA, NJ and WA,
- No competitive applications were selected for further review in FEMA Regions 5, 6, 7 or 8 (the entire central portion of the country including Texas), of the 567 competitive applications submitted, only 22 were selected for further review, demonstrating a 3.8% success rate³ for competitive applicants outside of the state allocations,
- A review of the grant projects that have been identified for further review demonstrates that FEMA did not prioritize vulnerable communities even though FEMA expressed a desire to do so; and

WHEREAS, states and communities do not see their grant application ranking or receive feedback on how applications could be improved for future rounds of funding.

NOW THEREFORE BE IT RESOLVED that the ASFPM Board of Directors recommend:

1. **FEMA should allow states, communities, tribes and territories decide which projects are awarded.** States and communities have decades of experience developing and maintaining mitigation plans, understand flood risk, and know precisely where limited grant dollars can be put to the best use. This can be accomplished by significantly increasing the amount of set-aside funds (increase to at least 49% of available funds) for state, territorial and tribal applicants; or turning BRIC entirely into a block grant

¹ Headwaters Economics Report by Kris Smith, Ph.D. dated July 1, 2021: <https://headwaterseconomics.org/natural-hazards/bric-funding/>

² Ibid.

³ Ibid.

program. Further, Congressionally directed funding should come from competitive funding, not state set-aside funds, and such projects should meet all program requirements, including benefit-cost analysis (BCA).

2. **FEMA should minimize adding its priorities to BRIC funding.** Over the years, FEMA's insertion of priorities into pre-disaster mitigation grant programs has had unintended consequences, including disallowing many traditional forms of hazard mitigation that have proven to be cost-effective in many communities. In the DRRRA, Congress did not establish new priorities for funding, and ASFPM believes that all options in the mitigation toolbox should be used and is opposed to using priorities to limit or give preference to certain types of mitigation projects.
3. **BRIC competitive grants should include eligibility for mitigation planning and capacity building projects.** Limiting mitigation planning and capacity building to highly competitive set-aside funding has negatively impacted mitigation planning efforts, especially in large states with many jurisdictions, and is contrary to the stated priority of capacity building projects. Neither should be exclusive to the set-aside; rather, they should also be allowed to be submitted as part of the competitive grant applications.
4. **FEMA should adjust the BRIC grant scoring criteria involving building codes to ensure consideration of non-building code standards that have equal or higher success in reducing overall hazard risk.** For example, several states have adopted more stringent floodplain management regulations and mapping standards that have a far greater effect on flood risk reduction than adopting the most recent building codes. Further, in consideration of building codes, FEMA should emphasize the enforcement of such codes, and is in a unique position to emphasize the enforcement of floodplain management regulations through decades of NFIP enforcement data that FEMA and states have collected
5. **The BRIC grant selection process should be made more transparent.** The application scores and ranking process FEMA used to decide which projects will receive funding were not made public by FEMA. If communities do not know where they missed points in the scoring process, not only do they get discouraged, but they cannot take actions to correct those deficiencies and ensure that future applications are more competitive.
6. **FEMA should continue to simplify the grant program processes so that more applications can be submitted by less resourced communities, and to streamline program delivery.** FEMA's stated intent is to reduce the complexity of their programs and delivery. But their actions in nearly every area are the opposite. The BRIC program specifically focuses on large, complex infrastructure projects that many underserved and disadvantaged communities do not have the capacity to develop, apply for, manage, and maintain into the future. FEMA's new grant management system, FEMA GO, is so complex that it has not functioned for months and is preventing FEMA from granting the BRIC and FMA awards from the FY2020 application cycle, and is also not allowing communities wishing to apply for the FY2021 BRIC and FMA programs to register in the system so they can complete the application. This is creating a tremendous burden for states attempting to assist communities in the application process.

In addition, the administration of grant management costs to state partners, which used to be a relatively simple calculation, now requires a seven-page memo describing multiple sub-applications and

reporting requirements. FEMA should loosen restrictions and delegate more authority to enhanced states that have demonstrated capacity to manage the programs effectively. This would allow them to focus on states that need more capacity building and streamline program delivery for all.

As part of streamlining the application and administrative processes, FEMA should clearly define “disadvantaged communities” so that all communities, especially those with limited resources who are disproportionately affected by flooding and other disasters, can effectively participate.

7. **FEMA should use BRIC funding to create a program, similar to FEMA’s Community Assistance Program – State Services Support Element (CAP-SSSE).** The unevenness of management costs creates a challenge for state programs to hire and retain staff. A new program, modeled after FEMA’s Floodplain Management Division’s CAP-SSSE, can help solve this problem by providing a consistent, cost-shared funding source that builds and maintains state capability to more effectively and efficiently manage FEMA hazard mitigation programs.

APPROVED: November 10, 2021

SIGNED:

A handwritten signature in black ink, appearing to read 'Carey Johnson', with a long horizontal line extending to the right.

Carey Johnson, CFM
Chair ASFPM Board of Directors



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January 27, 2022

Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency
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Washington, DC 20024

RE: Request for Information on the National Flood Insurance Program's Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and Their Habitats

Docket ID: FEMA-2-21-0024-0001

Dear Administrator Criswell:

We are pleased to respond to the Federal Emergency Management Agency's (FEMA) Request for Information ("FEMA RFI") on reforming and modernizing the National Flood Insurance Program's (NFIP) floodplain management standards for building and land use, mitigation, and insurance as a way to promote safer, stronger, and more resilient communities. Climate change will increase the risk of flooding in rivers and coastal areas, as well as in densely populated urban areas. NFIP's outdated programs and standards will not sufficiently protect communities from this increasing threat.

FEMA needs to revise the NFIP floodplain management standards and other program elements to adequately account for the increasing risk of flooding. The program must begin to help communities avoid development in high-risk areas as opposed to the current approach of identifying the high-risk areas on maps and then showing communities how to develop in that area. Better mapping, regulation, mitigation, and insurance provisions will provide communities the opportunity to anticipate and reduce flood risk — saving lives and protecting property.

Please find below our suggested principles for reforms to the NFIP program:

Dedicated to reducing flood risk and losses in the nation.

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Association of State Floodplain Managers, Inc.

1. NFIP Standards and Regulations must be strengthened to assist communities in avoiding development in high-flood risk areas and, where avoidance is impossible, to reduce flood damages and increase flood resilience:
 - a. Minimum standards must be increased for all residential and commercial development and especially for critical use facilities and subdivisions. Stronger standards will support social equity because lower income people have few options for where they buy homes.
 - b. Standards should ensure development causes no adverse impact on other properties or communities.
 - c. Standards should support the conservation and enhancement of the natural benefits and functions of floodplains, which in turn will reduce the loss of life and property from flooding.
 - d. Standards must support avoidance and reward better approaches.
2. Mapping program must be robust in supporting avoidance in high-risk areas and we must complete mapping throughout the nation:
 - a. Mapping metrics must measure the percentage of miles of floodplains mapped in the nation.
 - b. Future conditions for multiple frequencies and time frames must always be included for planning, regulation, and mitigation.
 - c. Floodways, with no allowable rise, must always be identified and provided in order to support no development in this highest risk area.
 - d. Some level of elevation information must be available in all Special Flood Hazard Areas (SFHAs).
 - e. Maps must identify and reflect additional areas of risk, including residual risk areas associated with the operation of dams and levees and their potential for failure.
3. Mitigation programs must quickly and effectively help property owners and communities relocate existing buildings away from high-risk areas:
 - a. Buyouts of individual buildings must be the highest priority for mitigation in order to provide safety and equity.
 - b. Mitigation must build off community and state hazard mitigation plans and priorities.
 - c. Mitigation benefit-cost analysis must be improved to reflect social equity, environmental impact, and both monetary and non-monetary economic benefits and best practices.
 - d. Improved mitigation utilizes nature's systems to reduce flooding.
4. Flood insurance must reflect full risk rates and support better mapping, mitigation, and regulations:
 - a. Affordability must be addressed by Congress and any subsidy must not come from the NFIP.

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- b. Risk Rating 2.0 must be adjusted to better support and encourage true mitigation, such as building freeboard elevations, utility elevations, and other mitigation measures.
 - c. ICC must be increased to \$60 or \$75,000 and be paid at the same time claims are paid since it can be the most effective mitigation provision of the NFIP.
 - d. NFIP flood insurance must be better integrated into the other FEMA programs, including mitigation, mapping, and regulations.
- 5. The disaster relief program in FEMA and other agencies must improve coordination and collaboration to better support NFIP regulations, mapping, and mitigation:
 - a. HUD, USACE, NOAA, NRCS. and other agencies receive significant funding after major disasters. FEMA must work diligently with the interagency work groups to mesh all agencies disaster and mitigation programs, assure timely access to funding and services, and improve funding and data access to individuals and communities.
 - b. Disaster programs must promote equity and help property owners understand their flood risk and effective mitigation approaches.
 - c. Individual Assistance (IA) and Public Assistance (PA) must always consider NFIP regulations and mitigation options.
- 6. Disclosure of flood risk must be improved significantly to assist current and prospective residents, local communities, and states to effectively manage existing and future flood risk.
 - a. Communities and states must have immediate access to historical coverage and claims loss data, including all repetitive flood loss data to help reduce this drain on NFIP funds.
 - b. Prospective buyers, renters, property owners, and lessees must have full access to NFIP flood claims and disaster assistance data (IA and PA if applicable) knowledge of flood claims and damage data to support effective decision making, risk awareness and management, and, where appropriate, mitigation or ultimate removal of buildings from high risk areas.
 - c. Consider a national flood disclosure requirement similar to the lead paint rule.
- 7. Enforcement of the basic requirements for NFIP participation must be strengthened and streamlined throughout the nation, which will lead to more equitable and resilient development:
 - a. Clear penalties for failing to enforce regulations and mapping standards should be set up to automatically cost the community or state if they fail to meet the obligations they agreed to when joining the NFIP. This should quickly lead to being removed from NFIP eligibility, in the event of prolonged failure.
 - b. The NFIP would greatly improve enforcement by investing in and building local and state planning, enforcement, and hazard mitigation capability.
 - c. Clearer rules will improve consistency and help eliminate the sometimes random nature of NFIP enforcement process.

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8. Building state capability is sorely needed to improve all NFIP elements:
 - a. While the growth of permanent FEMA staff has somewhat increased, the agency cannot provide oversight and technical assistance to over 22,000 communities. States have relationships with their local communities and can provide support for these elements if we build states' capabilities.
 - b. The issues of climate change and equity can be greatly improved if the more capable states are supported, incentivized, and empowered to assist those communities with fewer resources.
 - c. States can provide regular training, oversight, and technical assistance to local programs through this local/state relationship.
 - d. FEMA must incentivize the development of state capacity to help implement an enhanced and strengthened NFIP and promote effective flood risk mitigation. To support development of state capacity, FEMA must provide funds to facilitate continuity that is not dependent on administrative management funds from prior disasters or funding fluctuations in state budgets.
9. Endangered Species Act (ESA) provisions as well as the issue of Threatened and Endangered (T&E) species must be appropriately integrated into the NFIP. Although we believe that it is most efficiently done programmatically, implementation will likely need to be done locally:
 - a. ESA and T&E provisions and requirements for the NFIP must be clearly laid out by the NFIP and provided to communities and states. This should include practical and easy-to-use tools recognized by FEMA and the relevant federal and state fish and wildlife services that can be applied in either a programmatic case or on a permit-by-permit basis. (i.e. IPAC or FRESH)
 - b. The NFIP cannot simply direct communities and states to comply with ESA; they must provide the tools and resources to assist with this requirement as well as incentivize compliance.

Begin the rulemaking process to reform the NFIP

The NFIP was created by Congress to reduce flood damages nationwide and to ease the federal taxpayer's financial burden for providing disaster recovery. However, flood damages and federal spending on flood recovery are rising at alarming rates, demonstrating the NFIP is failing to achieve its primary goal. To adequately account for the impacts of climate change and reduce future loss of life and flood damages, the NFIP must use updated science to protect critical infrastructure from flooding, require building standards that better protect homes against flooding, and limit development in places that will experience more flooding by improving mapping and mitigation. FEMA must use the information collected from this process to initiate rulemaking as soon as possible.

**Written Testimony
by the
The BuildStrong Coalition
for the
The Subcommittee on Economic Development, Public Buildings, and Emergency
Management

Hearing on
“FEMA’s Priorities for 2022: Stakeholder Perspectives.”**

Wednesday, February 16, 2022, at 2:00 PM

Thank you for the opportunity for the BuildStrong Coalition to submit written testimony for the Subcommittee’s hearing, “*FEMA’s Priorities for 2022: Stakeholder Perspectives*” focusing on the Federal Emergency Management Agency’s (FEMA) priorities for the upcoming year. Chairman Titus and Ranking Member Webster are to be commended for leading the subcommittee in prioritizing the need for disaster mitigation and resilience investments as a core component of the national conversation on resilient infrastructure and communities. This committee’s leadership has facilitated historical resources and incentives to help American communities invest in cost-effective, risk reducing disaster mitigation efforts that will help make our nation more resilient. Smart investments in lifeline infrastructure and community resilience are the best way to address the threat of worsening disasters. As the Committee considers the next chapter of disaster policy and legislation, through the Resilient Assistance Mitigation for Environmentally Resilient Infrastructure and Construction by Americans (AMERICA) Act (H.R.5689), the BuildStrong Coalition is honored to continue our role to drive the focus on laws, policies, and programs that aid in the creation of a disaster resilient nation. We remain ready to continue this work and are prepared to serve as a resource to advance your commitment to enhancing our country’s resilience profile.

The BuildStrong Coalition, formed in 2011 to respond to an increasing number of severe disasters, is made up of a diverse group of members representing firefighters, emergency responders, emergency managers, insurers, engineers, architects, contractors, and manufacturers, as well as consumer organizations, code specialists, and many others committed to building a more disaster resilient nation. The BuildStrong Coalition has been a partner with Congress’s work to investigate causes of, and devise the solutions to, the rising costs and impacts of disasters, in the U.S. over the past decade. We have been honored to present witnesses and participants in hearings, roundtables, and briefings to identify opportunities for policy changes that promote mitigation and the smart investment of federal resources to address our country’s increasing number of severe and costly weather events, including informing several key provisions of this Subcommittee’s Disaster Recovery Reform Act of 2018 (DRRA) (P.L. 115-254) and the current legislative proposal, the Resilient AMERICA Act.

One of those critical provisions in DRRA authorized FEMA to create a pre-disaster mitigation program, which is now operated through the agency as the Building Resilient Infrastructure and Communities (BRIC) grant program. This program shifts the federal focus from a reactive spending pattern to a proactive resilience investment one, so when disasters strike, communities are better prepared and protected. It is important to note here that the BRIC

program is still in its infancy, and with more money than ever being poured into pre-disaster mitigation efforts, FEMA is grappling with how to manage these unprecedented funds. However, as can perhaps be expected with the implementation of a new program, Coalition stakeholders have noted a number of issues worth your consideration. Our collective stakeholders are reporting frustration with this process from various angles. We have heard from different principals that BRIC implementation is being inconsistently awarded and that guidance is not always followed, including funds able to be used towards the enforcement of strong, modern building codes that are proven to save lives and homes. As BRIC and other pre-disaster mitigation dollars run the risk of not being used in line with Congressional intent, we feel it is our obligation to call attention to this fact and point out ways the Resilient AMERICA Act will help correct these issues.

In addition to the importance of Congress advancing the Resilient AMERICA Act into law, from a “whole-agency” perspective, the BuildStrong Coalition has also developed the following critical policy recommendations and principles that are supported by data and science and that we should be a core part of FEMA’s community resilience priorities.

I. Secure More Resources for Mitigation

FEMA should work with Congress through the Office of Management and Budget to explore ways to increase the funding for residential retrofits and investments in resilience before the next disaster, climate impact, or catastrophic failure.

Mitigation saves lives, property, and taxpayer money, with multiple studies showing that for every \$1 spent on preventative pre-disaster mitigation and resilient construction, there is a return of \$11 in savings. Mitigation is also critical towards reducing environmental impacts. But the federal resources to help build state and local capacity and fund risk-reducing, cost-effective mitigation projects that harden homes and buildings and help individuals invest in residential resilience are woefully inadequate. Particularly, FEMA needs more tools to help impacted communities recover smarter and stronger in order to help end the cycle of build, damage, and rebuild.

Often, there is a focus by lawmakers and in the public sphere on calling for new homes and structures to be built more resiliently, and rightly so. But equally as important is creating new resources and tools for homeowners and communities to upgrade aging homes and structures that may be vulnerable to severe climate risk, and FEMA should prioritize driving investments in retrofits in order to harden existing neighborhoods and infrastructure. The Resilient AMERICA Act advanced by this subcommittee contains a critical provision that would create a retrofit grant pilot program within FEMA in order to help fund such upgrades to older homes and buildings, and is another reason why it is imperative that Congress advances this bill into law.

II. Drive Resilient Homes and Communities through Strong Building Codes

FEMA should explore incentives for building stronger and tie existing federal funding streams to the adoption and enforcement of strong, modern building codes, to better protect homes, families, and communities.

Individuals and communities are kept safe in times of disasters through the strength of their homes. This is particularly prevalent as we learn lessons from COVID-19 and begin to understand how to increase resilience to wildfires. Disaster-resilient and sustainable construction and the use of stronger building codes have been proven to save lives, reduce the damage of natural disasters, and protect the environment. Unfortunately, only a handful of states have adopted the most modern building codes, and many lack the resources to adequately implement codes. To help correct this paradigm at the federal level involves creating incentives that encourage state and local governments to adopt modern building codes, while simultaneously equipping communities with the tools and resources needed to carry out meaningful enforcement regimes. Through the BRIC program, some states without a statewide adoption of building codes have a hard time being competitive for funding to do code development or code enforcement projects when having a statewide building code is part of the funding point scoring system and in line with the intent of Congress and DRRA.

III. Ease Administrative Burdens for the BRIC Program and Increase Technical Resources

FEMA should explore ways to ease administrative burdens of disadvantaged communities.

A consistent criticism of the BRIC program is that its dollars are going to wealthier areas with better access to resources to pay for tools like consultants and technical information/capabilities to build out application packets that are, naturally, more competitive. Theoretically, localities that are most in need of funding for mitigation are largely those that do not have the reserves to spend on outside resources for applications.

FEMA currently provides BRIC technical assistance for up to twenty low-income communities.¹ To address this disparity, FEMA could explore ways to utilize their intergovernmental partners to offer increased technical assistance to their stakeholders. FEMA, and federal agencies as a whole, must reduce the complexity and administrative burden of their programs and allow different programs to come together in flexible, creative, and truly transformational ways for the benefit of disadvantaged communities.

To be certain, all communities impacted by disasters deserve the ability to build stronger in the face of rising disasters. In making assisting vulnerable populations a point of emphasis in implementing the BRIC program, the entire nation stands to benefit.

IV. Build Capacity

FEMA should ensure that state, local, tribal, and regional entities are given the tools and resources to increase capacity and capability to identify risks and hazards and mitigate those risks before the crisis occurs.

It is clear that for this country to be successful in enhancing our resiliency, we must focus on capacity building for state and local governments and turn to considerations of sustainability, adaptability, and creative financial instruments that can be leveraged to drive socially responsible investments in resilience. State, local, and tribal governments must increase their ability to mitigate against all hazards. Accordingly, they must increase their ability to identify hazards and

¹ [BRIC Direct Technical Assistance \(fema.gov\)](https://www.fema.gov/bric-direct-technical-assistance)

successfully implement these funds to drive critical investments towards effective risk-reducing projects, including though increasing the resiliency of the nation's lifeline infrastructure and electric grids. Increased engagement and education efforts on mitigation planning, program requirements, and opportunity awareness will enhance community resilience across all levels of government.

Further, regulatory controls must be loosened to facilitate and encourage public-private partnerships. Governments must work with the private sector to increase community and national resilience. The private sector is currently conducting high-level work throughout the resilience and mitigation arena and there is tremendous opportunity to utilize expertise and industry knowledge, take advantage of existing programs, identify best practices, and incorporate lessons learned from the private sector. By leveraging the private sector and encouraging and facilitating public-private partnerships, we can maximize available resources for the benefit of the entire country.

Conclusion: Resolving Disaster Capacity Issues Through the Resilient AMERICA Act

There is a solution that can help FEMA begin addressing the above outlined challenges. The BuildStrong Coalition strongly supported the House Transportation and Infrastructure Committee's introduction of the Resilient AMERICA Act in late 2021. We were equally pleased to see it subsequently (and overwhelmingly) voted out of Committee 63-2. We believe this legislation should serve as the foundation for the disaster resilience conversation in this country going forward. The Resilient AMERICA Act is designed to follow on the landmark DRRA and addresses climate impacts by incentivizing and providing resources to facilitate smart, climate-conscious behaviors and mitigation. The bill also seeks to remove the moral hazards and policy impediments inhibiting decisionmakers from creating resilient systems and communities. Passage of the Resilient AMERICA Act would resolve many of the capacity, enforcement, and eligibility issues highlighted in this testimony, including through ensuring a certain percentage of BRIC funds are used towards protecting homes and communities through the use of strong, modern building codes. The BuildStrong Coalition calls on the Congress to enhance disaster resilience across the nation through this legislation that would effectuate these policy ideals, changes in authority, development of incentives, and streamlining of assistance to serve our communities in an equitable and transformational way.

The BuildStrong Coalition and its members stand ready to partner with the committee as it drives mitigation and resilience against disaster and climate impacts. The compelling arguments for these policy changes are grounded in overwhelming science and evidence. We are excited to join congressional leaders like you as we identify opportunities for policy changes that promote disaster resilience and the smart investment of federal resources to address our country's vulnerable infrastructure and the increasing number of severe and costly weather events. Together, we can help save the lives and homes of our citizens.



FEMA Priorities for 2022: Stakeholder Perspectives

**Statement of
Kenneth W. Stuebing, BHSc, CCP(f), FO IV
President and Board Chair**

presented to the

**SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS
& EMERGENCY MANAGEMENT**

OF THE

**COMMITTEE ON TRANSPORTATION &
INFRASTRUCTURE**

U.S. House of Representatives

February 16, 2022

**INTERNATIONAL ASSOCIATION OF FIRE CHIEFS
4795 MEADOW WOOD LANE, SUITE 100W • CHANTILLY, VA 20151**

Good morning, Chair Titus, Ranking Member Webster, and members of the subcommittee. I am Fire Chief Ken Stuebing, BHSc, CCP(f), President and Board Chair for the International Association of Fire Chiefs (IAFC) and Executive Director and Fire Chief for Halifax Regional Fire & Emergency. I appreciate the opportunity today to submit this written testimony discussing stakeholder perspectives for the Federal Emergency Management Agency's (FEMA) priorities for 2022 on behalf of our more than 12,000 members in the fire and emergency service.

In 2021, FEMA faced a vast array of disasters including a major pandemic, wildland fires, hurricanes, and support to a catastrophic building collapse. As FEMA personnel dealt with a wide variety of disasters, America's fire and emergency service were there with them on scene and answering the needs of their fellow citizens. America's fire and emergency service includes 1.1 million career and volunteer firefighters that are dedicated to helping Americans at their times of most extreme need. All disasters start locally, and the local fire department is among the first on scene and last to leave. We are proud to work with FEMA and have FEMA's support as the country continues to address these catastrophic events which are occurring more frequently across the nation.

It is important to highlight the special role of specific programs at FEMA. The U.S. Fire Administration (USFA) is the main federal agency that addresses the needs of U.S. fire departments. It hosts the National Fire Academy (NFA), which is the nation's premier institute for fire service leadership. The Assistance to Firefighters Grant (AFG) program, including the Fire Prevention and Safety grants, helps fire departments afford training and equipment to meet their basic operational needs; funds fire protection programs; and supports lifesaving research to improve the health and safety of the fire and emergency medical service (EMS) personnel across the country. The Staffing for Adequate Fire and Emergency Response (SAFER) grants help fire departments hire career firefighters and recruit and retain volunteer firefighters.

During the COVID-19 pandemic, the USFA provided important information and guidance to local fire departments struggling to respond to a mysterious and deadly virus. The AFG program helped fire departments purchase personal protective equipment and other equipment to protect their staff. The

SAFER grants are proving effective at helping fire departments meet the staffing demands caused by the illness and stress from COVID-19.

From the IAFC's perspective, FEMA has an important role to play in 2022 to help fire departments with their mission of responding to wildland fires; supplying urban search and rescue capabilities; being a valued homeland security partner; and improving the nation's emergency response capacity.

FEMA's Wildland Fire Mission

I support the comments of my colleague, Deputy Chief Rich Elliott, the chair of the IAFC's Wildland Fire Policy Committee, who testified before this subcommittee in October. To build off his comments, I emphasize that FEMA is an important partner in the wildland fire mission. Most importantly, FEMA supports wildland fire operations through the Fire Management Assistance Grants (FMAG) and, when necessary, Stafford Act declarations. The IAFC supports H.R. 1066, the Wildfire Recovery Act, which would allow FEMA to raise the federal cost share for FMAGs. The committee marked up this legislation and we look forward to working with you to pass it in the House.

FEMA also can play a greater role in helping communities prevent, mitigate, and recover from wildland fires. Programs like the Hazard Mitigation Grant Program (HMGP), HMGP Post Fire program, and the Building Resilient Infrastructure and Communities program can be used to tie local communities' mitigation efforts with federal and state wildland fire prevention projects. FEMA also can play a greater role in responding to wildland fires by prepositioning resources as it does for major hurricanes. We urge FEMA to work through the U.S. Fire Administration to participate in the National Wildfire Coordinating Group (NWCG) more closely. The NWCG can be used to better coordinate national and regional wildland fire planning and response efforts. FEMA also should support local fire departments having a representative at the National Interagency Fire Center's National Multi-Agency Coordinating Group (NMAC) with the USFA representative. FEMA also can help communities by sending subject matter

experts to update community wildfire protection plans. In addition, FEMA can provide assistance to communities to help them conduct table-top exercises to plan for evacuations during fires.

Urban Search and Rescue

FEMA's 28-team Urban Search and Rescue (US&R) system is a national asset that provides emergency assistance in the face of national disasters, including hurricanes, floods, earthquakes, wildland fires, landslides, structure collapses, and acts of terrorism. Local fire departments host these teams and provide the 6,000 members to staff these teams as well as support the warehousing and maintenance of equipment in a truly successful partnership. It is important that these teams are augmented by state and local US&R teams to form an effective tiered response national system. The IAFC supports FEMA's efforts to identify and catalog all the nation's US&R resources.

The IAFC also urges FEMA to support state urban search and rescue teams. These teams provide an important level of assets to the national US&R system. After a local fire department's search and rescue resources have been used, the local incident commander can escalate and request a state US&R team. A strong state system can provide early lifesaving resources to deploy in the case of a catastrophic disaster like an earthquake on the New Madrid fault or what we witnessed firsthand during the building collapse in Surfside, Florida. Currently, the State Homeland Security Grant Program (SHSGP) is used to provide training and equipment funding for state teams. However, as SHSGP funds have been directed to other priorities, states have lost the discretion to fund US&R teams. The IAFC urges Congress to ensure that US&R training and equipment remain an allowable use for the SHSGP, especially access to SHSGP funds for personal protective equipment (PPE) such as eye protection, boots, N95 masks, disposable respirators, and other PPE.

The IAFC urges Congress to increase funding for the 28 federal US&R teams to replace aging transportation assets. FEMA provided one-time funding in 2004 and 2005 for federal US&R teams to buy vehicles, such as tractors, 53' dry trailers, 28' box trucks, command vehicles, and flatbed trailers. These

vehicles are now reaching their end of useful life and must be replaced to ensure our national asset can move their personnel and equipment in times of disasters. We expect the replacement of vehicles to cost approximately \$500,000 per federal task force.

Homeland Security

The IAFC also asks that FEMA work with the USFA to provide resources to fire and EMS departments to respond to emerging threats. For example, cyber-attacks, such as ransomware and denial-of-service attacks aimed at 9-1-1 centers, are a growing threat to local fire and EMS departments. Recently, the Log4j vulnerability caused many fire departments' staffing systems to go offline. In addition, domestic terrorism also is a threat to jurisdictions across the nation. We ask that FEMA and USFA work with the NFA to develop courses and other resources to better educate local fire departments and emergency services about these threats and how to prepare for them.

We also ask that Congress continue to fund the Urban Areas Security Initiative (UASI) and SHSGP programs. These programs provide support for fusion centers, training, equipment, and exercises to help localities prepare for acts of terror. These grant funds incentivize fire, EMS, law enforcement, emergency management and other stakeholders, such as public health, to work together to prepare for potential terrorist attacks. We also ask that FEMA fund information sharing efforts with the fire and emergency service, including the placement of fire and EMS personnel at intelligence fusion centers and Joint Terrorism Task Forces.

Emergency Response

FEMA can take steps to improve their response to major disasters. In the summer and fall, the nation faces the threat of both major wildland fires and hurricanes, which can reduce the ability to surge resources to respond to these disasters. To improve the national response capability, FEMA should try to better catalog the available federal, state, and local emergency response capabilities, including tracking

the resources and staffing purchased by the AFG and SAFER grant programs. By better understanding the emergency resources available, FEMA can identify gaps and shortages that need to be addressed.

The IAFC's National Mutual Aid System (NMAS) can be a tool to help FEMA better respond to disasters. With NMAS, states will be able to inventory all fire, rescue, and EMS resources that are available within a state, see which resources are available, deploy them to a disaster, and even track their progress. The NMAS is envisioned as a supplement to the Emergency Management Assistance Compact that would help FEMA and state emergency managers track and deploy resources.

The IAFC also asks that FEMA review the Emergency Support Function (ESF) #4, the firefighting annex. ESF #4 coordinates firefighting activities and provides firefighting resources to support local, state, territorial, and insular agencies involved in firefighting operations. Currently, the U.S. Department of Agriculture's U.S. Forest Service (USFS) is listed as the "primary agency." We ask that FEMA revise ESF #4 to give the USFA a larger role as the primary agency in non-wildland fire operations. Firefighting capabilities can be required for a host of non-wildland fire incidents, including acts of terror, mass casualty events, cybersecurity, hazardous materials incidents, tornadoes, earthquakes, hurricanes, and large structural fires. In these scenarios, USFA will be better prepared to be the lead federal agency than the USFS, because it is an all-hazards agency. In addition, USFA has a better relationship with local fire departments across the nation.

Due to the strain caused by the increase in wildland fires and other disasters and the toll caused by the COVID-19 pandemic, it is very important that fire departments be fully reimbursed in a timely manner for their deployments to major disasters. The IAFC recommends that FEMA review its reimbursement process for Stafford Act-declared emergencies. We ask that FEMA examine how to streamline the process and make it more transparent, so that local fire departments are reimbursed more efficiently. We also think that FEMA can play a helpful role in incentivizing state and local agencies to work together to process the paperwork for reimbursement. The IAFC also asks that FEMA examine how to reimburse fire departments for sending volunteers to Stafford Act-declared disasters and how to fully reimburse fire

departments for the full cost of equipment deployment and backfill expenses for fire and EMS personnel to cover staffing replacement costs during long deployments.

Conclusion

I thank you for the opportunity to submit written comments to today's hearing discussing FEMA's priorities for 2022. Over the past two years, both FEMA and the nation's fire and emergency service have dealt with an historic level of emergencies. As the COVID-19 pandemic begins to normalize, this is a good time to review lessons learned and make changes to enhance FEMA's cooperation with local fire and EMS agencies. The IAFC welcomes the opportunity to work with the committee and FEMA to tackle new challenges in the wildland fire, and homeland security fields, while addressing longstanding US&R and emergency response needs to keep our nation safe.

Thank you, Merci, Wela'lioq

Ken

KENNETH W STUEBING, BHSc, CCP(f), FO IV

PRESIDENT AND BOARD CHAIR

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS (IAFC)



EXECUTIVE DIRECTOR / FIRE CHIEF

OFFICE OF THE FIRE CHIEF | HALIFAX REGIONAL FIRE & EMERGENCY



**STATEMENT OF
THE NATIONAL LEAGUE OF CITIES
BEFORE THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT**

“FEMA’S PRIORITIES FOR 2022: STAKEHOLDER PERSPECTIVES”

**FEBRUARY 16, 2022
WASHINGTON, D.C.**

National League of Cities (NLC) would like to thank Chairman Titus and Ranking Member Webster and the Members of Subcommittee for the opportunity to submit the following statement for the record on FEMA’s priorities for 2022.

NLC is the voice of America’s cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions.

Understanding the Current Reality

The increasing threats related to climate change include, but are not limited to, sea-level rise, extreme weather events, such as heatwaves, wildfires, droughts, floods, heavy precipitation, and strong storms, pest infestations, and disease, all of which can threaten human health and public safety, cause damage to local infrastructure, jeopardize water quality and availability, and lead to energy and food shortages. The breadth and severity of these threats require the assistance and resources of the federal government.

The changing climate has exponentially increased the likelihood that cities, towns and villages will experience catastrophic extreme weather events in the near future. Therefore, NLC calls on the federal government to take urgent action to mitigate the effects of climate change and to support adaptation and resilience efforts to prepare communities for a changing climate and extreme weather events.

Local governments are first responders. Local leaders are charged with protecting the health, safety and welfare of residents. When it comes to extreme weather events and disasters, local leaders prepare their communities in advance of emergency situations, offer immediate assistance to those impacted, and identify strategies, solutions, and partnerships to address situations quickly and efficiently.

The lives lost, property damaged, and economic hardships suffered due to the increasing number of natural disasters pose severe problems for individual residents and businesses in cities, towns and villages across the country. Local governments are the first level of government to respond to and

manage most disasters and emergencies and must be regarded as the focal point of all disaster mitigation and recovery activities.

NLC appreciates the enormous task FEMA has in helping so many communities that have been devastated by the recent natural disasters. The threat of future disasters is not going to diminish, but rather increase, which will put additional strain on the ability of FEMA to quickly provide federal assistance to local governments in their recovery efforts.

While ensuring FEMA's ability to help local governments respond to and quickly recover from disasters must remain the highest priority, NLC strongly urges the federal government to change the way our nation sets its federal investment priorities. Resilience and sustainability of critical lifelines and services to communities should be a top priority to help protect communities from future disasters. Building infrastructure to withstand future devastation caused by climate change will not only save taxpayers money, but it will also ensure communities and their economies will recover quickly after a disaster. Additional goals of the federal government must also include a coordinated effort to support long-term recovery efforts in communities after a disaster. This includes providing long-term housing assistance and small business grants to help individuals stay in their communities.

NLC's is Working to Make Cities Resilient

NLC's Leadership in Community Resilience (LCR) grant program supports and enhances local capacity among elected leaders and staff, communities, and community-based organizations as they pursue coordinated climate resilience efforts. Since 2017, 33 cities have participated in the LCR program.

Climate impacts and other shocks such as COVID-19 have converged with existing stresses such as racial and socio-economic inequities and our nation's aging infrastructure to create seemingly insurmountable challenges for local governments. NLC recognizes the ever-growing need to support local leaders as they prepare for extreme events. Many communities are collaborating closely with local partners to take a holistic, proactive approach to tackling climate impacts by developing robust and equitable programs that also address the stresses that weaken local economies and damage the social fabric of communities.

NLC is proud to partner with the Resilient Cities Network to apply their holistic resilience framework to more cities, towns and villages across the country and share lessons and strategies from their global network of Chief Resilience Officers.

Now in its fifth year, the Leadership in Community Resilience program offers training, tools, and partnerships to support local government leaders as they prepare their communities for extreme events as well as long-term climatic and social stressors. Each city that is selected for the program receives \$10,000 in financial support as well as technical assistance and advisory services from NLC staff and partners to help them meet community-specific resiliency goals. The eight cities selected for the 2021 Leadership in Community Resilience Program are:

- **Alton, TX** – A rural community of nearly 20,000 residents located in the Rio Grande Valley region of Texas. Over the past ten years, Alton has been impacted by numerous natural disasters. In the summer of 2020 Hurricane Hanna produced torrential rain and high winds that reached hundreds of miles inland from the Texas Gulf Coast. With NLC's support, the Alton Flood Mitigation Project will focus on two specific goals: rebuilding trust through enhanced, inclusive

resident engagement processes before, during, and after disasters—primarily through training and information dissemination— and updating the city’s emergency response systems to better serve Spanish-speaking residents

- **Arlington, MA** – Arlington and other communities in the Greater Boston Area are known for their cold winters, snowy city streets, and Nor’easters. Summers, however, are becoming increasingly longer, hotter, and more humid. Many residents are unaware that extreme heat is a silent killer that causes more deaths in the US than all other weather hazards combined. Arlington is leading a project to mitigate extreme heat throughout the Mystic River Watershed. The project focuses attention and resources on historically disinvested environmental justice neighborhoods with fewer street trees, green spaces, and access to water. Funding and support from NLC will support the city of Arlington as a regional hub throughout these processes, including the design and creation of targeted, multi-lingual public engagement activities and community-led charrettes to develop and pursue funding for cooling strategies.
- **Cedar Rapids, IA** – On August 10, 2020, one of the worst thunderstorms in US history pummeled the city of Cedar Rapids. With wind speeds of up to 140 mph, the derecho destroyed nearly 65 percent of the community’s tree canopy, damaging nearly every home and business, and leaving most residents without power for over a week. Cedar Rapids city staff, non-profits, emergency response organizations, and countless volunteers immediately activated a new system in five of the city’s most at-risk neighborhoods to bring residents water and other necessities as well as information on how to apply for assistance. These Neighborhood Resource Centers (NRCs) both responded to the community’s urgent needs and created safe places where traumatized residents could feel connected. With NLC’s support, the city will add NRC resources and services to distribute resilience-focused and other necessities to residents year-round, including fresh produce, winterization materials, and legal aid. Ultimately, the city’s goal is to deepen its relationship with residents, improve community resilience to disasters, and build capacity among residents and community partners in the face of climate events and chronic stressors.
- **Dubuque, IA** – Located on the banks of the Mississippi River, the city of Dubuque is striving to be a more sustainable, resilient, and equitable community. By 2100, the city is expected to see a significant increase in heavy precipitation events and average temperatures, including 48 additional days above 95 degrees. Hotter days mean a two to three-fold increase in air conditioning demand which poses challenges in a city where 75 percent of homes were built before 1980, a time when energy efficiency measures did not yet exist. With NLC’s support, Dubuque will assess energy efficiency in the city’s rental housing stock by partnering with the Teen Resiliency Corps (TRC) to collect data. Additional youth from the Multicultural Family Center will work with the Housing Department to survey frontline neighborhoods and collect data related to energy efficiency. The city will then use this information to create scores for housing units that will inform future steps related to neighborhood resiliency and housing inspections. The city’s goal is to support residents in making more informed housing choices, deepen relationships with frontline communities, and expand sustainability and resiliency efforts across multiple departments.
- **Flagstaff, AZ** – Located in the world’s largest contiguous ponderosa pine forest, Flagstaff is a rapidly growing mountain town that is facing increasing pressures on its housing, infrastructure, and community cohesion. Pressures are arising from increased tourism, the “Zoom town” phenomenon, and new residents seeking refuge from rising temperatures in nearby Phoenix

and Tucson. Meanwhile, Flagstaff faces increasing risk from more frequent and severe wildfires, as well as smoke from prescribed burns. Residents – particularly low-income and communities of color—are less likely to have air conditioning or adequately sealed or insulated homes, leaving them more exposed to the health impacts of wildfire smoke. With support from NLC, the city of Flagstaff will launch the Resilient and Healthy Neighborhoods pilot program in three neighborhoods and provide funding for neighborhood projects focused on the intersection of health and resilience.

- **Portsmouth, NH** – As a coastal municipality in the Northeast, Portsmouth is no stranger to the impacts of sea-level rise, intensifying storms, and more extreme precipitation. The city has participated in and led coastal community resilience building efforts as part of the New Hampshire (NH) Coastal Adaptation Workgroup (CAW) for over 10 years, including the Portsmouth Coastal Resilience Initiative, the Portsmouth Historic Vulnerability Assessment, and the Seacoast High Water Mark Initiative. Portsmouth has led the way by incorporating resilience as a priority in the city’s master plan and through its adoption of new floodplain management standards. Portsmouth will use NLC funds to conduct a community resilience needs assessment with inland coastal watershed communities; and develop an action plan for transferring lessons learned, best practices, and strategies to ensure that the successful coastal approaches are relevant to inland communities. The project will conclude with a peer-to-peer information exchange event with all communities, both coastal and inland, focused on building resilience in the New Hampshire coastal watershed.
- **Raleigh, NC** – The city of Raleigh is experiencing an increase in riverine and nuisance flooding, often as a result of even minor rainstorms. Roads flood, as do homes, and the most flood prone areas are in the city’s low-income areas, primarily where communities of color and many elderly or disabled residents live. These neighborhoods are in some of the lowest areas of the watershed, receive runoff from downtown Raleigh, and have been bisected by a major interstate – factors which exacerbate flooding and other health and equity related issues. With support from NLC, Raleigh will convene city staff, subject matter experts, and academics to share their knowledge with community members on watershed management, environmental justice and civic engagement. Following six weeks of training on these topics, participants will develop their own projects to address flood concerns in their respective neighborhoods.
- **Spokane, WA** - Situated in the far eastern part of the state, Spokane is already experiencing a variety of climate change impacts. In recent years, the city has experienced extended bouts of toxic wildfire smoke and heat waves—often simultaneously. In 2020, wildfires in the surrounding areas resulted in residents experiencing record-breaking air quality, further stressing low-income communities during the pandemic. Research by the Spokane Regional Health District indicates that the life expectancy of Spokane’s poorest zip code (also the poorest zip code in the state) is a shocking eighteen years less than those living in Spokane’s wealthiest zip code. As climate change brings more intense heat and smoke to the region, these disparities could worsen. The NLC Leadership in Community Resilience grant will support the city as it addresses these barriers to participation and center social and racial justice in the city’s climate and sustainability work. Staff will work closely with partners to establish an environmental justice advisory group and to collaborate with residents and community-based organizations to inform the climate action plan.

While NLC is committed to helping cities, towns and villages strengthen community resilience, the federal government needs to do more to help local leaders prepare their communities for the increasing number and severity of disasters.

Federal Role in Building Stronger Cities, Towns and Villages

NLC strongly urges the federal government to provide funding and technical assistance directly to local governments for mitigation, preparedness, response and recovery.

An effective system must be developed to ensure that federal and state emergency management officials conduct substantive consultations with local officials for key decision-making affecting homeland security, disaster preparedness and response at the local level.

Federal and state technical and financial assistance should be structured to allow local officials maximum flexibility in rebuilding their infrastructure stronger to withstand future disasters.

In order to maintain viable communities and an economically sound nation, all levels of government must work together to reduce the likelihood of disaster losses incurred. Specifically, the federal government should:

- Continuously strive to improve the coordination of local, state and federal disaster preparedness plans, including Emergency Management Assistance Compact (EMAC) operations;
- Ensure continued availability of adequate property and casualty insurance and excess insurance coverage to all regions of the nation, at affordable rates without unreasonable exclusions or geographic redlining;
- Provide clear and appropriate division of responsibilities between local, state and federal governments in Presidentially declared disaster areas, with clear channels and protocols between leaders; and
- Ensure FEMA has the funding, authority, clear mandate and flexibility it needs to respond quickly and effectively.

Disaster Prevention, Planning and Mitigation

The highest priority of all levels of government in addressing disasters should be prevention and mitigation. Mitigation saves lives and reduces injuries, reduces economic losses, maintains and protects critical infrastructure, and reduces the liability borne by local governments and elected officials.

Knowing that improved safety from disasters in the future relies on what we can learn from the disasters of today, the federal government should collect data on the effects of disasters and lessons learned. Analysis of such data should be disseminated to aid state and local disaster-related efforts. Similarly, the federal government should provide technical assistance to state and local governments to help them conduct annual hazard and risk assessments to determine the vulnerability of areas or structures to disasters based on empirical data and information.

The federal government should provide an adequate level of funding, technical assistance and resources for local emergency preparedness and disaster planning and management. Such funding should allow a city to tailor its disaster preparedness planning to the special circumstances and needs of the area, particularly to any facilities and densely populated areas that have the potential to be terrorist targets,

as well as provide local governments with appropriate emergency response equipment and communication as necessary.

In addition to directly assisting cities, towns and villages in their mitigation efforts, NLC urges the federal government to:

- Require federal agencies to develop and coordinate pre-and-post-disaster mitigation programs for the types of emergencies they manage;
- Develop a comprehensive evaluation of risk factors for potential disasters;
- Make federal mitigation training programs more accessible and affordable and ensure that proven mitigation technology is more widely publicized and utilized;
- Support local governments in their efforts to encourage the public and private sectors to retrofit existing structures to reduce future losses from natural disasters and to locate new construction outside of high-risk areas such as flood plains, coastal areas or on or near earthquake faults;
- Encourage lending institutions to incorporate mitigation provisions as conditions for loans;
- Enact legislation that will allow for federal assistance in the accreditation of municipal levees in a cost-effective and responsible manner; and
- Support federal programs to encourage public, private and individual disaster plans,

Disaster Response and Recovery

Federal programs should be structured to support municipal governments with adequate technical assistance, funding and authority to immediately and effectively respond to all types of disasters, including training and equipping first responders and the public and private critical lifeline services.

The federal government must increase funding to local governments for response, including processes to resolve equity issues in disaster relief efforts. The federal government must review all regulations dealing with disaster relief that raise equity issues, and based on such a review, propose corrective action. Specifically, when multiple cities have been damaged by a disaster, a formula or waiver process should be available to resolve disaster-related damage in a fair manner. The federal government also should allow municipalities to request their municipality be declared a disaster independently of other local government entities.

Additionally, the federal government should assist in the establishment and training of interdisciplinary, multi-jurisdictional search and rescue teams in each state to respond to and recover from natural and manufactured disasters.

When a city is asked by the federal government to provide services to citizens from jurisdictions outside their own in times of a declared state of emergency, it is the right of that city to recoup reimbursement from the federal government for expenses. Federal agencies must reimburse cities outside the declared state of emergency for costs related to disaster evacuation and sheltering, including straight time for city employees and the use of city-owned sheltering facilities at the direction of the federal government.

Federal Assistance After a Disaster

After a natural or man-made disaster, the federal government must provide a timely, streamlined, coordinated and predictable economic assistance package to local communities to ensure long-term economic recovery and prosperity. The economic package should include federal grants, public loans

and public assisted private loans at favorable rates throughout the repayment cycle. The federal government must also provide technical assistance to assist communities in accessing federal monetary assistance.

In providing this economic assistance, the federal government should follow these principles:

- The federal assistance must include direct grants to local government to replace city infrastructure, provide operating funds for the continuance of government functions and key municipal-run services (e.g. water, police), as well as expedite economic recovery after damage to public buildings, business and manufacturing facilities and other affected parties in local economies.
- It must minimize economic disruptions and losses from disasters through prompt reimbursement of all approved disaster recovery expenses.
- Local government authorities must be given decision-making authority and economic control in any unified redevelopment organization created by the federal government.
- Federal economic assistance must not promote and should strive to minimize competition between disaster struck cities and localities to attract business.
- The federal government must provide incentives to encourage the private sector to invest in sound recovery activities with some measure of accountability.
- The federal government must ensure that public and private funds are allocated to locally-based businesses as available, by maximizing the participation of local businesses and local residents in recovery projects, including the provision of training or re-training local residents as needed.
- The Small Business Administration should continue to play a critical role in recovery for small businesses after disasters.
- The federal government must restore homeowner investment equity levels for residents of disaster struck localities and promote future property investment in local communities.

Training and Technical Assistance

The federal government must provide technical assistance and regional training devoted to disaster preparedness and response. This technical assistance should include the gathering and regular dissemination of information to local governments on general disaster issues as well as specific disasters where they occur. As part of its technical assistance efforts, the federal government should encourage regions to share resources and equipment needed for preparedness and response through mutual aid agreements and regional coordination. The technical assistance should also include resources and support to smaller cities, towns and villages that might not have the staff and capacity to apply for federal disaster mitigation grants.

Impact to Vulnerable Communities

While there is a long list of lessons learned and after-action reports for all major disasters, there are still some lessons that we have not yet learned. One of those lessons is that the road to recovery is long and many times inequitable to vulnerable communities. There is a large body of research that shows certain communities and populations within communities are least able to prepare in advance of a disaster and are more likely to suffer during and after a disaster strike. These populations include persons with disabilities, the elderly, Black, Indigenous and People of Color (BIPOC), immigrants, non-English

speakers, economically disadvantaged households, and people who live in high-density housing. Specifically, low-income families are more likely to live in flood prone areas with insufficient infrastructure and inadequate flood control protections, if any at all. Lower income homeowners may lack the financial resources for flood insurance and access to networks to rebuild as quickly. Those who are economically disadvantaged often lack mobility and places to flee to when catastrophes strike—all of which undermine their ability to survive disasters and bounce back in the years that follow.

Studies also show that every disaster disproportionately and almost permanently disrupts the lives of those with the least resources to recover. These communities are often left without options or the ability to continue their lives as normal after such emergencies.

The goal of resilience, preparedness, response and recovery should not be limited to ensuring that the wealthiest parts of a community come back to life or that the downtown business district is protected, but also require that every resident, every neighborhood, every community is able to respond and quickly recover from a natural disaster. Federal, state and local efforts need to recognize the disparate impacts on vulnerable communities and require equitable reinvestment to make these communities more resilient for future disasters.

Climate Change Mitigation, Adaptation and Resilience

In order to meet the carbon emissions reductions goals necessary to help mitigate the effects of climate change on communities, improving energy efficiency, increasing energy conservation and deploying renewable energy systems will be essential at the local, state and federal levels. These actions will save taxpayer dollars, boost the national and local economy, enhance national security, increase our nation's energy independence and improve environmental quality.

The federal government must develop policies to rapidly reduce greenhouse gas emissions in order to prevent the worsening of the already measurable effects of climate change on the global environment. NLC urges the federal government to develop a multi-pollutant strategy to reduce emissions from power plants, mobile sources and other major sources to provide significant reductions in greenhouse gas emissions. Moreover, climate change is a global problem that demands a global solution. As such, NLC supports the U.S.'s reengagement in the Paris Climate Agreement and urgent action to adopt nationwide greenhouse gas emission goals and policies that exceed the Intergovernmental Panel on Climate Change's 1.5°C targets of 45% emissions reduction from 2010 levels by 2030 and net zero by 2050.

A successful national climate protection strategy must also focus on implementing adaptation measures that are necessary to prepare cities, towns and villages and residents for those changes that may be unavoidable. The range of adaptation issues must be uniquely addressed by each local government.

In order to help communities plan for the impacts of a changing climate and create resilient communities that can adapt in the face of challenges and changing circumstances, NLC urges the federal government to:

- Comprehensively study the effects of climate change on the nation's cities, as well as different regional climate change impacts, and identify solutions to address current and future threats;
- Provide financial and technical assistance to support local government vulnerability assessments and climate change mitigation and adaptation implementation efforts;

- Ensure that local governments have the information, resources and tools to adequately plan for and respond to climate change effects;
- Establish a national climate service to communicate changes and impacts, and provide critical time-sensitive information to local governments and the public, as well as long-term climate change information;
- Require consideration of climate-related risks and vulnerabilities as part of all federal policies, practices, investments and regulatory and other programs;
- Facilitate collaboration among federal, state and local authorities to share best practices and climate resilient strategies;
- Fund a national public service campaign to inform the public about the impacts of climate change and the need for adaptation measures;
- Pass a national renewable portfolio standard that increases the use of carbon neutral energy and promotes energy efficiency, with the goal of at least 50 percent carbon neutral energy by 2030 and 100 percent by 2050 or sooner; and
- Support programs that will help communities reduce the risks from disasters and natural hazards, such as the FEMA Building Resilient Infrastructure and Communities (BRIC) program.

Flood Insurance

We are concerned that there is still considerable uncertainty about the fate of the National Flood Insurance Program (NFIP) and how the proposed reforms will impact flood insurance rates for primary, non-primary and business properties. As Congress continues to consider these reforms to the NFIP, we believe the final legislation should:

- Protect the grandfathering of flood insurance rates for properties that were built to code before FEMA's adoption of flood maps;
- Keep flood insurance rates affordable for primary, non-primary and business properties while balancing the fiscal solvency of the program;
- Allow the federal government to work with state and local governments, the insurance industry, and other stakeholders to develop an incentive-based disaster insurance and mitigation system that would encourage property owners to retrofit existing structures to reduce future losses from natural disasters;
- Encourage lending institutions to incorporate mitigation provisions as conditions for loans; and
- Provide additional resources to FEMA to utilize the best technology and methods available to improve the mapping process, including seeking input from local government officials prior to approving any flood map that could impact local zoning rules.

Any reforms to the NFIP must improve the current mapping process. Too often the FEMA mapping process results in local governments having to fight inaccurate maps that do not consider locally built flood protection features and communities building off of outdated mapping, which results in artificially inflated risk. Further, many areas of the country are not mapped or mapped accurately, which results in communities who are at risk of flooding unaware of the risk.

Wildfires

Local elected officials have witnessed firsthand the economic, environmental and social implications that wildland urban interface fires can create in unprepared communities. Every year, these images grow more widespread and familiar.

For cities, towns and villages that are in the crossroads of the wildland urban interface, wildfire is no longer an exception — it is a fact of life. When wildfire enters a community, its path of destruction is fueled by overgrown, diseased and drought-stricken vegetation. It destroys animal habitats, affects air quality, water quality and quality of life. When wildfire encounters what's called a wildland-urban interface — like the wooded edge of a populous suburb — it can alter course, burning through homes, businesses and infrastructure.

Each of these impacts comes with a price tag, which can quickly add up to tens of millions of dollars. But even more important than structures and money, wildfire may cost the lives of citizens, visitors and firefighters/first responders.

Wildfire damages more than just what lies in its path: the aftermath of a burn is capable of contaminating or incapacitating watersheds. The deposition of ash, soot and debris in reservoirs, streams and water supplies for remote communities can prove catastrophic. Contaminated water means a temporary or even long-term loss of water supply — which can cripple a community economically. The significant expense of cleaning and rehabilitating, as well as any related lawsuits, is funded primarily by taxpayer dollars.

Worse, deforestation from so-called “crown fires” can sterilize the ground — leaving soils unable to collect and retain rainwater. This can increase the severity of flash floods and landslides for years. Mitigating or deflecting the damage is costly, and it requires committing both resources and personnel over extended periods of time. Over time, this issue can also cause subsidence issues with existing infrastructure, bridges and buildings.

Preparedness and planning are key to mitigating the damage — and federal, state and local leaders should develop strategies to address the challenges these events impose.

Strategic wildfire planning does not have to mean clear-cutting or obliterating forested land. It does not necessarily involve unsightly or cost-prohibitive building regulations. But it does mean developing awareness and exposing risks, as well as identifying what outcomes are achievable through recognition, preparation and dialog. NLC believes the federal government needs to provide additional technical assistance to help community leaders understand their roles in wildfire mitigation and planning.

Conclusion

NLC recognizes that the federal government's ability, including FEMA, to help local governments recovery quickly after a disaster has been severely impacted by the sheer number of disasters that have occurred over the past couple of years. Delays in federal assistance is putting the recovery efforts in cities, towns and villages that have been hit the hardest by the recent disasters in jeopardy. Without long-term federal support, the losses to the local economy, jobs and population mean it will take these communities much to recover and rebuild.

Protecting communities from future disasters will take significant additional commitment from every level of government – federal, state and local – without letting up on the efforts to recover from recent disasters.

To help local communities, as a part of our broader infrastructure campaign, NLC is calling on Congress and the federal agencies to develop a coordinated federal plan that supports community resilience by passing legislation that will:

- Provide local governments with technical assistance, tools and information to mitigate risk and improve local infrastructure to better withstand extreme weather in the short- and long-term;
- Streamline federal assistance programs, such as CDBG Disaster Recovery grants, to ensure local governments can access and effectively use the resources they need for long-term recovery;
- Provide financial and technical assistance for local government vulnerability assessments and pre-disaster and hazard mitigation efforts;
- Provide local governments with incentives to consider the effects of climate change and extreme weather in their mitigation, adaptation, and resilience planning;
- Better align federal funding with local preparedness and resilience-building efforts to reduce the risks from extreme weather;
- Ensure equity in disaster mitigation, response, and recovery programs; and
- Require greater coordination between federal agencies such as the Small Business Administration, Department of Housing and Urban Development, Department of Health and Human Services, and FEMA to support long-term recovery efforts.

Thank you for the opportunity to submit this testimony on an issue of essential importance to our nation's cities, towns and villages.

Statement for the Record of the National Low Income Housing Coalition

Presented to the Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings, and Emergency Management
United States Housing of Representatives
Hearing on “FEMA Priorities for 2022: Stakeholder Perspectives”
February 16, 2022

Committee Chair DeFazio and Ranking Member Graves, Subcommittee Chair Titus and Ranking Member Webster, and members of the Committee, thank you for the opportunity to submit a statement for the record on FEMA’s priorities for 2022.

The National Low Income Housing Coalition is dedicated to achieving racially and socially equitable public policy that ensures people with the lowest incomes have quality homes that are accessible and affordable in communities of their choice. NLIHC leads the Disaster Housing Recovery Coalition of more than 850 national, state, and local organizations, including many working directly with disaster-impacted communities and with first-hand experience recovering after disasters. We work to ensure that federal disaster recovery efforts prioritize the housing needs of the lowest income and most marginalized people in impacted areas.

NLIHC has worked on disaster housing recovery since Hurricane Katrina, and from this experience, we have come to a simple conclusion: America’s disaster housing recovery system is fundamentally broken and in need of major repair and reform. It is a system that was designed for middle-class people and communities, a system that never contemplated, and so does not address, the unique needs of the lowest income and most marginalized people. Because of this fundamental design flaw, these families are consistently left behind in recovery and rebuilding in disaster after disaster. The disaster recovery system not only ignores the needs of the lowest-income people, but it exacerbates many of the challenges they faced prior to the storm: disaster response and recovery often worsen the housing crisis, solidifies segregation, and deepens inequality.

When disasters strike, the lowest-income and most marginalized survivors are often hardest hit. They have the fewest resources and face the longest, steepest path to recovery. Despite the clear need, federal efforts frequently leave these survivors without the assistance needed to recover and leave their communities less resilient to future disasters. Without this critical assistance, many of the lowest-income and most marginalized survivors return to uninhabitable homes, sleep in cars or at shelters, double- or triple-up with other low-income families, or pay more than half of their limited incomes on rent, putting them at increased risk of displacement, eviction, and, in worst cases, homelessness.

This statement for the record will discuss ways FEMA can remove key barriers to an equitable and comprehensive disaster housing recovery and all disaster survivors receive the assistance they need to fully recover. These [barriers](#) and [opportunities](#) for reform are reflected in “Fixing America’s Broken Disaster Housing Recovery System,” a two-part report published by NLIHC and Fair Share Housing Center of New Jersey.

These policy recommendations also reflect nine core principles that should guide our country's disaster housing response and recovery:

1. Recovery must be centered on survivors with the greatest needs and ensures equity among survivors, especially for people of color, low-income people, people with disabilities, immigrants, LGBTQ people, and other marginalized people and communities;
2. Everyone should be fairly assisted to fully and promptly recover through transparent and accountable programs and strict compliance with civil rights laws, with survivors directing the way assistance is provided;
3. Securing help from government must be accessible, understandable, and timely;
4. Everyone in need should receive safe, accessible shelter and temporary housing where they can reconnect with family and community;
5. Displaced people should have access to all the resources they need for as long as they need to safely and quickly recover housing, personal property and transportation;
6. Renters and anyone experiencing homelessness before the disaster must quickly get quality, affordable, accessible rental property in safe, quality neighborhoods of their choice;
7. All homeowners should be able to quickly rebuild in safe, quality neighborhoods of their choice;
8. All neighborhoods should be free from environmental hazards, have equal quality, accessible public infrastructure, and are safe and resilient; and
9. Disaster rebuilding should result in local jobs and contracts for local businesses and workers.

These core principles and the following policy recommendations should serve as a guidepost for the FEMA as it continues to pursue its mission in 2022. Additional recommendations can be found in the DHRC's [transition memo](#) to the Biden administration, comments to FEMA's [Request for Information](#), and a previous [written statement to this committee](#) on ensuring equity in disaster preparedness, response and recovery.

Barriers to FEMA Assistance

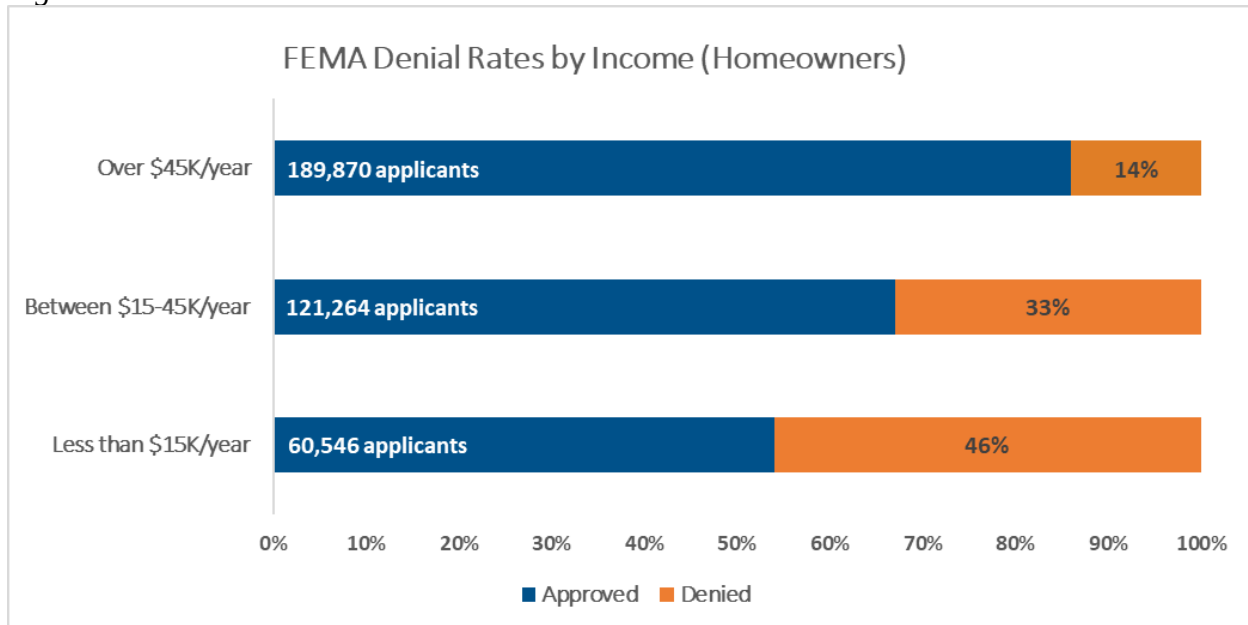
FEMA programs can provide crucial assistance to help survivors recover from a disaster by providing temporary shelter and financial assistance and making basic structural repairs to homes. However, FEMA has created unnecessary and often insurmountable barriers to accessing these programs.

FEMA programs are not designed to serve lower-income people with the greatest needs; these households are consistently denied assistance. For example, nearly 95% of applicants for recovery assistance after the 2020 wildfire season were denied assistance by FEMA.¹ After the

¹ McMinn S. 2021. FEMA Rejected 95% of Aid Applicants During California's Last Wildfire Disaster. Why?. Retrieved from <https://www.npr.org/2021/07/02/1011877546/fema-rejected-95-of-aid-applicants-during-californias-last-wildfire-disaster-why>

2020 wildfire season in Oregon, FEMA had denied 70% of non-fraudulent claims.² This effect occurs during other disasters as well. Applicants for assistance with the lowest incomes were denied FEMA Individual Assistance (IA) at very high rates after Hurricane Harvey. The vast majority of higher-income households were approved³ (see Figure 1).

Figure 1.



There are multiple administrative steps that FEMA can take to ensure survivors with low incomes can access the resources needed to fully and equitably recover.

Provide equal eligibility for people experiencing homelessness.

People experiencing homelessness are often most at risk during a disaster and have the fewest resources to recover. People experiencing homelessness are unlikely to have the resources needed to adequately prepare for or evacuate prior to a disaster, and their unique needs are often overlooked by emergency managers when planning for disasters. During the recovery, homelessness resources are stretched thin to accommodate those households that became housing insecure because of the disaster and resources for pre-disaster homeless populations are deprioritized. Communities are often unable to return to the level of care provided to people experiencing homelessness before the disaster.

Despite the clear need, people experiencing homelessness are often excluded from or face additional barriers to FEMA resources, including mass shelters and individual assistance.

² McMinn S. 2021. As Western Wildfires Worsen, FEMA is Denying Most People Who Ask for Help. Retrieved at: <https://www.npr.org/2021/07/01/1010897265/as-western-wildfires-worsen-fema-is-denying-most-people-who-ask-for-help>

³ Adams, A. 2018. Low-income Households Disproportionately Denied by FEMA Is a Sign of a System that is Failing the Most Vulnerable. Retrieved from <https://texashousers.org/2018/11/30/low-income-householdsdisproportionately-denied-by-fema-is-a-sign-of-a-system-that-is-failing-the-most-vulnerable/>

Following Hurricane Irma, there were reports of people experiencing homelessness being forced to wear armbands and be separated from other disaster survivors.⁴ Pre-disaster homeless populations are often denied FEMA assistance, even if all their belongings were destroyed in the disaster.⁵ These actions further stigmatize people experiencing homelessness and often prevent them from accessing the resources they need to stay safe.

What eligibility individuals experiencing homelessness have for FEMA programs are often contingent upon proof that they resided in a tent or another form of “non-traditional housing” – something that is difficult to show in the chaotic aftermath of a disaster. While those living in tents that can show occupancy are deemed eligible for some forms of short-term housing assistance, those unable to do so are only eligible for reimbursement for transportation, medical and dental expenses, childcare, and funeral expenses. Reimbursement-based programs are of little use to individuals experiencing homelessness given their lack of resources.

In 2022, FEMA must directly ensure that individuals and families experiencing homelessness access the assistance they need to recover. The agency must directly establish that people experiencing homelessness prior to the disaster are eligible for the same emergency shelter and housing recovery resources available to impacted renters. The provision of assistance must not be arbitrarily based on whether the individual resided in a tent or temporary structure prior to the disaster.

In addition, to help the agency assess the unique needs of the pre-disaster population of individuals and families experiencing homelessness in a certain area, FEMA must include in its standard recovery assistance plan and preliminary damage assessments an on-site assessment of homeless encampments and shelters. This will provide the agency with an idea as to the pre-existing support structure for individuals and families experiencing homelessness, as well as the ongoing need for outreach and assistance to ensure these individuals are able to apply and receive the assistance that they need to recover.

Modernize FEMA’s interpretation of the Stafford Act’s nondiscrimination clause.

FEMA’s interpretation of the Stafford Act’s non-discrimination statute prevents the agency from fully addressing the barriers to opportunities and benefits for people of color and other underserved groups. The Stafford Act and related regulations prohibit discrimination on the basis of color, race, nationality (including limited English Proficiency), sex, religion, age, disability, or economic status when carrying out federal assistance functions at the site of a major disaster.⁶

Specifically, Section 308(a) of the Stafford Act directs regulations to ensure that “the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.”

⁴ Dearen, J., & Kennedy, K. 2017. *Yellow Wristbands, Segregation for Florida Homeless in Irma*. Retrieved from <https://www.usnews.com/news/us/articles/2017-09-29/yellow-wristbands-segregation-for-florida-homeless-in-irma>

⁵ Ehrlich, A. 2019. *After Wildfires, Homeless People Left Out of Federal Disaster Aid Programs*, Oregon Public Broadcasting. Retrieved from <https://www.opb.org/news/article/fema-disaster-aid-wildfires-homeless-people/>

⁶ 42 U.S.C. 5151; See also 44 CFR § 206.11; 44 CFR § 7.5

Based on previous discussions with FEMA staff, the agency-wide interpretation of this statute prevents special consideration from being provided to individuals that would allow additional services or assistance to be provided based the factors listed above. This incredibly strict interpretation is unique among agencies that offer assistance programs.

FEMA must change its interpretation of the Stafford Act's non-discrimination statute to meet the unique needs of people of color and other underserved groups. Instead of using the non-discrimination language of the Stafford Act to justify its lack of action regarding the severe and unique needs of people of color and other underserved groups – including individuals and families experiencing homelessness, households with low incomes, individuals with disabilities, and individuals with Low English Proficiency – the agency should adopt an interpretation that allows all individuals to access the assistance they need to recover. Many other federal agencies have interpreted their respective non-discrimination statutes as to allow individuals with unique needs to receive specialized treatment, and FEMA should follow suit.

Create a universal application for assistance from all federal agencies.

With so many federal agencies active in the aftermath of a disaster many survivors can easily become overwhelmed with the complicated process, leading to incomplete applications, confusion over how programs function, and failure to gain any assistance at all.

As many disaster survivors and advocates have discovered, applicants eligible for disaster assistance are often deemed ineligible because of inflexible and arbitrary requirements and confusing bureaucratic processes, despite an applicant's clear need for disaster assistance.⁷ FEMA's application process is confusing, lengthy, and burdensome. Disaster survivors are required to submit several applications to federal agencies such as the SBA, along with multiple layers of personal identification, proof of ownership and residency, citizenship, insurance reporting, and more. Many of these same requirements will need to be repeated later in the disaster recovery process when HUD funds become available. As a result of these barriers, FEMA denial rates have reached extremely high levels in recent disasters, raising questions about why so many are being turned away.⁸

The complexity of the IA and IHP application and appeals process perpetuate barriers to opportunity and benefits for people of color and other underserved groups. In addition to the example of Hurricane Harvey IA approval provided above (figure 1.), a review of Individual Assistance applications in the aftermath of Hurricane Delta found that majority-African American zip codes were denied assistance at a rate more than double those of majority-white zip codes.⁹

⁷ 6 Danny Vinik, "'People Just Give Up': Low Income Hurricane Victims Slam Federal Relief Programs," Politico, May, 29, 2018. Available at: <https://www.politico.com/story/2018/05/29/houston-hurricane-harvey-fema-597912>

⁸ Hannah Drier, "Assistance Not Approved", Washington Post (April 2021), Available at: <https://www.washingtonpost.com/nation/2021/04/25/fema-disaster-assistance-denied/>

⁹ Christopher Flavelle, "Why Does Disaster Aid Often Favor White People", New York Times (June 2021), Available at: <https://www.nytimes.com/2021/06/07/climate/FEMA-race-climate.html>.

In addition to presenting obstacles for survivors, the duplicative nature of the application processes serves to lengthen the amount of time it takes to get assistance to those in need. A required housing inspection can take up to 10 days after the submission and verification of application documents have been completed and FEMA has stated that it can take up to 90 days to process an appeal once it is received.¹⁰ As a result, the consequence for applying for assistance with an application error that results in denial could be more than three months after the initial date of submission.

FEMA, SBA, HUD, and other federal agencies involved in disaster recovery efforts should work to create a single, universal application for aid with the explicit goal of making the process easier and less burdensome on survivors. This simple step would save countless hours spent by survivors applying for assistance. By working with fellow agencies to create a universal application allowing survivors to apply for numerous programs through one form, FEMA can not only ensure that these recovery programs are accessible to all survivors, but make the entire process more efficient.

FEMA's Failure to Address Housing Needs

Despite the clear need, FEMA housing programs neglect the housing needs of America's lowest-income disaster survivors and exacerbate housing insecurity. Without the affordable and accessible homes survivors need, many return to uninhabitable homes, sleep in cars or tents, stay at shelters, double- or triple-up with other low-income families, or pay more than half of their limited incomes on rent, putting them at increased risk of eviction and, in worst cases, homelessness.

FEMA's rental assistance program does not adequately address the needs of low-income survivors. The assistance program is based on the county or territory fair market rent and may be inadequate to meet post-disaster rental rates. Families receiving FEMA rental assistance are frequently victims of housing discrimination, and because assistance is only given in two-month increments, landlords may be unwilling to enter into longer-term leases. Often, vacant rental housing may simply not be available in the wake of a disaster.

FEMA assistance expiration dates often do not line up with additional recovery programs, such as HUD's Community Development Block Grant – Disaster Recovery program. This creates a gap in recovery support that can result in people of color and other underserved groups being forced to live on the street, cars, or their damaged or destroyed homes. Disaster survivors are susceptible to trauma, and a lapse of program assistance, even if just for a few days, can cause significant harm to households that have already been displaced by a disaster.¹¹ A year after

¹⁰ Texas Law Help, "Disaster Manual: Section 2 – FEMA and Related Forms of Assistance" (September 2021), Available at: <https://texaslawhelp.org/article/disaster-manual-section-2-fema-and-related-forms-of-assistance#top>; FEMA, "FAQ: Setting the Record Straight on FEMA Assistance for Hurricane Ida – NY" (December 2021), Available at: <https://www.fema.gov/fact-sheet/faq-setting-record-straight-fema-assistance-hurricane-ida-ny>

¹¹ Susanne Babbel, "The Trauma That Arises from Natural Disasters," Psychology Today, April 2010. Available at: <https://bit.ly/3hyUd1o>

Hurricane Harvey, nearly 20% of individuals experiencing homelessness in the city of Houston reported that they became homeless due to the disaster.¹²

Research from NLIHC demonstrates that disasters exacerbate the existing rental housing crisis for households with the lowest incomes.¹³ After Hurricane Sandy, households already dealing with housing instability were further destabilized through displacement and increased rents. Two years after Sandy, few new affordable homes had been completed yet survivors were no longer eligible for federal rental assistance.¹⁴

Following Hurricane Harvey, FEMA piloted state implementation of temporary housing programs. State-run disaster housing programs faced significant delays and have been unable to address the full scale of the housing needs in large part because FEMA continued to retain control over eligibility and the program-assignment process.¹⁵ According to FEMA, only a few hundred families were served under state-administered housing programs following Hurricanes Harvey and Irma, while state-administered programs like Multifamily Lease and Repair were wholly unsuccessful because property owners declined to participate.¹⁶

After 18 months from the date of the presidential disaster declaration, households utilizing FEMA direct temporary housing are typically required to leave.¹⁷ Survivors are required to demonstrate continuing need for program enrollment and work toward a permanent housing plan. Extensions are commonly granted but the process for requesting for such extensions are often unknown. Often, families in need of housing after the passage of the 18-month deadline are expected to start paying often unaffordable rents on their trailers. The DHS Office of Inspector General found that substantial oversight issues existed with state-run disaster housing recovery programs were implemented in Puerto Rico after Hurricane Maria.¹⁸

Eliminate barriers to FEMA’s Transitional Shelter Assistance Program.

Financial barriers often prevent low-income survivors from accessing FEMA’s Transitional Sheltering Assistance (TSA), which provides disaster survivors with short-term housing in the

¹² Eva Vigh, “Hurricane Harvey Caused Homelessness Lingers in Harris County 2 Years Later,” Community Impact, August 20, 2019. Available at: <https://bit.ly/3hEvKHW>

¹³ National Low Income Housing Coalition. 2019. Long-term Recovery of Rental Housing: A Case Study of Highly Impacted Communities in New Jersey after Superstorm Sandy. Retrieved from <https://nlihc.org/sites/default/files/Sandy-Rental-Recovery-Report.pdf>

¹⁴ Fair Share Housing Center, Latino Action Network & NAACP New Jersey State Conference. 2015. The State of Sandy Recovery (Second Annual Report). Retrieved from http://fairsharehousing.org/images/uploads/State_of_Sandy_English_2015.pdf

¹⁵ Id.

¹⁶ Jasper Scherer and Mike Morris, “Three Years After Harvey, Recovery Programs Continue To Lag, Who is to blame?”, Houston Chronicle, August 29 2020, Available at: <https://www.houstonchronicle.com/news/houstontexas/houston/article/Three-years-after-Harvey-Houston-s-home-repair-15523516.php>

¹⁷ FEMA, Individual Assistance Program and Policy Guide (2021), pg. 80, Available at: https://www.fema.gov/sites/default/files/documents/fema_individual-assistance-program_policy-guide_05-26-2021.pdf

¹⁸ DHS Office of Inspector General “FEMA Should Apply Lessons Learne from the STEP Pilot Program Implementation in Puerto Rico to Future Programs”, OIG-22-25 (February 4, 2022), Available at: <https://www.oig.dhs.gov/sites/default/files/assets/2022-02/OIG-22-25-Feb22.pdf>

form of hotel rooms. Currently, participating hotels charge daily “resort” fees, require security deposits, and require that displaced households have credit cards – all of which are barriers for low-income households that have already depleted any savings that they may have had and that are often unbanked or underbanked.¹⁹

In the chaos after a disaster, survivors often find the constant reapplication requirements to be further traumatizing and many leave TSA without a permanent housing plan.²⁰ Without the affordable and accessible homes survivors need, many have had no choice but to return to uninhabitable homes, sleep in cars or tents, stay at shelters, double- or triple-up with other low-income families, or pay more than half of their limited incomes on rent, putting them at increased risk of eviction and homelessness. In some cases, failure to access the TSA program can lead to even worse outcomes; there are numerous accounts from many recent disasters where individuals unable to access FEMA’s TSA program returned to sleep in mold-infest homes and requiring emergency hospital care as a result.²¹

While FEMA is authorized to provide TSA for at least 18 months, the Trump administration abruptly terminated the program for dozens of Puerto Rican families displaced to the mainland after Hurricane Maria, forcing them to find alternative housing or to return to their uninhabitable homes on the island with just a few hours’ notice.²² States that received large numbers of displaced Puerto Rican survivors – including Massachusetts and Connecticut – saw increased homelessness as a result.

FEMA must bar hotels from requiring survivors to have a credit card or a security deposit, or to pay any additional fees beyond the amount covered by FEMA to access the program. FEMA must make publicly available monthly information on the number of households in TSA hotels, when funding for those rooms will expire, and how many individuals have moved out of TSA-funded rooms – including whether they have moved to permanent housing or violated terms of the program. The agency should do this after every disaster.

FEMA must also authorize TSA in increments longer than the current 14-day policy and ensure that program participants are aware of proposals to extend the TSA program beyond the initial period of assistance and ensure that participants are given adequate notice prior to premature termination of the program.

¹⁹ FEMA, Fact Sheet: Transitional Sheltering Assistance (TSA), 2018, Available at: <https://www.fema.gov/pressrelease/20210318/fact-sheet-transitional-sheltering-assistance-tsa>

²⁰ U.S. Senator Kamala D. Harris, Letter to FEMA Administrator Peter Gaynor, May 22, 2019. Available at: <https://www.harris.senate.gov/imo/media/doc/052219%20Camp%20Fire%20Housing.pdf>

²¹ See S. Bachom, “Got Mold? Cold? FEMA?” Hurricane Sandy Nightmare Continues in Rockaway”, Huffington Post (2017), Available at: https://www.huffpost.com/entry/got-mold_b_2541741

²² See Connecticut, https://www.buzzfeed.com/briannasacks/fema-abruptly-cuts-housing-funds-for-dozens-ofpuerto-rican?utm_term=.cbeGk92boD#.htP3MLRP29; Pennsylvania, <https://www.pri.org/stories/2018-02-13/puerto-ricans-who-evacuated-philadelphia-worry-help-will-soon-run-out>; Massachusetts, http://www.masslive.com/politics/index.ssf/2018/02/sens_elizabeth_warren_ed_marke_9.html; New York, <https://www.nytimes.com/2018/02/12/nyregion/puerto-rican-hotels-fema-hurricane-maria.html>; Florida, <http://www.orlandosentinel.com/news/puerto-rico-hurricane-recovery/os-fema-housing-direct-lease-evacueespuerto-rico-20180213-story.html>

Work with HUD to Activate a Disaster Housing Assistance Program (DHAP)-like Program to provide longer-term housing assistance to low-income households.

Developed from the hard-won lessons of Hurricane Katrina, the Disaster Housing Assistance Program (DHAP) has been used to great effect by both Democratic and Republican administrations, providing longer-term housing assistance and wrap-around services to low-income survivors immediately after a disaster. Program services are provided by local housing professionals with extensive knowledge of the local housing market. This assistance helps families find permanent housing solutions, secure employment, and connect to public benefits.

Despite of this successful track record, FEMA has refused to activate the program under the most recent administrations, relying instead on the TSA program and other FEMA and state administered disaster housing programs inaccessible to many low-income disaster survivors.²³ Although FEMA has claimed that these programs are more efficient and cost-effective than DHAP, there is no evidence to support such as position. In fact, a report from the Government Accountability Office (GAO) explicitly stated that it was impossible to assess this claim because the information needed to compare DHAP's effectiveness with other FEMA programs was not collected by the agency. However, that same report found that DHAP provided disaster survivors with as much as 17% more assistance than other FEMA programs.²⁴

FEMA should work with HUD to activate a DHAP-like program after every disaster to ensure that the lowest-income survivors receive stable, longer-term housing.

FEMA's Lack of Transparency

Lack of transparency at FEMA prevents analysis of how the agency may be perpetuating barriers to opportunity and benefits for people of color and other underserved groups. Useful outcome data (i.e., information on how well a recovery program is working) is often not made publicly available for many FEMA programs. Although FEMA does report the number of applications approved and the amount of funding dispersed, it often does not make public information on many applicants were denied assistance and for what reasons. FEMA does not track how program participants fare after leaving the program or later in the disaster recovery process. The information that is released is often not provided at a small enough geographic level to be useful for many academic or public policy researchers. In addition, FEMA often does not compile or release information on race, disability, or other subpopulations regarding its programs. A recent National Advisory Council (NAC) report released last year stated that the while FEMA maintains some publicly available databases, they were "limited in scope and are more output than outcome focused."²⁵

²³ Elizabeth Webster, "Disaster Housing Assistance: Homeland Security Issues in the 116th Congress", Congressional Research Service, 2019, Available at: <https://fas.org/sgp/crs/homsec/IN11054.pdf>

²⁴ Government Accountability Office, "Disaster Housing: Improved Cost Data and Guidance Would Aid FEMA Activation Decision" (2020), Available at: <https://www.gao.gov/assets/720/711255.pdf>

²⁵ FEMA, National Advisory Council 2020 Report, Available at: https://www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf

The lack of data transparency has broad impacts. Data from FEMA's IA program are frequently used to shape long-term rebuilding efforts. Preventing access to that data also hinders the analysis of disaster programs implemented by states and other federal agencies.

Make data publicly available to ensure greater racial, income, and accessibility equity.

OpenFEMA – a data sharing initiative - was originally designed to allow researchers, academic institutions, and the general public to access disaster recovery information. The program itself has fallen by the wayside and remained inactive for several years. By resurrecting the program, policymakers, researchers, and advocates could better identify where FEMA programs are being implemented most effectively and what populations are having trouble fully recovering.

Data should be made publicly available and be disaggregated by protected class and on as granular a geographic area as possible.

Make personally identifiable information available to vetted and trusted academic and research institutions.

By allowing vetted institutions access to such data, their assessments and research can provide valuable insights into how to improve programs while ensuring data is protected.

Many agencies maintain relationships with large academic and research institutions that regularly research topics related to their missions. Such data contains personally identifiable but anonymized data to assist in deeper understanding of long-term patterns. Because of its sensitive nature, agencies and academic and research institutions maintain strict security and monitoring agreements to prevent the unauthorized data releases. In fact, many institutions have developed infrastructure meeting the highest levels of security demanded by the federal government in order to maintain consistent access. Despite requests for data sharing agreements, FEMA has historically prevented access to data, even if an institution has similar agreements with additional agencies and a proven track record of keeping sensitive information secure.

FEMA must create a mechanism to securely share data with academic and research institutions. The research conducted with the data will have far reaching consequences on how the country responds to, recovers from, and mitigates disasters, and allow us to even further determine where federal programs are leaving disaster survivors behind.

Conclusion

Our country must develop a new disaster housing recovery system that centers the housing needs of the lowest-income survivors, including people of color, people with disabilities, and others. In addition to addressing immediate housing needs caused by the pandemic, FEMA must address our nation's pervasive structural and racial inequities and reform federal disaster planning and response efforts to be inclusive and intersectional. We must reform existing programs by centering racial equity and equity for all historically marginalized people to ensure that affordable housing investments and federal disaster recovery resources reach all impacted households.



**Written Testimony of the
Natural Resources Defense Council**

**Before the U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings, and Emergency Management**

**Hearing Entitled:
FEMA Priorities for 2022: Stakeholder Perspectives
February 16, 2022**

Chair Titus, Ranking Member Webster, and the members of the Subcommittee:

NRDC (Natural Resources Defense Council) thanks you for the opportunity to provide written testimony on our views of what should be FEMA's priorities for 2022. NRDC is an international, non-profit environmental and public health membership organization with more than three million members and online activists. NRDC advocates to reduce greenhouse gas emissions that cause climate change, increase the resilience of communities to the unavoidable impacts of climate change, safeguard human health, and ensure safe drinking water for all.

Summary of Testimony

The impacts of climate change – extreme heat, powerful storms, and sea-level rise – are already impossible to ignore. We now—quite undeniably—live in a rapidly changing world that will profoundly impact our nation and our society. Over the last several years, we have seen record-breaking hurricanes, floods, wildfires, and other climate-fueled disasters that have devastated communities and caused untold suffering for millions of Americans.

We must fundamentally change our policies to prepare for a dramatically different future and to ensure we protect the people and communities who are most vulnerable. We must also think about how we make decisions and who is involved in making those decisions. The complex and daunting challenges posed by climate change are already exacerbating the intergenerational harms of racial and economic inequity. Yet, the people who bear the greatest burdens of climate change too often are locked out of decision-making that will shape the future of their communities. That is neither acceptable nor right.

While the challenges are great, so are the opportunities to address these legacy issues as part of our efforts to enhance the nation's resilience to the impacts of climate change.

To fully take advantage of that opportunity, we must first remember that people are the ultimate beneficiaries of our actions and bear the cost of our inaction. The nation must chart a course that provides all people, regardless of race or economic status, the ability to live in a safe and prosperous community. This means establishing new paradigms for disaster risk reduction and post-disaster recovery that are inclusive, directly involve the community members who are at greatest risk and have the most to lose, and that can provide them meaningful input on the options that will be available and the agency to choose the options that are best for them and their community.

People over Property

The conventional approaches to describing and addressing resilience or disaster recovery often focuses on properties rather than people. This is because, in every city and small town across the country, we've established a pattern of urban and community development that prioritizes the value of property over people.

Statistics on real estate values, insurance policies, damage claims, dollars-worth of damage to buildings and infrastructure, the number of storms that cause more than a billion dollars in losses, the costs of recovery all have one thing in common: they focus on damage to properties and fail to capture the short- or long-term harms to people who live on those properties.

This disconnect is partly because property damage is easy to see and to track, unlike the ripple effects of housing insecurity, illnesses associated with damaged housing, or the accumulating mental health burden of repeated disasters.

When these property-centric data influence our post-disaster plans and the allocation of funds, communities that have been historically devalued continue to be devalued. Too often, when low-income communities or communities of color are prioritized for large infrastructure improvements in housing, transit, or parks, it is often implemented in ways that lead to gentrification and displacement.¹ This contributes to the widening equity gap, leaving people with even fewer options to decrease their vulnerability before disaster strikes and less than their fair share of the recovery resources after their lives are upended.

Racism compounds this reality. Since the founding of this country, as a nation we have consistently valued some groups over others. The devaluing of Black lives and communities they live in has resulted in disparities of their property values and pollution burdens. A 2019 University of California, Berkeley, study of eight cities, for example, found that residents of historically Black neighborhoods are more than twice as likely than white families to visit emergency rooms for asthma-related treatment due to the legacy of redlining.² And a 2007 study prepared for the United Church of Christ's Justice & Witness Ministries points to race as the biggest predictor of whether a

¹ Cash, Chapple, Depsky, Elias, Krnjaic, Manji, Montano, "Climate Change and Displacement in the US – A Review of the Literature, April 2020. <http://www.sparcchub.org/wp-content/uploads/2020/04/Climate-and-Displacement-Lit-Review-6.19.2020.pdf>

² Kara Manke, "Historically redlined communities face higher asthma rates," Berkley News, May 22, 2019, <https://news.berkeley.edu/2019/05/22/historically-redlined-communities-face-higher-asthma-rates/>

community in the United States will be affected by toxic pollution from a landfill, power plant, highway or incinerator.³

In addition to contributing to higher levels of vulnerability and unequal allocation of resources to address these vulnerabilities, discriminatory practices like redlining, which led to segregation and disinvestment in communities, are also exacerbated by climate change.

A recent study by the real estate company Redfin.com found that redlining has led to higher percentages of Black families living in areas at greater risk of flooding compared to homes in more affluent, non-redlined areas (see Figure 1). According to Redfin Senior Economist Sheharyar Bohari, "Decades of segregation and economic inequality shoehorned many people of color—especially Black Americans—into living in neighborhoods that are more vulnerable to climate change." He also stated that "The cycle continues today. As climate change fuels rising sea levels and powerful storms, many of these neighborhoods lack the funding for the infrastructure upgrades necessary to combat flooding."⁴

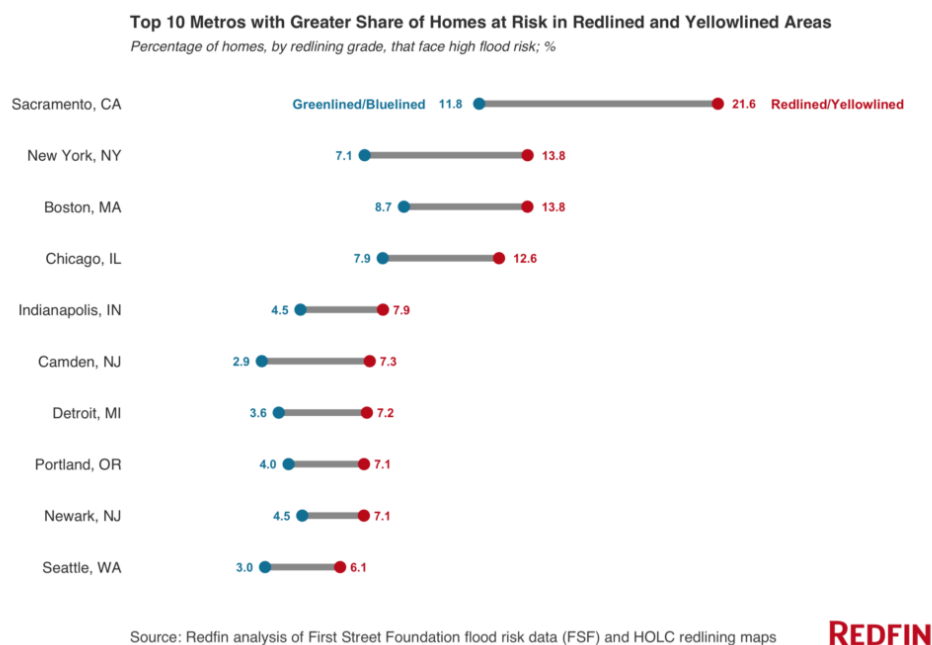


Figure 1. A recent study by Redfin found that a higher percentage of homes in formerly redlined areas are at greater risk of flooding compared to non-redlined areas.

In focusing on people, we create the opportunity to empower communities and involve them in creating integrated strategies that promote equity, improved health outcomes, and climate resilience. This centers on redefining a national framework for community development and public infrastructure, demonstrating the value of amplifying investments in connected housing, disaster mitigation and resilience, transit, green space, and other infrastructure so their benefits can be

³ Robert D. Bullard, Ph.D., et. al., "Toxic Wastes and Race at Twenty 1987—2007," United Church of Christ Justice & Witness Ministries, March 2007, http://d3n8a8pro7vnm.cloudfront.net/unitedchurchofchrist/legacy_url/491/toxic-wastes-and-race-at-twenty-1987-2007.pdf?1418423933.

⁴ Lily Katz, "A Racist Past, a Flooded Future: Formerly Redlined Areas Have \$107 Billion Worth of Homes Facing High Flood Risk—25% More Than Non-Redlined Areas," Redfin.com, March 14, 2021, <https://www.redfin.com/news/redlining-flood-risk/>.

realized equitably. Just as the problems of the climate crises, global pandemic, economic instability, and racial injustice are interwoven, our solutions must be as well.

Disasters are widening the equity gap in the United States

Many factors contribute to wealth inequality and inequity. Research conducted by Drs. Junia Howell and James R. Elliot found that "natural hazard damages also play an important, growing, and largely hidden role, especially along the lines of race, education, and homeownership."⁵ According to the NAACP, "[c]ommunities of color and other frontline communities are more likely to live in hazard-exposed areas and have fewer resources to invest in risk-reducing measures."⁶ Absent consideration of these social inequities, which often cause frontline communities to experience an unequal ability to prepare for and to protect against disasters, the ability to build resilient communities will be greatly hindered.⁷

A 2019 study by the Urban Institute found similar evidence of how disasters contributed to growing inequities in society and how economic hardships fall hardest on families who are already living in a financially precarious situation.⁸ This research found that disasters contribute to "negative impacts across most measures of financial health, including credit scores, debt in collections, bankruptcy, credit card debt, and mortgage delinquency and foreclosures." These effects are not short-term but linger and can even grow over time. Even factors like individuals' credit scores suffer. People living in communities of color see their credit scores drop an average of 31 points, while in the majority of white communities, credit scores decreased an average of 4 points after disasters. Similarly, the Federal Housing Authority found that mortgage default rates jumped significantly in Florida and North Carolina, following Hurricanes Irma and Florence, respectively.⁹

FEMA Assistance Must be Delivered in an Equitable Manner

Disasters (and our nation's responses to them) disproportionately harm low-income people, people of color, those with disabilities, and other groups marginalized by U.S. society. Our country's disaster policies and programs, intended to assist vulnerable people, in fact not only leave behind those with fewer resources but widen racial wealth gaps¹⁰ and contribute to gentrification-driven

⁵ Howell and Elliot, "Damages Done: The Longitudinal Impacts of Natural Hazards on Wealth Inequality in the United States," *Social Problems*, August 2018, <https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spy016/5074453>.

⁶ Lorah Steichen and Jacqueline Patterson, "In the Eye of the Storm: A People's Guide to Transforming Crisis and Advancing Equity in the Disaster Continuum," NAACP Environmental & Climate Justice Program, 2018, <https://www.naacp.org/climate-justice-resources/in-the-eye-of-the-storm/>

⁷ Id.

⁸ Ratcliffe, Congdon, et al., "Insult to Injury: Natural Disasters and Residents' Financial Health," Urban Institute, April 2019, <https://www.urban.org/research/publication/insult-injury-natural-disasters-and-residents-financial-health>.

⁹ "Flood Insurance Coverage of Federal Housing Administration Single-Family Homes," U.S. Department of Housing and Urban Development, Office of Policy Development and Research, March 30, 2020, <https://www.huduser.gov/portal/sites/default/files/pdf/MDRT-Flood-Insurance-Coverage-of-FHA-SFH.pdf>.

¹⁰ Junia Howell and James R. Elliott, "Damages Done: The Longitudinal Impacts of Natural Hazards on Wealth Inequality in the United States," *Social Problems*, August 2019, <https://doi.org/10.1093/socpro/spy016>; see also, FEMA National Advisory Council, Report to the FEMA Administrator, November 2020, https://www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf.

displacement.¹¹ Research, anecdotal evidence, and lived experience all demonstrate that the United States’ existing disaster policies perpetuate systemic inequalities. In general, we echo the FEMA National Advisory Council (NAC) November 2020 report, which states, “...it is within the role of FEMA to recognize [systemic] inequities (and the disparities caused by them) and ensure that existing or new FEMA programs, policies, and practices do not exacerbate them.”¹²

Beyond ensuring that its programs do not exacerbate existing inequities, we also believe FEMA has a responsibility to ensure both that it does not create new inequities and that it is actively contributing to the reduction of underlying social and environmental risks that leave some communities more vulnerable. FEMA has a statutory mandate to act in an “equitable and impartial” manner, as required under the Stafford Act’s nondiscrimination provision.¹³ The provision’s legislative history demonstrates that this equity mandate far exceeds FEMA’s obligations under Title VI of the Civil Rights Act. By including the provision in the 1970 Disaster Relief Act, the 91st Congress intended for FEMA and other federal, state, and private disaster agencies to not only address explicit instances of intentional discrimination, but also unintended impacts that disparately affect groups depending on their race, nationality, ethnicity, sex, age, ability, or economic status.¹⁴ NRDC urges FEMA to implement these recommendations to fulfill its Congressional mandate and ensure federal disaster relief truly serves the most vulnerable and does not continue to exacerbate preexisting inequities.

Disaster programs in the United States are fundamentally modeled around the concept of reimbursement and property values—providing compensation equal to the value of what was lost. That seems fair and objective in theory, but in practice it means that resources flow to people and places who had resources to begin with. In this way, past and present disinvestment, segregation, and discrimination lead to under-valued assets, smaller tax revenues, and lower capacity, perpetuating and even worsening inequities among both individuals and communities. Consistent with the November 2020 NAC report, “preparedness and mitigation resources should be targeted to communities that are most in need of federal funding to build resilience in those communities.”¹⁵ FEMA should ensure that its funding programs reflect the actual needs of vulnerable people and communities and substantially increase support for capacity building.

The following are some specific areas where FEMA programs, regulations, or policies can improve to achieve more equitable outcomes (focusing primarily on hazard mitigation and flood protection). NRDC recognizes that fully addressing some of these issues will require Congressional action.

¹¹ Eric Joseph van Holm and Christopher K. Wyczalkowski, “Gentrification in the wake of a hurricane: New Orleans after Katrina,” *Urban Studies*, October 2019, <https://doi.org/10.1177/0042098018800445>.

¹² FEMA National Advisory Council, Report to the FEMA Administrator, November 2020, https://www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf.

¹³ 42 U.S.C. § 5151(a)

¹⁴ Hannah Perls and Dane Underwood, “Equitable Disaster Relief: An Analysis of FEMA’s Legal Authority to Integrate Equity under the Stafford Act,” Harvard Environmental and Energy Law Program, August 2021, <https://eelp.law.harvard.edu/2021/10/equitable-disaster-relief/>

¹⁵ FEMA National Advisory Council, Report to the FEMA Administrator, November 2020, https://www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf

- **Benefit-cost analysis (BCA):** Hazard mitigation projects funded by FEMA must be “cost effective,” i.e., with a benefit-cost ratio greater than one. While traditional approaches to BCA may appear to be objective and neutral, many experts agree that their use perpetuates economic, environmental, racial, and social disparities.¹⁶ Reliance on BCA as a way to select projects for funding drives resources toward projects addressing higher-valued land, buildings, or infrastructure and away from projects in disinvested, under-valued, and/or rural areas or that create benefits that are difficult to quantify.¹⁷

In the short term, FEMA should continue to pursue opportunities to incorporate non-traditional benefits (e.g., related to environmental benefits, racial or economic equity, addressing environmental injustice, and/or promoting public health outcomes) into its BCA methodology in a way that is streamlined and accessible to applicants. FEMA could also apply distributional weights to its assessment of costs and benefits.¹⁸ More broadly, FEMA should pursue alternatives to BCA, such as by using a social risk index, alternatives analysis, or multi-factor analysis approach.

- **Cost-share requirements:** As discussed below (see Increased Capacity for FEMA, State, and Local Emergency Managers) FEMA hazard mitigation grants typically require a cost share or match, with the cost share reduced or eliminated in certain circumstances (e.g., for mitigation of severe repetitive loss properties under the Flood Mitigation Assistance program). Small, low-income, and/or low-capacity communities can struggle to secure or document match payments, especially as state contributions vary across the country. Many of these communities do not meet the strict population requirements for “small, impoverished community” status and therefore do not qualify for a reduced cost share.

Congress needs to change these cost share provisions, particularly for BRIC and EMPG in order to alleviate this burden for low-income communities and communities of color. Too many communities lack the funding to provide the matching requirements. For BRIC, communities must come up with 25 of a project’s cost, which is prohibitive for an economically disadvantaged local government. Preferential cost share is available, but only for communities under 3,000 in population. For EMPG funding, the community must match FEMA funding dollar for dollar, which is also cost prohibitive for getting the capacity a community needs to do planning, development project applications, or manage those projects. FEMA’s Flood Mitigation Assistance Program has long provided 90 percent or 100 percent federal cost share for mitigation of repetitive loss and severe repetitive loss properties. Under the recently passed Infrastructure Investment and Jobs Act (IIJA), FEMA will expand these cost shares to low-income residents and communities or neighborhoods with high Social Vulnerability Scores, using the CDC’s Social Vulnerability Index. NRDC

¹⁶ See NRDC’s response to Docket ID OMB-2021-0005 available at <https://www.regulations.gov/comment/OMB-2021-0005-0501> for general comments on federal BCA requirements.

¹⁷ Anne N. Junod, Carlos Martín, Rebecca Marx, and Amy Rogin, “Equitable Investments in Resilience: A Review of Benefit-Cost Analysis in Federal Flood Mitigation Infrastructure,” Urban Institute, June 2021, <https://www.urban.org/research/publication/equitable-investments-resilience>.

¹⁸ Matthew D. Adler, “Benefit-Cost Analysis and Distributional Weights: An Overview,” Review of Environmental Economics & Policy, 2016, https://scholarship.law.duke.edu/faculty_scholarship/3110/.

views this as a very positive development and one that could be mirrored in BRIC and EMPG.

- **Emphasis on single-family homeowners:** The residential activities commonly covered by FEMA hazard mitigation grants (e.g., elevations, buyouts) primarily accrue benefits to owners of single-family homes. As of July 2021, over 90% of the residential properties mitigated by FEMA hazard mitigation grants are single-family homes,¹⁹ and damage assessments after disasters assume homeownership. Meanwhile, anecdotal evidence indicates a lack of familiarity with Uniform Relocation Act requirements among practitioners who implement FEMA-funded projects; the added complexity means that many projects do not include rental properties, the residents of rental units, or tribal communities. This is primarily due to the emphasis on resolving the risk faced by property rather than understanding the social dynamics that put people in harm's way by reliance on risk-prone properties. Considering the barriers to homeownership for low-income people and people of color, this has clear equity implications. FEMA should investigate how to more effectively fund hazard mitigation projects that serve tenants (including those who once owned their own homes but were displaced in part due to disasters), residents of multi-family homes, owners of heirs' property, and people experiencing homelessness.

The following recommendations aim to streamline FEMA programs/requirements to reduce barriers to access and achieve more equitable distribution of resources:

- **Simplify BCA requirements:** FEMA requires grant applicants/sub-applicants to use its BCA Toolkit to calculate a benefit-cost ratio, which is then used in determining project eligibility. This process requires extensive documentation and many sub-applicants rely on external consultants to complete the work, disadvantaging lower-income and lower-capacity communities. Anecdotal evidence also indicates that, in addition to serving as a barrier to accessing funds, it also stifles innovation as communities find it too risky to go through the costly BCA process for projects that might not be funded. Even FEMA's BCA Toolkit guidance is challenging to understand, not to mention, over a decade old; the current BCA reference guide (dated 2009) is 108 pages long and has a 130-page supplement (dated 2011). This is supplemented by a nine-unit training course, a dedicated helpline, and a support email address.²⁰

We urge FEMA to simplify its BCA requirements, develop pre-calculated benefits for additional project/benefit types, and provide additional support to low-capacity communities. Specifically, FEMA should:

- Act on the recommendations of the National Hazard Mitigation Association (NHMA) in improving and streamlining the BCA Toolkit. We understand that

¹⁹ FEMA, "OpenFEMA Dataset: Hazard Mitigation Assistance Mitigated Properties - v2," <https://www.fema.gov/openfema-data-page/hazard-mitigation-assistance-mitigated-properties-v2>.

²⁰ FEMA, "Benefit-Cost Analysis," last updated January 2022, <https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis>.

NHMA has provided FEMA with a white paper describing both programmatic and technical improvements to the BCA process.

- Act on the recommendations of the U.S. Government Accountability Office (GAO) to further develop pre-calculated benefits for additional project and benefit types.²¹ FEMA currently provides pre-calculated benefits for acquisitions and elevations in the Special Flood Hazard Area (SFHA), hurricane wind retrofits, individual tornado safe rooms, and certain wildfire mitigation actions. Anecdotal evidence from floodplain managers and hazard mitigation practitioners indicates that these pre-calculated benefits make grant applications more accessible and shorten project timelines.
- Provide simplified, up-to-date guidance and technical assistance designed to meet the needs of communities who have traditionally found the BCA process inaccessible. To start, FEMA should conduct additional outreach to ensure potential (sub)applicants are aware of the pre-calculated benefits and understand how to use them. For example, we have heard from practitioners who are not aware that pre-calculated benefits exist or that locality multipliers can be used to adjust the pre-calculated amounts allowed for SFHA acquisitions and elevations.²²
- **Streamline and standardize the grant application process:** Currently, each hazard mitigation grant program requires a different application with different requirements. As reported by GAO, “Officials from 10 of the 12 state and local jurisdictions we met with told us they experienced challenges with the complexity of FEMA’s application processes” and “some officials stated that the applications were cumbersome, required excessive documentation, that different programs used different grants systems, and that the applications went through multiple rounds of review with different reviewers.”²³ Overly complex requirements clearly disadvantage communities that do not have the capacity to navigate the process. We urge FEMA to implement GAO’s recommendations, for example by creating a universal, standardized grant application.

Combining multiple funding sources with different requirements (e.g., using Community Development Block Grant-Disaster Recovery funds to meet FEMA cost-share requirements) can also pose challenges. To the extent possible, FEMA should coordinate with the U.S. Department of Housing and Urban Development and other agencies that provide hazard mitigation assistance to standardize definitions and grant requirements. Specifically, this can include a coordination of buyout processes and timelines with housing developments, ensuring that new developments are not completed independently of the other. In addition, FEMA should work with HUD to ensure that housing is intended for

²¹ GAO, “Disaster Resilience: FEMA Should Take Additional Steps to Streamline Hazard Mitigation Grants and Assess Program Effects,” GAO-21-140, February 2021, <https://www.gao.gov/products/gao-21-140>

²² FEMA, “Cost Effectiveness Determinations for Acquisitions and Elevations in Special Flood Hazard Areas Using Pre-calculated Benefits,” Memorandum from David L. Miller to FEMA Regional Administrators, 2013, https://www.fema.gov/sites/default/files/2020-04/fema_bca_pre-calculated_special-flood-hazard-area.pdf.

²³ GAO, “Disaster Resilience: FEMA Should Take Additional Steps to Streamline Hazard Mitigation Grants and Assess Program Effects,” GAO-21-140, February 2021, <https://www.gao.gov/products/gao-21-140>

those that participate in buyout areas, in addition to preserving affordable housing options in rapidly gentrifying areas.

Current hazard mitigation grants also involve multiple reviews across federal, state, and local governments, leading to long timeframes and uncertain outcomes. This disadvantages individuals and households who cannot afford to wait, such as families who want a buyout of their flood-prone home but are stuck waiting while their home may be uninhabitable, and they continue to face the risk of flooding. In some cases, this waiting time could be alleviated by providing funding directly through the National Flood Insurance Program (e.g., via Increased Cost of Compliance coverage).^{24, 25}

Increased Capacity for FEMA, State, and Local Emergency Managers

The nation has been repeatedly stretched beyond its capacity to respond to disasters and recover in their aftermath. Hurricanes, floods, wildfires, heat waves, and other events related to our changing climate, not to mention events like the COVID-19 pandemic, require FEMA to manage multiple simultaneous and increasingly severe and complex disasters. The same is true of state and local emergency managers.

This is becoming more complicated by the shortfall in capacity for planning and preparing for disasters and mitigating hazards. The federal Mitigation Framework Leadership Group identified the need to improve local and state capacity as a priority for future mitigation investments.²⁶ GAO has recently documented the shortfalls in FEMA's, as well as state and local emergency managers', capacity to perform their duties.^{27, 28, 29} Planning and proactive hazard mitigation work are essential to avoid harm to communities from future disasters and to catalyze the large-scale efforts the nation needs to adapt to the consequences of climate change.

As the nation did with anti-terrorism efforts, we need to adopt a far more proactive stance to disaster planning and hazard mitigation, particularly in light of climate change. According to the GAO, FEMA and the Department of Homeland Security dedicate three times more funding and resources to bolster state and local anti-terrorism capacity compared to emergency management capacity, even though disasters are far more common, costly, and disruptive to millions of Americans. Nobody would suggest that we wait for terrorist attacks to occur and then focus on rebuilding in the aftermath. Yet that is the approach the nation is effectively taking to disasters and addressing the all-too-real impacts of climate change.

²⁴ Anna Weber and Rob Moore, "Going Under: Long Wait Times for Post-Flood Buyouts Leave Homeowners Underwater," Natural Resources Defense Council, September 2019, <https://www.nrdc.org/resources/going-under-long-wait-times-post-flood-buyouts-leave-homeowners-underwater>.

²⁵ Association of State Floodplain Managers, "A Vision for Implementing ICC as it Exists in Law Today," February 2016, https://asfpm-library.s3-us-west-2.amazonaws.com/ASFPM_Pubs/ASFPM_ICC_Vision_Paper_2016.pdf.

²⁶ Mitigation Framework Leadership Group, National Mitigation Investment Strategy, August 2019, p. 7.

²⁷ GAO, "National Preparedness: Additional Actions Needed to Address Gaps in the Nation's Emergency Management Capabilities," GAO-20-297, May 2020

²⁸ GAO, "FEMA Disaster Workforce: Actions Needed to Address Deployment and Staff Development Challenges," GAO-20-360, May 2020 (hereafter "GAO, Disaster Workforce")

²⁹ GAO, "FEMA Workforce: Long-Standing and New Challenges Could Affect Mission Success," GAO-22-105631, January 2022.

NRDC therefore urges the Committee to consider the following actions to help bolster FEMA's capacity to address the growing number of major disasters and the broad range of long-term planning and hazard mitigation activities, as well as the capacity of local and state governments.

- FEMA and DHS should be provided funding and be directed to develop a staffing and capacity needs assessment and to update that assessment every 10 years.³⁰ The assessment should identify FEMA's future needs for responding to multiple simultaneous disasters, expanding hazard mitigation programs, and supporting large-scale climate adaptation efforts. This staffing assessment would inform future appropriations, staffing levels, and show what FEMA needs in order to support long-term climate adaptation efforts and respond to multiple simultaneous disaster events, something that has proven difficult for the agency.³¹
- Expand funding for FEMA's Emergency Management Performance Grants (EMPG) to \$1 billion annually *and* dedicate 20 percent of the funding to build emergency management and hazard mitigation capacity in low-income communities, communities of color, and tribal and rural communities. EMPG funding authorized under Sec. 611 of the Stafford Act is essential for building local capacity to plan, prepare, and adequately respond to disasters when they happen. More funding is needed to reach the least resourced communities. These communities are already under-represented in FEMA's grant funding due to a lack of staff capacity to develop the necessary applications and supporting materials.³²
- Change the cost-share requirements for EMPG to provide 90 percent federal/10 percent non-federal cost share for qualifying low-income communities, communities of color, and tribal and rural communities and 100 percent federal assistance in certain circumstances. Currently, EMPG funding is provided on a 50 percent federal/50 percent non-federal cost share basis. Matching federal grants dollar for dollar puts this assistance out of reach for many economically disadvantaged and under-resourced communities.
- *Under subsection 203(f) of the Stafford Act, the committee should create an additional 10 percent set aside in BRIC that is targeted towards building the hazard mitigation capacity of state and local governments – particularly low-income communities, communities of color, and Tribal and rural communities. Under the first round of BRIC grants, all state and local capacity building efforts had to be supported by the \$600,000 allocated to each state. That sum is not nearly sufficient. More funding must be dedicated to this purpose if FEMA is to achieve its goal of “support[ing] state and local governments, tribes, and territories through capability and capacity building to enable them to identify mitigation actions and implement projects that reduce risks posed by natural hazards.”*³³

³⁰ GAO recommended a somewhat similar assessment. A wider scale assessment may also be warranted that includes state and local governments and the mutual support they provide through Emergency Management Assistance Compact.

³¹ NRDC, “Maria Exposed Problems With U.S. Disaster Policy,” available at <https://www.nrdc.org/experts/rob-moore/maria-exposed-problems-us-disaster-policy>.

³² NRDC, “Building Resilience, BRIC by BRIC,” available at <https://www.nrdc.org/experts/anna-weber/building-resilience-bric-bric>.

³³ FEMA Proposed Policy, Hazard Mitigation Assistance: Building Resilient Infrastructure and Communities, pg. 2, lines 38-40 (2020).

- *Under subsection 203(a)* Congress should expand the eligibility for preferential cost share for BRIC grants. Rep. Blumenauer’s Climate RESLIENCE Act proposes changes to this definition which should be considered by the committee, or an alternative developed in consultation with front-line organizations and communities. Doing so would make it easier for economically disadvantaged communities to access BRIC funds but lack the 25 percent non-federal cost share. Making preferential cost share available to a wider array of communities would be very helpful.

Currently, FEMA can only give preferential cost share to communities that have a population of less than 3,000 and are economically disadvantaged, as determined by the state. But many disadvantaged city, county, and Tribal governments with greater than 3,000 population do not have the financial capacity to come up with the 25 percent non-federal match.

FEMA Must Incorporate Climate Resilience into All Planning and Projects

In order to improve the capacity of communities and their residents to cope with climate change impacts, maintain essential functions, and allow for adaptation, FEMA should broaden the targets or metrics by which it determines program allocations and defines success to include such measures as: reductions in the numbers of people at risk or affected by extreme weather events including reduced mortality; reduce the direct economic and labor hours lost to extreme weather, reduce the number of houses that lose access to public services such as schooling, health care, utility and communications services due to extreme weather; increase the number of localities with regularly updated disaster risk and resilience strategies; and use those strategies to help determine federal support levels and allocations to ensure the quality of strategies and access to multi-risk early warning and recovery resources.

In addition, FEMA should transition away from promoting and supporting “hard” infrastructure, where possible, and instead promote the use of natural infrastructure and/or nature-based solutions to protect against flooding, sea level rise, and related hazards. Natural infrastructure can provide a more cost-effective solution for managing climate risk in communities. For example, NOAA estimates that natural infrastructure solutions provide more than \$23 billion in storm protection services every year.³⁴ A key example is levees. Levees are costly, must be frequently upgraded to reflect the increasing frequency and severity of large storm events under climate change, and even when properly maintained are still susceptible to failure.³⁵ When they do fail, levees can worsen the impacts from a disaster by raising water levels and enticing people to build in a flood zone, falsely believing that they are “safe” behind a levee.³⁶ Under-resourced communities are likely to experience

³⁴ National Oceanic and Atmospheric Administration, “Fast Facts: Natural Infrastructure,” <https://coast.noaa.gov/states/fast-facts/natural-infrastructure.html>

³⁵ Cliff Judy, “The Future Of U.S. Levees Involves A Lot Of Hard Decisions,” TheDenverChannel.com, March 2021, <https://www.thedenverchannel.com/changes-to-the-u-s-levée-system-won-t-come-easily>.

³⁶ Andrea Thompson, “The Overlooked Risk of Levees As Rainfall Rises,” Climate Central, May 5 2017, <https://www.climatecentral.org/news/the-overlooked-risk-of-levees-as-rains-rise-21426>.

a higher rate of levee failure given the high cost of maintenance and upgrades.³⁷ A far more resilient and economical flood protection system relies on floodplains, riparian corridors, and wetlands to divert the flows from large storm events away from critical infrastructure and to absorb those flows for beneficial uses (including providing essential habitat, replenishing groundwater aquifers, and sequestering carbon).³⁸

Many of FEMA's policies could be modified to better incentivize and support investment in social protections for high-risk communities and individuals while discouraging a singular emphasis on hard infrastructure. We identify a few key programs here:

- **Require State and Local Hazard Mitigation Plans to Fully Consider Climate Change Impacts and Other Future Conditions, and to Select Appropriate Mitigation Strategies and Priorities Based on Addressing Those Conditions.** FEMA approval of hazard mitigation plans is a prerequisite for access to certain federal hazard mitigation funds. Many of these plans' risk assessments fail to consider that future disasters are projected to occur with greater frequency and severity due to climate change. State plans are required to assess future conditions to receive FEMA approval, but the agency has, in practice, established a low bar in applying this standard. Local governments are not currently required to assess future conditions. FEMA should: (1) update its hazard mitigation planning guidance to give more specific guidelines on how future climate impacts are to be addressed in the risk and vulnerability assessments for each individual hazard; (2) require that jurisdictions make plans available for public comment; and (3) amend its regulations to allow FEMA approval of hazard mitigation plans to be subject to third-party administrative appeal.
- **Revise FEMA's BCA Toolkit** to remove structural barriers and expand eligibility and competitiveness of nature-based solutions for hazard mitigation, including by lowering the OMB Discount Rate used for FEMA's BCA of nature-based solutions from 7% to 1 or 2%.
- **Develop Future Conditions Flood Maps:** More accurate and forward-looking flood maps would help deter development in at-risk areas and play an important role in protecting wetlands and currently undeveloped natural areas. Flood maps are central to the NFIP and critical for a wide array of decisions related to local development; floodplain management; emergency management; and project design, planning, and engineering.

By law, FEMA must include (i) "relevant information or data from the National Oceanic and Atmospheric Administration [(NOAA)] and the United States Geological Survey [(USGS)] relating to the best available science regarding future changes in sea levels, precipitation, and hurricane intensity" and (ii) "any future risk assessment" issued by the Technical Mapping

³⁷ See, e.g., William C.C. Kemp-Neal, "Environmental Racism: Using Environmental Planning to Lift People Out of Poverty, and Re-shape the Effects of Climate Change & Pollution in Communities of Color," *Fordham Environmental Law Review*, 2021, <https://ir.lawnet.fordham.edu/elr/vol32/iss3/1>.

³⁸ See, e.g., Columbia Climate School, "Making Room for Rivers: A Different Approach to Flood Control," June 7, 2011, <https://news.climate.columbia.edu/2011/06/07/making-room-for-rivers-a-different-approach-to-flood-control/>; see also, New York Times, "The High Risks of Denying Rivers Their Flood Plains," July 20, 1993, <https://www.nytimes.com/1993/07/20/science/the-high-risks-of-denying-rivers-their-flood-plains.html>

Advisory Council [(TMAC)] whenever FEMA revises and updates an NFIP floodplain map.³⁹

As such, FEMA must incorporate future conditions flood elevations as advisory layers onto Flood Insurance Rate Maps. For coastal areas, FEMA should use NOAA's most recent global mean sea level rise scenarios and regional variations to determine future coastal flood hazard estimates out to the year 2100. As noted above, NOAA has produced extensive data on sea level rise projections. FEMA should incorporate sea level rise directly into process modeling (i.e., surge wave setup, wave runup, overtopping, and erosion) for regions where additional sea level is determined to impact the BFE non-linearly. For regions with linear impacts to the BFE, FEMA should add sea level to the final calculated total water level and redefine the BFE. For riverine areas, FEMA should take the impacts of future development and land use change on future conditions hydrology into account when computing future conditions for riverine areas. Future development and land use should assume built-out floodplain fringe, considering the decrease of storage and increase in discharge

- **Increase Funding for Audits and Cooperative Enforcement of National Flood Insurance Program standards:** Non-compliance with the floodplain and floodway protection measure of the NFIP leads to unwise and oftentimes, unchecked, development by local governments. FEMA does not have the capacity to conduct compliance audits or ensure enforcement of provisions of the NFIP. This leads to noncompliant development, more damages paid by the NFIP, and more people living in harm's way. FEMA and communities are also failing to enforce the substantial damage requirements of the NFIP that require homes to be rebuilt to modern codes when heavily damaged. Congress should provide increased funding to allow the Agency to conduct audits at least every five years for high-risk communities and work cooperatively with states to ensure consistent enforcement.
- **Restart rulemaking to implement Executive Order 13690 and the Federal Flood Risk Management Standard (FFRMS).** FEMA should immediately restart rulemaking to implement the FFRMS. Heavier rains, intensifying coastal storms, and rising seas—the impacts of climate change—are exacerbating flooding impacts across the United States. Communities already struggle to maintain aged and inadequate infrastructure. The FFRMS addresses this growing threat from flooding and sea level rise. The standard requires federally funded projects to be either be located outside of high-risk areas or, if not practicable, to be protected against a higher level of flooding than traditionally required. Ensuring that infrastructure, like federally financed housing or disaster recovery projects, are sited, designed, and built based on expected future conditions will reduce exposure and vulnerability. Therefore, quickly restarting the implementation process is critically important. FEMA should use the 2016 proposed rule, [*Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard*](#), as its baseline.

³⁹ 42 USC § 4101a(d)(2); 42 USC § 4101b(b)(3)(D)-(E).

- **Through the National Flood Insurance Program (NFIP), FEMA should set stronger standards to protect people and property against increased flood risk:** The Resilient AMERICA Act (H.R. 5689) and the Climate RESILIENCE Act (H.R. 6396) both provide incentives for state and local governments to adopt and enforce the latest editions of consensus-based codes given the high-level of protection such codes can provide.

Concerning flood-risk, numerous FEMA-authorized studies and investigations related to floodplain management have found that stronger floodplain management standards, like freeboard, are effective and necessary to address the growing threat of flooding. FEMA has explicitly acknowledged that modern codes are better than the NFIP's current building and land-use criteria for reducing flood risk.⁴⁰ In addition, FEMA has often encouraged states and communities to adopt freeboard as it is more protective than the NFIP minimum requirements.⁴¹ However, FEMA has not updated the NFIP's building and land-use criteria for reducing flood risk since the Ford administration.

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 provide communities the opportunity to anticipate and reduce flood risk, saving lives and protecting property. FEMA has recognized the multiple shortcomings of the NFIP and the need to update a wide array of implementing regulations, which is the reason it published a Request for Information (RFI) to solicit public comment on reforming the NFIP.⁴² Now that the comment period has closed, FEMA should move quickly to propose new regulations, ideally in the next six months, for those issues raised in the RFI.

- **Homeowners, Home Buyers, and Renters Should Have a Right to Know their Flood-Risk:** Homeowners and renters should have a right to know what FEMA already knows about their property's history, including flooding potential. Similarly, homebuyers should have a right to know what a seller knows, and renters should have a right to know what the lessor of a property knows. However, getting access to this information can be exceedingly difficult, and this needs to change. In too many states, home buyers are kept in the dark about a property's vulnerability to floods, as NRDC and Columbia University's Sabin Center for Climate Change Law found when it reviewed all 50 states' real estate disclosure laws.⁴³

⁴⁰ See generally, Federal Emergency Management Agency, "Building Codes Save: A Nationwide Study Losses Avoided as a Result of Adopting Hazard-Resistant Building Codes," November 2020, https://www.fema.gov/sites/default/files/2020-11/fema_building-codes-save_study.pdf

⁴¹ Id.

⁴² Request for Information on the National Flood Insurance Program's Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and Their Habitats, 86 FR 56713, Oct. 12, 2021.

⁴³ Natural Resources Defense Council, "Climate Resilience: How States Stack Up on Flood Disclosure," <https://www.nrdc.org/flood-disclosure-map>

Twenty-two states have no statutory or regulatory requirements that mandate a seller disclose to a potential buyer any flood risks or past flood damages associated with the property. The other twenty-eight have varying degrees of disclosure, creating a hodgepodge of state and local policies that hinder transparency of flood risk.

States like Texas, Oklahoma, and Louisiana, have strong flood-risk disclosure laws, requiring sellers tell potential buyers, at a minimum, whether the property is in a designated floodplain, whether there have been any flood damages to structures on the property, and whether there is any requirement to carry flood insurance.⁴⁴

FLOOD DISCLOSURE SCORECARD				
A	B	C	D	F
STATES LA OK MS TX	STATES TN	STATES AK ND CA NV DE OH IA OR IL PA IN SC KY SD MI WA NE	STATES CT NC HI RI MD WI MN	STATES AL MT AR NH AZ NJ CO NM FL NY GA UT ID VA KS VT MA WV ME WY MO
☒ Flood damage history	☐ Flood damage history	☒ Flood damage history	☐ Flood damage history	☐ Flood damage history
☒ Whether the property is in a designated floodplain	☒ Whether the property is in a designated floodplain	☒ Whether the property is in a designated floodplain	☒ Whether the property is in a designated floodplain	☐ Whether the property is in a designated floodplain
☒ Whether flood insurance is mandatory	☒ Whether flood insurance is mandatory	☒ Whether flood insurance is mandatory	☒ Whether flood insurance is mandatory	☐ Whether flood insurance is mandatory
☒ Other relevant info, like the cost of flood insurance or past FEMA assistance	☒ Whether flood insurance is mandatory	☐ Whether flood insurance is mandatory	☐ Whether flood insurance is mandatory	☐ Whether flood insurance is mandatory

FEMA has the authority to require states and communities, as a condition of NFIP participation, to establish an “affirmative obligation on the part of sellers and lessors of residential properties to disclose information about flood risk to prospective buyers and lessees.”⁴⁵ Congress authorized FEMA to develop criteria designed to encourage the adoption of State and local measures which, to the maximum extent feasible, will reduce flood damages and improve the “use of flood-prone areas.”⁴⁶ States and local governments are required to adopt regulations and ordinances that satisfy the minimum criteria developed

⁴⁴ Id.

⁴⁵ Request for Information on the National Flood Insurance Program's Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and Their Habitats, 86 FR 56713, 56717-18 (Oct. 12, 2021).

⁴⁶ 42 U.S.C. § 4102(c)

by FEMA to participate in the NFIP.⁴⁷ Flood-related disclosures would provide prospective home buyers and renters with the information necessary to make an informed decision concerning the home's flood-risk, which could assist in reducing flood damages. FEMA should adopt a flood-risk disclosure requirement.

Beyond disclosure by property owners, the NFIP must also improve the information that it makes available to both home buyers and homeowners. This should include any history of flood insurance coverage, damage claims paid, and whether there is a legal requirement to purchase flood insurance because of past owners' receipt of federal disaster aid. This is information that Federal Emergency Management Agency should have if a property was ever covered by the NFIP. Congress should require FEMA to share this information with residents of properties.

- **Encourage the use of natural infrastructure approaches in FEMA grant programs.** FEMA should provide technical assistance and prioritize mitigation and disaster recovery projects that restore natural flood protections for communities, such as floodplain buyouts and natural infrastructure projects. To facilitate adoption of best practices, FEMA should help grantees develop projects that are consistent with funding requirements, including benefit-cost analyses. Working with other relevant federal agencies and external experts, FEMA should create “off-the-shelf” hazard risk reduction and cost-effectiveness calculations for discrete natural infrastructure approaches where possible.

FEMA should identify and encourage adoption of best practices for floodplain buyouts that prioritize large-scale buyouts (e.g., several contiguous parcels or properties of 10 acres or more), restoration of bought-out parcels, and relocation and other incentives that can minimize the socioeconomic consequences for residents opting for buyouts. FEMA should also align funding requirements for buyouts and environmental restoration with other federal agencies administering disaster recovery funding, such as HUD. FEMA should require and fund monitoring to evaluate the return on investment for mitigation activities, including the environmental benefits of natural infrastructure approaches. Other agencies FEMA should consult with include NOAA, HUD, and FWS.

FEMA Must Prioritize Instilling Equity in its Programs and Operations and Advancing Climate Resilience at All Levels of Government.

The immediate impacts of climate change will continue to grow in frequency and severity even under the most optimistic emissions reduction scenarios. We must adapt to and mitigate the current impacts of climate change, in addition to addressing its root cause. However, we must ensure such approaches do not exacerbate structural inequities in society. NRDC believes the above recommendations would help FEMA prioritize both equity in its programs and operations and increase climate resilience.

For more information, please contact Rob Moore at rmoore@nrdc.org

⁴⁷ 42 U.S.C. § 4022

Statement for the Record

On behalf of the
National Rural Electric Cooperative Association

Before the
House Subcommittee on Economic Development, Public Buildings, and
Emergency Management of the Committee on Transportation and Infrastructure

Hearing: “FEMA Priorities for 2022 Stakeholder Perspectives”

February 16, 2022

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Introduction

The National Rural Electric Cooperative Association (NRECA) represents more than 900 electric cooperatives. America's electric cooperatives are energy providers and engines of economic development for more than 20 million American homes, businesses, farms and schools across 48 states. Electric cooperatives play a vital role in transforming local communities.

On behalf of America's electric cooperatives, we thank the Committee for holding a hearing on priorities of the Federal Emergency Management Agency (FEMA) and appreciate the opportunity to enter into the record our perspective on the programs and policies of the agency.

We also commend the Committee for advancing the Resilient AMERICA Act (H.R. 5689). This bill would help co-ops invest in hazard mitigation projects through direct participation in FEMA's Building Resilient Infrastructure and Communities program, which we believe was the original Congressional intent. It would also allow the interest on post-disaster loans to be eligible for FEMA grant reimbursement, which is critical for co-ops, who can incur millions of dollars of interest following a disaster.

Every year, ice storms, tornadoes, floods, hurricanes, and similar natural disasters destroy NRECA's member cooperatives' critical facilities and infrastructure (such as poles, lines, and transformers). If this damage is caused by a major disaster declared by the President of the United States, then many of the cooperatives' response and recovery costs are eligible for reimbursement through grants from FEMA. These grants, authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act and administered under FEMA's Public Assistance Program, can amount to tens of millions of dollars and are critical to the ability of cooperatives, who are not-for-profit entities, to recover from disasters and get the lights back on quickly and safely. The grant program best serves its purpose when it is adequately funded by Congress and efficiently administered so that meritorious cost reimbursement grants are speedily disbursed and subject to minimal or no risk of deobligation. NRECA's member cooperatives are best positioned to support the communities they serve and help restore strong local economies when the grant program is administered fairly and efficiently and offers certainty.

We appreciate the strong partnership NRECA members have with FEMA and state emergency management agencies, that allows electric cooperatives to restore power as quickly and safely as possible following natural disasters.

We note two issues below that, if resolved by FEMA, would clarify FEMA processes and assist the communities served by rural electric cooperatives.

1. Clarity is Needed to Address Communities with Severe Local Impacts or Recent Multiple Disasters (Section 1232(a) of the Disaster Recovery Relief Act)

Section 1232(a) of the Disaster Recovery Reform Act (DRRA), which directs FEMA to give greater consideration to severe local impact or recent multiple disasters when analyzing whether an event should be declared a major disaster, needs clarity. The Administrator is directed, under DRRA, to make corresponding adjustments to the Agency's policies and regulations regarding such consideration. This is a very specific and detailed requirement and yet FEMA, in a recent rulemaking,¹ declined to propose further detail on how this section will be implemented.

¹ Notice of Proposed Rulemaking "Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program", 85 FR 240, December 14, 2020

This lack of clarity around how FEMA will give the greater consideration required to severe local impact or recent multiple disasters has had significant negative economic consequences. NRECA member Golden Spread Electric Cooperative, Inc., a non-profit electric generation and transmission cooperative based in Amarillo, Texas, serving some of the most rural regions of Texas, was hit by a severe winter storm in October 2020. Several Golden Spread members suffered damage, totaling approximately \$15-\$20 million. Since this didn't meet Texas' 2020 state threshold (\$38.5 million), regulators in the state did not think that FEMA would approve a declaration of this size, despite the significant impact on a small community. As such, Gold Spread received no aid. Additional guidance is needed from FEMA to help states navigate the application process.

2. Emergency Work vs. Permanent Work Must be Further Defined

We recommend that FEMA revise its policy to recognize that the emergency period for electric utilities is defined as the period between the disaster and when the last meter that can receive power does receive power. Under this definition, permanent work would cover the follow up work that is sometimes required after the rapid push to restore electricity following a disaster.

When natural disasters create widespread power outages, electric cooperatives work to get the lights back on safely and quickly – this is essential to response and recovery. Without electric power, essential facilities such as hospitals, water and wastewater treatment plants, shelters, food service, telecommunications, educational facilities, correctional facilities, etc. cannot complete their own restoration efforts. In the wake of a storm, the initial power restoration process begins almost immediately. Often, electric distribution lines are replaced onto damaged or out-of-plumb poles and are not sagged properly. This work is not necessarily up to code but is temporary and sustainable in the short-term until permanent repairs can be made. This emergency temporary work supports the community's need for the rapid restoration of essential electric service. This type of prompt, safe work and the services that support it has traditionally been considered "emergency work." Recently, some FEMA regional offices have begun to claim that the initial post disaster electric power restoration work should be classified as permanent work. Permanent work, however, is different. To get the system back into compliance with National Electrical Safety Code and other standards, the emergency work performed immediately after a disaster sometimes needs to be adjusted or redone. This work typically involves replacing out-of-plumb poles, properly sagging conductor, etc. This work is permanent in nature and is appropriately categorized as such.

Conclusion

Thank you for your consideration of these proposals. America's Electric Cooperatives are prepared to work with you to support bipartisan, emergency solutions to benefit the communities we serve and the nation.

**Testimony of The Pew Charitable Trusts
Perspectives on FEMA Priorities for 2022
provided to the
House Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings, and Emergency Management
February 16, 2022**

Chairwoman Titus, Ranking Member Webster, members of the subcommittee, The Pew Charitable Trusts (Pew) is grateful for the invitation to submit written testimony for your deliberations on the Federal Emergency Management Agency's (FEMA) priorities for the coming year. Given the growing number of federal disasters and emergencies and the many challenges that the Agency faces and its disaster response role, this hearing is an important one.

Pew's work is focused on the increasingly costly and common problem of floods and flooding damage. Our flood-prepared communities project seeks to reduce the impact of flood-related disasters on the U.S. economy, communities, and environment by working to prioritize investments in flood-ready infrastructure, mitigate against the impact of disasters, modernize flood insurance, and promote nature-based solutions to flooding. Our testimony focuses largely on FEMA's challenges related to flooding and flood risk management.

Pew's focus on flooding leads us to select several key priorities among the many important activities at the Agency.

First, we see the **full implementation of Risk Rating 2.0**, FEMA's new approach to rate-setting for the National Flood Insurance Program (NFIP), as critical: critical not only for the financial stability of the National Flood Insurance Fund but also for an improved public understanding of flood risk and for eliminating hidden but unfair cross-subsidies.

FEMA's legacy rating method relied on a limited set of variables affecting flood risk, with the primary factor being whether the property was considered "in" or "out" of a designated flood hazard area, regardless of the age or reliability of the relevant flood map and regardless of where, within that zone, a structure was situated. This binary approach to depicting flood risk has fostered serious misunderstandings—leading people to presume that areas outside of a designated flood zone are risk-free and that maps can predict the precise location of future flood events. Neither is true.

Risk Rating 2.0, in contrast, offers a far more granular approach to assessing and rating flood risk, and it offers a truer picture of real risk. The new rating engine considers a wider suite of variables beyond the over-simplified lines of the so-called 100-year floodplain. Risk Rating 2.0 considers that traditional 100-year flood along with the probabilities for smaller but more frequent floods, the chances of catastrophic events, stormwater-driven risk, erosion rates, the position of electrical and mechanical equipment, presence of flood vents, location on a barrier island, the functioning of levees, distance to water, size of water source, and more.

Also important in this list of variables is the replacement costs associated with an insured property. Because the NFIP's legacy system ignored differences in the cost to repair flood-damaged structures, the

NFIP, in the words of Wharton Risk Center Executive Director, Carolyn Kousky, has historically given high-value homeowners “a sweet deal” while penalizing those with more modest homes.ⁱ By recognizing the importance of replacement cost in the new rates, many homeowners of modest means will—probably for the first time ever—find the price of their insurance going down.

In fact, the new system is expected to deliver price cuts to roughly 23 percent of current policyholders—something that would not have happened under the previous system.

As the rollout of the new rating system continues, we are also hopeful that FEMA headquarters will work with the regions on concerted outreach to help policyholders and local and state decisionmakers better understand how they can lower their rates and lower risks with additional mitigation and adaptation actions. From looking at the geography of rate changes, we fully expect that areas of significant rate increase will, in many cases, point to areas of concentrated repetitive losses. **Addressing these repetitive losses should continue to be a priority for the Agency as well.**

Pew also believes that FEMA must take what it has learned through the development of Risk Rating 2.0 and begin to put this more sophisticated understanding of flooding into **accelerated and improved mapping efforts**. Risk Rating 2.0 gives a more realistic price signal to individual policyholders, but local elected leaders cannot – and should not - make policy based on the price of insurance for individual structures. Local leaders need maps and mapping tools to set priorities for new infrastructure investments, to select safe locations for critical facilities, like schools and hospitals, and overall to make informed decisions about community growth and development.

With only a third of the nation’s river miles mapped for flood hazard and what will likely be a continued limited budget for mapping, FEMA will be challenged in 2022, trying to both fill the gap of unmapped communities and simultaneously improve its map products. We see promise, however, in two tracks of work.

One would be replicating the work that has already been undertaken in some regions to offer access to available watershed scale mapping that may not yet be incorporated into official Flood Insurance Rate Maps (FIRMs).ⁱⁱ This effort could fill the huge holes in map availability in many areas, particularly in rural communities.

At the same time, we believe FEMA should move full-speed ahead with its federal partners at the National Oceanic and Atmospheric Administration (NOAA) and with the statesⁱⁱⁱ to create the tools for incorporating sea-level-rise scenarios into future conditions maps for all coastal areas. Future conditions will be impacted by many factors, including changes in development patterns and shifting precipitation trends, and assembling and understanding some of that data can present many challenges. However, the state of the science around the sea-level-rise component of those trends allows for making reasonable and useful projections for the future now. That data should be made widely accessible, and vulnerable coastal communities should be using it to direct new investments and population growth away from the areas that will be under water before within the lifetime of those assets. This step is important not only to floodplain management, but also to wise use of taxpayer funds for new infrastructure investments.

In addition, we believe **FEMA should quickly initiate a rulemaking to update the NFIP’s basic land use and floodplain management requirements**, building upon the recent Request for Information (Docket

ID FEMA-2021-0024). The nation has learned a great deal about floodplain management in the more than four decades since the basic rules were adopted, and it is well past time for those rules to be amended. As detailed in our more extensive response to the Agency's recent Request for Information (attached), Pew believes these rule changes should address the fundamental problem of using current (or frequently outdated) measurements of flood risk as the basis for making decisions about new construction which is intended to last for decades or more. Incorporating future conditions into floodplain reviews and requiring those reviews to fully account for impacts of new development on existing homes and businesses should be a priority in that rulemaking.

Another important priority for the coming year should be a focus on **equity consideration in the flood insurance program and in disaster recovery**. On this point, the Agency has already made some important changes—increasing access to Individual Assistance post disaster and easing some of the paperwork issues that present high hurdles to many flood-affected families. We know that the Administration has also proposed at least the broad outlines of a program to make flood insurance more affordable to families with limited incomes, and we know that the basics of such a program were included in the Build Back Better bill, which passed the House.

While we see Risk Rating 2.0, with its consideration of replacement cost value as step one in addressing equity, we also strongly support an additional means-tested affordability assistance program for flood insurance. To be both effective and equitable over the long term, we believe such a program should help lower-income families not only lower their insurance payments but also lower their risks with additional mitigation assistance.

Finally, we would underscore what we offered to the Committee in testimony last March. We concur with the experts at the National Institute of Building Sciences (NIBS) Multi-Hazard Mitigation Council. Their studies make it clear that pre-disaster mitigation pays financial dividends and the sooner we mitigate, the more we can save. They also make it clear that the nation currently has an enormous resilience gap. With that in mind, we hope to see FEMA **prioritize smart mitigation spending**, supporting local and state projects that are based in a solid understanding of risk, including future flood risk, projects that incorporate the hazard prevention measures associated with latest consensus building codes, projects that move people out of harm's way into safer spaces, as necessary, and projects that incorporate natural defenses to lower flood risk, delivering water quality and conservation benefits as well. We know that not all communities are currently equipped to undertake such projects, so we also hope that FEMA will **continue to work with under-resourced communities to help them build the capacity** to create a more resilient future for themselves.

We appreciate the Subcommittee's thoughtful consideration of these issues, and we look forward to any opportunities for questions or discussion.

ⁱ Kousky, Carolyn, "Stopping price reform won't eliminate flood risk: We can better help households at risk that cannot afford flood insurance — and adapt to climate change," The Hill, April 2, 2021, <https://thehill.com/changing-america/opinion/546158-stopping-price-reform-wont-eliminate-flood-risk>

ⁱⁱ See, for example, Texas Water Development Board, "Statewide flood hazard information forms a flood data quilt," November 9, 2021, https://texaswaternewsroom.org/videos/flood_quilt_video.html ; FEMA, "Base Level Engineering (BLE) Tools and Resources," <https://www.fema.gov/media-collection/base-level-engineering-ble-tools-and-resources>; "A State Quick Guide to Base Level Engineering – FEMA," April 23, 2021, https://www.fema.gov/sites/default/files/documents/fema_state-quick-guide-base-level-engineering.pdf

ⁱⁱⁱ See, for example, “An Overview of State Coastal Zone Management Policies Designed to Promote Coastal Resilience,” The Environmental Analysis & Communications Group, Bloustein School of Planning and Public Policy and The Rutgers Climate Institute, Rutgers, The State University of New Jersey, March 2019, <https://climatechange.rutgers.edu/?view=article&id=896:an-overview-of-state-coastal-zone-management-policies-designed-to-promote-coastal-resilience&catid=265> ; Maryland Coast Smart – Climate Ready Action Boundary (CRAB) Inundated Zones, Jan 17, 2021, <https://www.arcgis.com/home/item.html?id=93218f38c5014853bb308dacdaf23a9c> ; and New Jersey Department of Environmental Protection, “NJ Protecting Against Climate Threats: Resilient Environment and Landscapes,” December 22, 2020, <https://www.nj.gov/dep/workgroups/docs/njpact-real-20201222.pdf>



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January 27, 2022

Federal Insurance and Mitigation Administration
Federal Emergency Management Agency
500 C Street SW
Washington, D.C. 20024

Re: Docket ID FEMA-2021-0024

Dear Sir or Madam:

The Pew Charitable Trusts appreciates the opportunity to comment on the important topics raised in this Request for Information by the Federal Emergency Management Agency (FEMA or the Agency) on the National Flood Insurance Program's Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and Their Habitats. While the multiple questions raised present a challenge to FEMA reviewers and to commenters, we commend the Agency for taking an expansive view of the regulations, policies, and programs that could be changed to make needed improvements in floodplain management.

There can be little argument that the regulations in Title 44, particularly the "Criteria for Land Management and Use" in Part 60, are overdue for review and substantial updates. These core regulations, which date from the early days of the National Flood Insurance Program (NFIP), have been valuable in engaging local communities in floodplain management and preventing levels of damage that would have been experienced in their absence. They have not, however, kept pace with the threats posed by a changing climate and the development and population trends which show more and more people and assets moved into flood-prone areas.

Pew supports extensive changes to these regulations aimed at minimizing the impact of flooding to humans and bending the curve of unsustainable development in flood-prone areas, including changes which will:

- **extend the reviews of subdivision, new construction, and rebuilding beyond the currently mapped flood zones;**
- **add new margins of safety to address both the wide range of uncertainty in flood risk modeling and the urgent need to consider future conditions;**

- **promote approaches to flood risk management on a watershed scale, which can lessen flood damage and provide multiple environmental benefits;**
- **integrate flood risk management into community planning and development;**
- **add additional requirements related to critical facilities; and**
- **re-orient the focus of floodplain management to consider the safety – not just of newly constructed homes and businesses – but those living and working in communities today.**

At the same time, we also understand that changes to the regulations alone – even changes that seek to accomplish all of these goals—will not fully address today’s and future challenges. Therefore, we are hopeful that FEMA will consider changes in policies and procedures across its programs to support improved flood risk management. We know that FEMA has already begun investigating ways to transition its insurance, mapping, and mitigation programs away from the ill-suited construct of the Special Flood Hazard Area, and we urge the Agency to continue and accelerate important initiatives such as “CRS Next” and the “Future of Flood Risk Data.” Hopefully, our more detailed answers to FEMA’s RFI questions will be useful to those undertakings and others.

Finally, we underscore our strong recommendation that the Agency take steps, to more fully engage the states in the ongoing job of floodplain management. The all-of-government approach to flood risk management that has long been recognized as necessary to effective floodplain management has yet to be realized and, in our view, cannot be realized if states are largely bystanders to key decisions about land uses and construction that impact flood risk. As noted geographer Gilbert White once wrote,

“...it is naïve to expect that the federal agencies ... will be able to make their information, advice, and funding suitably available at the local level unless there is coordination in the field by an appropriate state agency.” (“Decision or Procrastination in Floodplain Management,” *Journal of Contemporary Water Management and Research*, Vol 97, Issue 1, 1994)

We believe that White’s prescient words from 1994 should be taken seriously.

The early studies that led to the creation of the NFIP cited local land use decisions as major contributors to flood damages and losses, so the approach taken was one to engage the federal government directly with localities—with little emphasis on a state role. Today, more than 22,000 individual communities participate in the NFIP, including many small or resource-limited communities that attempt to participate without established local building expertise and floodplain management capacity. This makes the job of effectively assisting and assuring compliance in all of these communities far too large for FEMA alone. That is why **Pew strongly recommends new efforts to more fully engage states in the ongoing challenges of floodplain management.**

Our more detailed comments attached are focused on issues and questions that we see as high priorities. We appreciate the opportunity to comment and the Agency’s willingness to consider a range of ambitious changes to its floodplain management rules and programs. We look also look forward to participating in and contributing to future rulemakings.

Sincerely,



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January 27, 2022

The Pew Charitable Trusts
Responses to Selected Questions

Re: Docket ID FEMA-2021-0024

Question 2:

The elevation of structures above expected base flood levels, called “freeboard,” is an important precept of floodplain management. “Freeboard” is usually expressed in feet above a base flood elevation for purposes of floodplain management. NFIP communities must require new, “substantially improved,” or “substantially damaged” structures in the SFHA to be elevated to the height of the one percent annual chance flood level, also referred to as the Base Flood Elevation or BFE. Some States and communities require newly constructed buildings to be built higher than the base flood elevation to further reduce the risk of flood damage with freeboard requirements set to a specific height to provide the additional margin of risk reduction above the BFE. The NFIP has strongly encouraged but not required higher elevation standards, such as those included in the I-Codes and ASCE 24. Should FEMA update flood elevation requirements for SFHAs by setting higher freeboard levels? If so, what should FEMA consider for the higher elevation levels for freeboard? What data exists to support higher elevation levels for freeboard or methods that provide a more consistent level of protection? Will freeboard elevation generally raise the market value of properties in SFHAs and if so how would the increase in market value compare to the cost of elevation? Are there other technology advancements or building standards in design and construction that should be considered beyond freeboard levels? If so, do they address other floodplain management criteria (e.g., reasonably safe from flooding; adequately anchored; methods and practices that minimize or are resistant to flood damage; water load values; wind load values; substantially impermeable)?

When it is not possible to avoid building and rebuilding in at-risk areas, such as the Special Flood Hazard Area (SFHA), incorporating elevation into the design and construction of structures can provide an increased margin of safety. However, FEMA currently only requires that communities participating in the National Flood Insurance Program (NFIP) assure the elevation of new, “substantially improved,” or “substantially damaged” structures to the height of the Base Flood Elevation (BFE). As demonstrated by flood experience and documented in multiple post-storm reviews¹, this approach has proven inadequate.

¹ See, for example, Federal Emergency Management Agency, “Elevating Floodprone Buildings Above Minimum NFIP Requirements,” April 2017, https://www.fema.gov/sites/default/files/2020-07/elevating-flood-prone-buildings_iowa-floods-2016.pdf; Federal Emergency Management Agency, Mitigation Assessment Team Report, “Hurricane Ike in Texas and Louisiana: Building Performance Observations, Recommendations, and Technical Guidance,” April 2009, <https://www.fema.gov/sites/default/files/2020-08/fema757.pdf>; Federal Emergency Management Agency, Mitigation

Representing the expected elevation of surface water resulting from a flood with a 1% chance of being equaled or exceeded in any given year, the BFE is an imprecise indicator of risk. As FEMA mapping experts know, the level of precision possible for determining both the 1%-annual-chance-flood and its associated BFE can be limited by inherent uncertainties in the available data. Reliance on historical records, sensitivities of the models, the capacity of permit reviewers tasked with assessing and tracking development changes within a mapped flood zone, and the underlying assumption of stationarity all contribute to the ranges of uncertainty. Therefore, while the BFE offers a useful general assessment of relative risk, it should not be taken as a clear demarcation of safe versus unsafe.

Using the magnitude of 100-year floods to determine the BFE can also provide a false sense of safety. Those living in a 100-year floodplain have a 26% chance of experiencing a major flood at least once over a 30-year period, or the typical duration of a mortgage.² The reality that these seemingly rare events can occur multiple times in a matter of years is being felt by communities across the country.³ For example, Harris County, Texas reportedly experienced three 500-year floods from 2015 to 2017. In Ellicott City, Maryland, reported 1,000-year floods occurred in 2016 and again in 2018.⁴

Given these issues and the dynamic nature of flood risk, **Pew recommends that FEMA add a factor of safety to its minimum elevation requirements by mandating freeboard, at a minimum for structures located in the horizontal extent of the SFHA.** Doing so will help communities utilize one of the most effective approaches to reducing flood losses in high-risk areas. This approach has already been adopted in multiple jurisdictions across the country.

According to FEMA, the nation benefits from nearly \$500 million in average avoided losses each year due to structures within floodplains being built with freeboard.⁵ At the local level, FEMA's analysis of the 2013 floods in Colorado, for example, estimated that losses incurred by Boulder County would have increased by 331%, or an additional \$1.5 billion, had the county had not adopted freeboard. The analysis also showed that losses could have been decreased by 70% if freeboard had been increased by 2 feet in Boulder, Larimer, and Weld counties.⁶ The National Institute of Building Sciences (NIBS) estimates a 6:1 Benefit-Cost Ratio (BCR) for constructing new buildings to meet 2018 I-Code standards with respect

Assessment Team Report, "Hurricane Irma in Florida: Building Performance Observations, Recommendations, and Technical Guidance," December 2018, https://www.fema.gov/sites/default/files/2020-07/mat-report_hurricane-irma_florida.pdf; Federal Emergency Management Agency, Mitigation Assessment Team Report, "Hurricane Michael in Florida: Building Performance Observations, Recommendations, and Technical Guidance," February 2020, https://www.fema.gov/sites/default/files/2020-07/mat-report_hurricane-michael_florida.pdf

² United States Geological Survey, "100-Year Flood—It's All About Chance," April 2010, <https://pubs.usgs.gov/gip/106/pdf/100-year-flood-handout-042610.pdf>

³ The Washington Post, "Houston is Experiencing its Third '500-year' Flood in 3 Years. How is that Possible?" Accessed January 27, 2022, <https://www.washingtonpost.com/news/wonk/wp/2017/08/29/houston-is-experiencing-its-third-500-year-flood-in-3-years-how-is-that-possible/>

⁴ National Weather Service, Hydrometeorological Design Studies Center Annual Exceedance Probability, Exceedance Probability Analysis for Selected Storm Events, Accessed January 27, 2022, https://www.weather.gov/owp/hdsc_aep

⁵ Federal Emergency Management Agency, "Building Codes Save: A Nationwide Study," November 2020, https://www.fema.gov/sites/default/files/2020-11/fema_building-codes-save_study.pdf

⁶ Federal Emergency Management Agency, "Reducing Losses Through Higher Regulatory Standards: A Study of the 2013 Colorado Floods," March 2015, <https://coloradohazardmapping.com/File/5ab457d3-2ced-433b-b7f0-a64bb7b1310d>

to riverine flooding. According to NIBS, BCR for constructing new buildings in coastal V-zones with 2-feet of freeboard ranged from 6.7:1 to 31.1:1 across Atlantic and Gulf Coast states.⁷

What's more, the typical upfront costs associated with freeboard can be modest when constructing new homes, spread out over time through financing options and often recaptured in a matter of years through reductions in flood insurance premiums. As noted by FEMA,

*...adding 2 feet of freeboard to a new home might add \$20 a month to the mortgage payment, or \$240 per year. The resulting flood insurance savings could be more than \$1,000 a year for a building in Zone AE (for instance, in a riverine flood zone not affected by wave action) and \$2,000 a year in Zone VE.*⁸

Once elevation costs are recouped homeowners that maintain flood insurance stand to benefit from long-term savings due to continued discounts on their premiums.

Appreciating the need for and value-add of increased margins of safety with respect to flooding, numerous states and communities have adopted freeboard. According to the Association of State Floodplain Managers (ASFPM), Indiana, Montana, New York, and Wisconsin require at least 2 feet of freeboard for all construction in the 100-year floodplain. At the local level, at least 190 communities participating in the NFIP that are outside of the states with freeboard requirements have at least 2 feet of freeboard for all construction in the 100-year floodplain, and more than 40 NFIP-participating communities require at least 3 feet of freeboard.⁹

As noted in FEMA's Request for Information, stronger elevation requirements are also incorporated in consensus-based I-Codes and standards. The International Code Council (ICC) included one foot of freeboard in the 2015 and 2018 editions of their International Residential Codes. The ICC's International Building Codes also require compliance with the American Society of Civil Engineers' flood-resistant design standards, which include varying levels of elevation ranging from the Design Flood Elevation, to 2-feet of freeboard, to the height of the 500-year flood based on a structure's flood design class.

While I-Codes offer an enhanced margin of safety compared to NFIP standards they do not account for future risk. The ramifications of this omission could be significant considering that most structures are designed to last decades. Encouragingly, ASCE recently launched a partnership with the National Oceanic and Atmospheric Administration and the University of Maryland to consider engineering codes and standards that account for climate change.¹⁰

⁷ National Institute of Building Sciences, "Natural Hazard Mitigation Saves: 2019 Report," December 2019, https://www.nibs.org/files/pdfs/NIBS_MMC_MitigationSaves_2019.pdf

⁸ Federal Emergency Management Agency, "Building Higher in Flood Zones: Freeboard – Reduce Your Risk, Reduce Your Premium," Accessed January 27, 2022, <https://www.carteretcountync.gov/DocumentCenter/View/2238/Benefits-of-Freeboard>

⁹ Natural Resources Defense Council, "Petition Requesting That The Federal Emergency Management Agency Amend Its Regulations Implementing the National Flood Insurance Program," January 5, 2021, <https://www.nrdc.org/sites/default/files/petition-fema-rulemaking-nfip-20210105.pdf>

¹⁰ National Oceanic and Atmospheric Administration, "NOAA, University of Maryland, ASCE to advance climate-smart construction," November 3, 2021. <https://www.noaa.gov/news-release/noaa-university-of-maryland-asce-to-advance-climate-smart-construction>

Requiring communities participating in the NFIP to adopt freeboard could improve alignment with standards across FEMA programs and other federal agencies. For example, non-critical actions supported by FEMA’s Hazard Mitigation Assistance programs involving structure elevation, dry floodproofing, and mitigation reconstruction in the SFHA require a minimum of two feet of freeboard unless doing so would make a project unable to meet applicable program cost-effectiveness requirements.¹¹ The U.S. Department of Housing and Urban Development typically requires new residential construction and substantial improvements using Community Development Block Grant—Disaster Recovery funds be elevated 2 feet above the BFE. The Federal Housing Administration Office of Multifamily Housing has the same freeboard requirement for new construction projects in the 100-year floodplain.¹²

Considering these factors in aggregate, **Pew recommends FEMA take a layered approach to strengthening its elevation requirement for communities participating in the NFIP. At a minimum, all new, “substantially improved,” or “substantially repaired” structures located in the delineated SFHA, as well as other known flood-prone areas, should incorporate at least two feet of freeboard or levels of freeboard included in the latest edition of I-Codes, whichever is higher.** Given that flood risk can vary across regions, states, and even within communities, FEMA should assess variables such as geography, type and magnitude of flood risk, criticality of structures (see additional comments regarding critical facilities), and age of a community’s flood map to determine where freeboard requirements higher than 2 feet above the BFE may prove necessary. To provide a sufficient factor of safety over the design life of structures, Pew also recommends that FEMA phase-in future conditions requirements in addition to mandating minimum levels of freeboard (see response to Question 12).

Question 3:

FEMA has not developed higher minimum floodplain management standards for structures and facilities that perform critical actions as defined in 44 CFR 9.4. These structures and facilities must currently comply with the same minimum requirements as non-critical structures and facilities except for structures and facilities that are covered by Executive Order (E.O.) 11988, Floodplain Management. Should FEMA develop higher standards for these structures and facilities? If so, why? Should FEMA consider differences between certain structures and facilities, such as use, occupancy, operational size, or public and private operators in developing higher standards? Should FEMA consider differences such as use, occupancy, operational size, or public and private operators in developing higher standards for structures and facilities performing critical actions?

Disaster events are traumatic and often leave families, business owners, and others in the community in a state of disarray – worried for both the immediate and long-term future. Damages and losses to hospitals, utilities, fire stations, and other critical services can pose serious risks to public safety, add to a community’s destabilization during a serious flood event, and often contribute to recovery delays. Yet, as

¹¹ Federal Emergency Management Agency, “Partial Implementation of the Federal Flood Risk Management Standard for Hazard Mitigation Assistance Programs (Interim),” August 26, 2021, https://www.fema.gov/sites/default/files/documents/fema_policy-fp-206-21-0003-partial-mplementation-ffrms-hma-programs-interim.pdf

¹² U.S. Department of Housing and Urban Development, “Climate Adaptation Plan,” September 2021, <https://www.sustainability.gov/pdfs/hud-2021-cap.pdf>

this question indicates, there are currently no special floodplain requirements related to critical facilities.¹³ There should be.

Pew supports new rules to require that states and communities identify their own critical facilities and impose additional protections for such facilities beyond those for ordinary residential and commercial structures. The objective of such requirements would be to assure not simply the protection of the structures themselves, but also maintaining the function or rapid resumption of essential services and community “lifelines.” While it may not be feasible to prevent all possible disruptions due to flooding, new safeguards should, at a minimum, be written to avoid catastrophic situations, such as chemical explosions or loss of life involving hospital patients or others with limited mobility.

Appropriate safeguards may include, not only prohibiting construction of certain new critical facilities in flood-prone areas but also employing larger margins of safety with additional freeboard standards, incorporating redundancies for power and other critical utilities in some cases, and assuring dry land access for certain facilities, such as hospitals and medical centers.

For purposes of disaster recovery programs, FEMA has long used what we believe is a reasonably flexible definition of critical action. Under 44 CFR 9.4, critical action “means an action for which even a slight chance of flooding is too great.” The language of this Stafford Act rule is clear in pointing out the importance of any decisions to “create or extend the useful life” of a variety of critical community facilities, including those that may release harmful materials, generating plants and utilities, emergency operations centers, and facilities such as hospitals and nursing homes.

We recommend that FEMA retain this somewhat broad definition in the context of the floodplain management rules but consider calling on participating communities to refine it further, as necessary.

Approaches already adopted by some localities should be considered for inclusion in the Part 60 rules. For example, the Telluride, Colorado ordinance¹⁴ defines a critical facility as “... a structure or other improvement that, because of its function, size, service area, or uniqueness, has the potential to cause serious bodily harm, extensive property damage, or disruption of vital socioeconomic activities if it is destroyed or damaged or if its functionality is impaired.” The ordinance further classifies these into four categories: essential services, hazardous materials, at-risk populations, and vital to restoring normal services; it goes on to specify protections that apply across the board and uniquely to certain facilities.

Numerous other communities, such as Clark County, Washington,¹⁵ Fort Collins, Colorado,¹⁶ Belle Plaine, Minnesota,¹⁷ and Rising Sun, Arcadia, and Burns Harbor, Indiana,¹⁸ just to name a few, have adopted enhanced safeguards for critical facilities, often with provisions for clear siting restrictions as well as additional freeboard or other floodproofing requirements, and/or additional stipulations regarding

¹³ While the Community Rating System promotes voluntary flood protection for critical facilities to keep them out of the 500-year floodplain or otherwise protect the facilities to that level, the NFIP rules themselves do not require these added precautions.

¹⁴ <https://telluride.municipal.codes/LUC/8-634>

¹⁵ <https://clark.wa.gov/sites/default/files/dept/files/community-development/dev-engineering/Flood-Plain-Review.pdf>

¹⁶ Fort Collins, Colorado – Municipal Code, Chapter 10 – Flood Prevention and Protection, https://library.municode.com/co/fort_collins/codes/municipal_code?nodeId=CH10FLPRPR

¹⁷ Belle Plaine, MN, City Code: 1105.06 – Floodplain districts, <https://www.belleplainemn.com/city-code>

¹⁸ Rising Sun, IN Code of Ordinances: S 151.33 Critical Facility:

https://codelibrary.amlegal.com/codes/risingsun/latest/risingsun_in/0-0-0-4820; Arcadia, IN Code of Ordinances: S 154.28 Critical Facilities: https://codelibrary.amlegal.com/codes/arcadia/latest/arcadia_in/0-0-0-4476; Town of Burns Harbor, Indiana, Town Code: Chapter 4 – Building Code, November 2015, <https://burnsharbor-in.gov/155/Town-Code>

utility protection or redundancy of electrical or mechanical systems or water supply, and standards addressing facility access.

Again, we believe far broader application of similar measures is appropriate and will help avert the catastrophic and cascading impacts that can occur when hospitals, retirement homes, emergency shelters, fire stations, and other facilities must be evacuated and when essential water, sewer, and electrical services are rendered inoperable.

Question 5:

In the past 30 years, 1 of every 6 dollars paid out in NFIP claims has gone to a building with a history of multiple floods. What steps should FEMA take to reduce the disproportionate financial impact the multiple loss properties have on the NFIP? Should FEMA consider regulatory changes for properties that have repetitive losses? If so, what should the minimum NFIP floodplain management standards be for those properties? Should these properties be targeted for managed retreat? How should the NFIP consider issues of equity when deciding how to address these properties?

Pew supports proactive policy solutions that will break the cycle of repeated flooding and rebuilding to better prepare people and property for natural disasters, improve public safety, and put the NFIP on stronger financial footing by reducing the program's debt. We commend the Agency for looking for ways to help break this cycle.

According to the U.S. Government Accountability Office (GAO), the NFIP has paid more than \$22 billion in cumulative claims for repeatedly flooded properties.¹⁹ The Agency's own actuaries have determined that the repetitive loss problem is "the single most important factor that affects the stability of the National Flood Insurance Fund."²⁰

Pew urges FEMA to take steps to address the root causes of repeated flooding, including requiring careful assessment and review of those areas within a community with a demonstrated history of recurrent flooding and repetitive claims. Such assessments should result in development of clear plans with benchmarks and timelines to address and mitigate, to the extent feasible, the sources of flood problems for identified priority areas. Such assessments and plans should also prompt a review of local ordinances and procedures that might be altered to prevent similar problems in other areas.

Towards that end, we propose a solution that gives flexibility to communities participating in the NFIP to manage these flood-prone areas, while creating a new level of accountability. Specifically, communities with a concentrated number of repeatedly flooded properties – a number we have defined as 50 or more repeatedly flooded properties²¹ or at least 5 severe repetitive loss properties²² – should be required to

¹⁹ Government Accounting Office, "National Flood Insurance Program: Fiscal Exposure Persists Despite Property Acquisitions," June 25, 2020, <https://www.gao.gov/products/gao-20-508>

²⁰ Federal Emergency Management Agency, "National Flood Insurance Program Community Rating System Coordinator's Manual," FIA-15/2017. https://www.fema.gov/media-library-data/1493905477815-d794671adeed5beab6a6304d8ba0b207/633300_2017_CRS_Coordinators_Manual_508.pdf

²¹ A repeatedly flooded property defined as one that during any 10-year period where there have been 2 or more claims for payments under flood insurance coverage for a total amount that is more than \$1,000.

²² Severe repetitive loss as defined in section 1366(h) of the National Flood Insurance Act of 1968 (42 U.S.C. 4102)

develop repetitive-loss plans for mitigating continuing flood risks to repeatedly damaged areas. As flooding challenges vary from one community to another, a flexible approach embracing a range of mitigation options – including property buyouts, changes in drainage management or neighborhood landscape alterations, strengthening building codes, enhancing freeboard requirements, and/or updating zoning and subdivision ordinances – should be allowed.

FEMA should provide technical assistance and planning to impacted communities with priority given to those with less financial resources. At the outset, this assistance should include providing appropriate data regarding the property addresses and dates of claims associated with insured properties within the community. In addition, the creation of web-based applications, checklists, and guidance materials will help improve outcomes.

We urge FEMA to apply a carrot-and-stick approach to encouraging communities to mitigate risk. First, communities should be given funding – including priority in receiving grants under the Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) programs – to implement the plans designed to tackle these problem areas. In addition, communities which fail to make sufficient progress in reducing the flood risks to areas that are repeatedly damaged should be held accountable for their inaction. Potential sanctions should ultimately include ineligibility for participation in the Community Rating System, designation of properties under Section 1316 authorities, making those properties ineligible for flood policies, imposition of probation fees on community policyholders, or suspension from the NFIP, as allowed under law.²³ While some may see these possible penalties as harsh, it is long past time to compel communities to get serious about addressing these problems.

The solution described above has been ensconced in legislation long championed by a bipartisan group of policymakers, including Senators Tim Scott (R-SC) and Brian Schatz (D-HI).²⁴ While we wholeheartedly support action by Congress to address this issue, we believe FEMA possesses the authority to enact substantive change through regulatory action.

Question 9:

Local floodplain managers are often tasked with enforcement of NFIP minimum floodplain management standards. In what ways can FEMA strengthen the NFIP participation and increase enforcement of NFIP minimum floodplain management standards to build community resilience? How can FEMA better assist communities to mitigate flood loss and reduce risk? In what ways could FEMA better support local floodplain managers to effectively enforce the NFIP minimum floodplain management standards?

²³ 44 CFR under § 59.24.

²⁴ The Repeatedly Flooded Communities Preparation Act has been introduced in three successive congresses. The bill was reintroduced this Congress in the House, as [H.R. 1797](#), by Representatives Earl Blumenauer (D-OR) and Ann Wagner (R-MO), and [S. 2153](#) by Senators Tim Scott (R-SC) and Brian Schatz (D-HI) in the Senate. The bill text was also previously included in the National Flood Insurance Program Reauthorization Act of 2017 ([S.1571](#)), authored by then Senate Banking Committee Chairman Mike Crapo (R-ID) and Ranking Member Sherrod Brown (D-OH), to reauthorize the NFIP in the 115th Congress. Additionally, the language was included in the 21st Century Flood Reform Act ([H.R. 2874](#)) passed by the House in 2017.

Ideally, participation in the National Flood Insurance Program (NFIP) signals a local commitment to baseline floodplain management standards, with local engagement and continuous improvement supported by clear state enabling authorities, a model state NFIP ordinance with appropriate minimum standards, and on-the-ground assistance and oversight, as needed, from state-level officials. However, in practice, there are numerous barriers to both NFIP participation and effective floodplain management, including:

- Incomplete and inaccurate mechanisms to assess flood risk at the local, watershed, and statewide scales;
- Lack of understanding regarding appropriate use of and information provided in Flood Insurance Rate Maps (FIRMs);
- Difficulties coordinating among floodplain managers and other officials at the local, county and state levels;
- Lack of capacity and expertise to adequately evaluate and permit development activities accounting for potential floodplain impacts; and
- Lack of state-level enforcement mechanisms to ensure county and municipal enforcement of minimum floodplain management standards.

Pew is currently working within several states to support policies mandating the development and implementation of statewide flood resilience plans. These efforts have led to our engagement with state practitioners charged to carry out these mandates, and through these state-level relationships, Pew has received feedback which may be helpful to the Agency as it considers rule changes. The following offers a brief summary of comments and observations:

1. At the **local level**, particularly within rural and underserved communities, floodplain managers often fill multiple roles within municipal government. A local floodplain manager may also serve as a town's health inspector, high school football coach, or even mayor. Faced with a competing set of priorities, taking the time necessary to develop a sophisticated understanding of the permit review requirements or to travel and oversee compliance for floodplain construction can be difficult. Conflicting priorities may simply mean that flood risk does not manifest as an urgent priority – until a flooding event occurs or after a floodplain disturbance violation or error has already occurred.
2. At the **state level**, NFIP coordinators themselves may be pressed for resources and capacity. Some lack the tools necessary – either through incentives a state can provide to NFIP-participating communities or through state-delegated floodplain management enforcement mechanisms. A number of State NFIP coordinators have reported to Pew that when they become aware that an NFIP-participating community may not be in compliance with the NFIP requirements, their main recourse is to report – or “write up” – the condition to the FEMA Region and await action.
3. As noted, at the **federal level**, resource constraints likewise limit capacity to effectively address non-compliance. As FEMA knows well, the current structure of the NFIP leaves the Agency with limited options for timely and effective action for addressing serious violations: relying almost solely on the imposition of a penalty fee on all policyholders within the community or suspension of the entire community from the program.

These conditions have, in some instances, led to negative consequences, including local floodplain managers prioritizing other near-term problems over flooding and lacking authority or will to hold a community accountable and state NFIP coordinators with a lack of enforcement tools.

- Local floodplain managers are often incentivized to prioritize other public matters they may be responsible for and outside of their capacity as a floodplain manager.
- Local floodplain managers may ‘look the other way’ when they do become aware of activities rendering their jurisdiction noncompliant with the NFIP requirements, incentivized by a historical precedent under which there are neither obvious benefits for maintaining local compliance or obvious repercussions for noncompliance, up to and including a jurisdiction’s removal from participation in the NFIP.
- Some State NFIP coordinators may lack full authority or resources to play a significant oversight role with respect to local floodplain management.

In light of these issues, Pew makes several recommendations, touching not only the language in the current regulations but also aspects of FEMA’s mapping and grant programs.

First, as noted in the introduction to these comments, Pew does not believe that it is realistic to assume that FEMA itself can address all training and compliance needs. It must work more effectively with states who are capable and willing to assist. On this point, **we recommend that the Agency re-evaluate its current funding levels and formulas for the annual Community Assistance Program, State Support Services Element (CAP-SSSE) allocations.** As of February 2021, CAP-SSSE was reported to allocate only \$10.4 million nationally²⁵ to fill a variety of important functions on a state-by-state basis, including: Community Assistance Visits (CAVs), Community Assistance Contacts (CACs), floodplain management ordinance reviews, training, and the provision of technical assistance. We recommend not only that FEMA allocate more of its budget to this program but also that it adjusts its allocation methods to recognize shortcomings in some participating communities and to incentivize additional engagement and assistance from the states.

A revised version of CAP-SSSE could be modeled after the Environmental Protection Agency’s (EPA) National Environmental Performance Partnership System (NEPPS), under which that agency enters into Performance Partnership Agreements (PPAs)²⁶ with state and tribal governments. These PPAs establish mutual expectations for how the state or tribe and the agency will work collaboratively on agreed-upon priorities. Under the EPA construct, the priorities negotiated under PPAs are then supported by Performance Partnership Grants (PPGs).

Floodplain management priorities established under such a structure could vary by state and evolve over time, for example, focusing in one state agreement on training followed by oversight for communities

²⁵ FEMA, “CAP-SSSE Funding Methodology: How a New Approach Produced Better Results,” updated February 11, 2021, <https://www.fema.gov/case-study/cap-ssse-funding-methodology-how-new-approach-produced-better-results>

²⁶ EPA, National Environmental Performance Partnership System (NEPPS), <https://www.epa.gov/ocir/national-environmental-performance-partnership-system-nepps>

with significant numbers of repetitive and severe repetitive loss properties, supporting a state that takes on review of developer-submitted hydrology studies for small communities with limited technical expertise, or allocating additional funds for a state office that coordinates flood reviews and flood risk management across communities on a watershed basis. This type of structure might also accommodate an initiative that authorizes and encourages states to adjust state floodplain management minimums to account for specific geographic issues, such as channel migration in certain riverine settings or serious problems with ground subsidence.

To further fortify its partnerships with states, we also **recommend that the Agency consider revisions to the regulations, which now only briefly address the responsibilities to be carried out on a state level.**

The Subpart B requirements treat the state as a participating community for purposes of providing access to federal flood insurance for state-owned properties and simply require that the state follow the same minimum criteria laid out regarding land disturbance or construction within a designated SFHA (specifically sections 60.3, 60.4, and 60.5). In fact, these regulations allow insurance coverage for state-owned facilities within non-participating jurisdictions; in our view, this allowance flies in the face of overall objectives of the program and disregards the need for flood risk to be managed with an ongoing program that considers cumulative impacts and the dynamic nature of flood risk.

The state role is also addressed in section 60.25, which covers the designation of a state coordinating entity and speaks generally about several important functions such as encouraging and supporting community participation in the NFIP, assisting with delineation of flood-prone areas, coordinating flood risk management activities with other state and local planning programs, offering training, and disseminating information. None of the functions in this section, however, are written as obligations or requirements, and Pew believes that **FEMA should consider amending the rules to set out a reasonable set of basic requirements for all states, even as it supplements those minimums with delegations of greater authority and responsibility to certain states**, as discussed above.

In line with an effort to engage the states more fully, **we also recommend that FEMA consider adopting some threshold criteria to apply to awards of competitive grants.** Under such a model, if a state or local jurisdiction is listed as a beneficiary within a competitive grant application – such as through the Flood Mitigation Assistance (FMA) or Building Resilient Infrastructure and Communities (BRIC) programs – a state NFIP coordinator could be required to certify that the state as well as a sub-applicant jurisdiction is compliant with the basic regulations as a prerequisite for award consideration or a factor in scoring.

Finally on this point, **we fully support more rigorous engagement and oversight by FEMA itself**, understanding full well that there are associated difficulties and downsides to imposing penalties on all policyholders in a community or removing the availability of NFIP-insurance coverage from an entire community. Those enforcement options may appear harsh, but to the extent that the Agency holds off on action to address regulatory failures in recalcitrant communities, it encourages non-compliance and penalizes those jurisdictions abiding by the rules.

Again, we are hopeful that innovative partnerships with more states – who may have additional administrative and financial options for compelling compliance – will lessen the burden and allow the Agency to concentrate on the most serious and consequential violations. One option that both states and the Agency may wish to consider is expanded use of Section 1316 of the National Flood Insurance Act,

under which a state or local agency may declare a specific structure as being in violation of floodplain management regulations, rendering that structure ineligible for flood insurance coverage through the NFIP.²⁷ More frequent reliance on this authority would impose targeted but appropriate consequences for violations and signal the Agency's determination to improve compliance overall.

Question 11:

There have been recent proposals regarding disclosure of flood risk, recommending development of an affirmative obligation on the part of sellers or lessors of residential properties to disclose information about flood risk to prospective buyers or lessees. These proposals would require States and communities to establish flood risk reporting requirements for sellers and lessors as a condition of participation in the NFIP. Should States and/or local governments be required to establish minimum flood risk reporting requirements for sellers and lessors as a condition for participation in the NFIP? Should there be an affirmative obligation on the part of sellers and/or lessors of residential properties to disclose information about flood risk to prospective buyers or lessees? If so, what is the most effective way to require this disclosure? Should the process be modeled on requirements for sellers to disclose details on environmental hazards, such as lead-based paint hazards? What details should be included in the disclosure, such as knowledge of past floods and/or flood damage, a requirement to maintain flood insurance, knowledge the property is located in a SFHA at the time of offering, and the cost of existing flood insurance?

There is currently no federal requirement for sellers and lessors to disclose residential property flood risk and history. State laws vary widely: Some states like Texas have updated their laws to require expansive disclosure, while others, including populous, flood-prone states such as Florida and Missouri, lack clear requirements. As noted in the Request for Information, there have been recent Congressional proposals to create a national framework for flood risk disclosure to prospective homebuyers and renters.²⁸ **Pew supports these proposals and urges FEMA to develop minimum national standards creating an affirmative obligation for disclosure of past flood losses by sellers and lessors, similar to the existing requirement for lead paint disclosure for older homes.**²⁹

These disclosures should include, at a minimum, any knowledge of the following: 1) prior physical damage caused by flood to any building located on the property; 2) prior insurance claims for losses covered under NFIP or private flood insurance; 3) any previous notification regarding the designation of the property as a multiple loss property; and 4) any legal obligation to obtain and maintain flood insurance running with the property.

As the legislative proposals outline, we believe that communities should be required to establish these minimum flood risk disclosure standards as prerequisite for participation in the NFIP. Furthermore, those already participating in the program should be suspended from the NFIP if they fail to pass laws

²⁷ Federal Emergency Management Agency, "Section 1316." <https://www.fema.gov/glossary/section-1316#:~:text=Section%201316%20of%20the%20National,or%20local%20floodplain%20management%20regulations>

²⁸ Among other bills, language addressing flood risk disclosure was included in the National Flood Insurance Program Reauthorization Act of 2017 ([S.1571](#)) and the 21st Century Flood Reform Act ([H.R. 2874](#)) passed by the House in 2017.

²⁹ 40 CFR § 745.107, Disclosure requirements for sellers and lessors.

codifying these standards in a reasonable amount of time. We suggest that a deadline in the range of four or five years should be sufficient.

We cannot emphasize enough the importance of flood risk disclosure. An upfront understanding of risk is fundamental to preparedness and protection for a future homeowner or renter. This information can be used by individuals to inform decisions about where to live and how to protect themselves and their investments from flood loss. Informed about a structure's loss history, homebuyers could consider alternative neighborhoods, purchase flood insurance, or investigate mitigation options, such as landscaping improvements, building elevation, or special placement of electrical equipment. An informed buyer who has not yet finalized financing may be able to roll the costs of flood-resiliency improvements into a long-term loan that will protect the structure and lower insurance rates. For renters, flood knowledge can allow for the same sort of informed decision-making. An individual with mobility issues may choose a safer location. A renter with expensive computer equipment might opt for the second floor rather than the basement apartment. More individuals may also decide that an insurance policy to cover loss of their belongings is a sensible and affordable safeguard.

Our own polling shows that consumers support this approach. A 2019 Pew poll shows that three quarters of Americans support a single, national standard to ensure that potential homebuyers are aware if a property has flooded repeatedly and if that property is required to carry flood insurance.³⁰

Question 12:

The United States is experiencing increased flooding and flood risk from climate change. Climate change may exacerbate the risk of flooding to homeowners. Should FEMA base any NFIP minimum floodplain management standard changes on future risk and specifically on projections of climate change and associated impacts, such as sea level rise? What equity considerations should be factored into such decisions if climate change disproportionately harms underserved and vulnerable areas? What other considerations should be factored into an analysis involving climate change? Should the NFIP better distinguish NFIP minimum floodplain management standards between riverine and coastal communities? Should the NFIP minimum floodplain management standards incorporate pluvial (surface/urban) flooding concerns? Are there specific measures and standards that should be taken to ensure structures can withstand the greater intensity, duration, frequency and geographic distribution of flooding events? If so, what are they and how can those measures and standards ensure structures and communities can readily adapt and increase resilience to the impacts of climate change?

The difficult task of managing flood risk with an eye on future conditions should be one of the top priorities for the Agency as it undertakes this review of existing rules. Pew urges FEMA to quickly initiate much-needed changes with several points in mind.

Overall, Pew believes that the Agency's long-outdated approach to floodplain management conveys a misleading and unrealistic view of risk. It does so, in part, by using the lines on a map delineating the

³⁰ The Pew Charitable Trusts, SQL Server Reporting Services, Pew Flood Insurance Survey 2019, <https://www.pewtrusts.org/-/media/assets/2019/06/pew-charitable-trusts-flood-policy-survey-disclosure-summary.pdf>

Special Flood Hazard Area (SFHA) not only for the determination of which properties should be covered by the law's mandatory purchase provision but also for imposing requirements and standards on land disturbance and construction. As a report to the Water Resources Council dated 1982 noted,³¹ this approach of using maps created for insurance purposes can have serious shortcomings in terms of protection. It also reinforces widespread public misunderstandings regarding stationarity and flood risk. **Pew strongly supports the consideration of future risks for all land use decisions in or near flood-prone areas, and we urge the Agency to begin transitioning its permitting and design requirements away from the limits of the SFHA.**

We also recognize that such a transition may be a difficult and lengthy one, and that the Agency must also consider the wide range of factors affecting flood risk and the availability of data. While FEMA and its federal partners, such as the National Oceanic and Atmospheric Administration (NOAA), can and should cooperate to provide useful and credible data regarding precipitation trends by region and downscaled sea-level-rise projections for various timeframes, information on other key variables will remain largely in the hands of state and local governments.

Future-conditions hydrology will depend, in many cases, not only on factors such as climate change, but also on local land use decisions and infrastructure investments and maintenance. Data related to these factors may be contained in comprehensive plans, zoning and subdivision ordinances, capital improvements and drainage plans, and other local documents that are not readily accessible to FEMA and are subject to frequent change themselves. As important as the information in such documents can be to determining future risks, Pew believes it is simply not feasible for FEMA itself to incorporate the full range of this data into mapping products.

Rather, it must **restructure its regulations and mapping approaches to better enable and, as necessary, compel participating NFIP communities and states to take on this task and use key local data for risk-informed decision-making.**

Related to this point, we also urge FEMA to consider the real-world limitations on its own ability and the ability of its local and state partners to effectively update, maintain, and utilize map data. The field of flood risk analysis and flood mapping has evolved dramatically since the start of the NFIP program, and the pace of innovation has only accelerated in recent years. FEMA's mapping program has incorporated many of the most important changes, but the program's mapping needs have long outstripped its resources. While Pew has and will continue to advocate for enhanced funding for flood mapping, we also believe that FEMA should reset its rules and mapping policies with realistic resource expectations.

In the early days of the program, the partnership that was envisioned was that a limited number of communities would be at risk of significant flooding, and the federal agencies would provide the first deep analysis of flood risk, working to provide not just the relatively crude flood hazard boundary maps but also more refined maps with floodway designations and detail on base flood levels. Local governments would then adopt and operate from these maps but also contribute toward their needed "upkeep" by evaluating the implications of new construction and floodplain disturbances and, as

³¹ Kusler, Jon A., "Regulation of Flood Hazard Areas to Reduce Flood Losses, Volume 3," prepared for the U.S. Water Resources Council, March 1982, https://www.google.com/books/edition/_/QEgy5yI0TYUC?hl=en&gbpv=0

necessary, submitting and recording map changes related to those alterations. Sometimes for lack of capacity and resources and sometimes for other reasons, this upkeep has not been realized in many instances.

Today, as the Agency knows, floods can occur nearly anywhere across the country, and it is now clear that every locality could use some version of a flood risk assessment and flood map. Nonetheless, many communities still run their programs without the benefit of detailed maps; some communities fail, due to resource limitations or simple reluctance, to effectively evaluate the impacts of new development and land disturbance; some maps remain outdated because federal funds do not stretch far enough; and some maps remain unchanged due to long-drawn out appeals of maps by those who do not wish to buy flood insurance. In our view, none of these issues should stand in the way of FEMA moving forward with additional future-conditions mapping, but they should inform how the Agency structures its rule changes and sets new priorities for mapping efforts that go beyond the rules themselves.

By advancing multiple NFIP rule changes, adjusting research and mapping priorities, leveraging important work on future conditions already undertaken by other federal agencies and multiple states, and making key policy changes, FEMA can substantially improve the management of flood risk across the country. Our recommendations for future conditions mapping include the following:

FEMA should initiate a collaboration with NOAA and other appropriate federal agencies to assess the current state of available down-scaled sea level rise information for all coastal areas, to make such data accessible and usable by NFIP-participating coastal communities, and to maintain an inventory of existing data sources. The inventory aspects of this effort could be set up following the model for LiDAR data that is jointly managed by several federal agencies.³² By creating a single website where users can find available data, including information on the recency, geographic coverage, and other quality control factors, FEMA and cooperating agencies can enable efficient use of resources. As with the existing LiDAR inventory, an SLR inventory could also include data from non-federal sources, such as the down-scaled data developed by multiple states.³³

In cooperation with other federal agencies, FEMA should also begin addressing any existing gaps in the availability of down-scaled SLR data, prioritizing filling data gaps for areas of anticipated high growth and likely significant rates of relative sea-level rise over the coming years.³⁴ While we understand that there may be resistance to using this data for the flood insurance law's mandatory purchase determinations, we believe it should be included as an additional layer on FIRMs and the National Flood Hazard Layer as coastal maps are updated, and the **regulations should require participating coastal communities to incorporate this data into the reviews and standards that**

³² U.S. Interagency Elevation Inventory, <https://coast.noaa.gov/inventory/>

³³ See, for example, information in "An Overview of State Coastal Zone Management Policies Designed to Promote Coastal Resilience," The Environmental Analysis & Communications Group, Bloustein School of Planning and Public Policy and The Rutgers Climate Institute, Rutgers, The State University of New Jersey, March 2019, <https://climatechange.rutgers.edu/?view=article&id=896:an-overview-of-state-coastal-zone-management-policies-designed-to-promote-coastal-resilience&catid=265>

³⁴ Maryland Coast Smart – Climate Ready Action Boundary (CRAB) Inundated Zones, Jan 17, 2021, <https://www.arcgis.com/home/item.html?id=93218f38c5014853bb308dacdaf23a9c>; New Jersey Department of Environmental Protection, "NJ Protecting Against Climate Threats: Resilient Environment and Landscapes," December 22, 2020, <https://www.nj.gov/dep/workgroups/docs/njpact-real-20201222.pdf>

pertain to new construction and major reconstructions. By considering likely conditions over the expected life of new assets, communities will direct new growth and development into areas that will remain safe over time rather than add to the nation's growing stock of at-risk buildings. To the extent that down-scaled data sufficient for use in land use planning and zoning is not available in these areas, we believe the Agency must set and publish a schedule for adding such data to the inventory and requiring participating NFIP coastal communities to utilize this data where sea level is projected to rise.

Pew also urges FEMA to create new tools and employ new ongoing training to help all communities assess the multiple factors beyond sea level rise that impact future conditions. As floodplain management experts have known for decades, the flood maps developed by FEMA and its state and local partners offer a snapshot of flood risk from that statistically-derived large regional flood at a given moment in time. As central as the maps are to effective floodplain management, they should not be taken as precise predictions, and the lines on the map can shift – both laterally and horizontally – when the conditions on the ground that undergird the mapping models change. There are a variety of factors that can lessen or exacerbate flood risk, and we believe that it is crucial for all communities to develop a good understanding of the factors that are most critical and most in need of observation and management for the safety and protection of their residents.

That is why we are hopeful that the Agency will act outside of regulations change to help communities undertake work in the vein of that that occurred in Charlotte-Mecklenburg, North Carolina, where scenario analyses made a compelling case for the community to improve its approach to floodplain management: in that case, changing not only floodplain requirements but also altering zoning and subdivision rules and enhancing stormwater management requirements. By providing smaller, under-resourced communities with tools that enable them to assess multiple future development scenarios in the light of flood risk, FEMA can help those communities better manage risk and, as was the case in Charlotte-Mecklenburg, build public support for local ordinance and rule changes.

Finally, we urge FEMA to quickly phase in a requirement for future conditions flood zones that cover future flooding and problem flooding areas not currently mapped as SFHA. Ideally, all participating communities would have the information and the tools to identify those areas beyond the SFHA where subdivision and other construction proposals may impact flood risks, considering risks over the expected lifetime of new structures and the potential to divert floodwaters onto other structures in that timeframe. Where information is available, it would be sensible to add layers to a community's FIRM, capturing not only land that might currently be considered flood prone due to factors not fully incorporated into the designation of SFHAs, such as so-called urban or pluvial flooding or location on a barrier island, but also those land areas where local development or other factors will increase the risk of flooding. Creation of such a locality-specific SFHA, much in the way that Charlotte-Mecklenburg and several other localities have done, would be ideal, but that ideal is likely to remain elusive for some time. In meantime, however, **Pew urges FEMA to begin requiring localities with serious flooding threats to use expanded flood zones for review of new construction, at a minimum, extending reviews to non-SFHA areas which have already been impacted by recurrent flooding.**

Question 15:

FEMA recognizes the vital role that State, local, Tribal, and territorial governments play in floodplain management and that they may have innovative solutions to complex floodplain management challenges. What successful mitigation policies, building design standards, building construction standards, T&E species protections, and/or other floodplain management approaches to mitigate flood loss and reduce risk have been taken by State, local, Tribal, and territorial governments? In what ways do the current NFIP minimum floodplain management standards present barriers or opportunities to the successful implementation of those approaches? What capabilities and capacity impacts should FEMA address as it considers changes to the NFIP minimum floodplain management standards and to strengthen NFIP protection of T&E species and their habitats?

Pew recommends that FEMA look at issues and solutions that hold promise for providing multiple benefits, including promoting floodplain management on a watershed scale and advancing policies that better sustain and protect the natural functioning of wetlands and floodplains.

While land use decisions, for the most part, will continue to be made at a local level, the impacts of those decisions and the floodplain management successes or failures of individual communities almost always affect much wider geographies. The impacts of storm-water runoff, drainage dynamics, and downstream flows can only truly be understood and reconciled by looking beyond any given community's jurisdiction – by looking at the hydrologic unit.

Flood experts have long known this to be a major issue where upstream development causes downstream flooding, but FEMA has lagged behind several states and localities in taking a watershed approach to addressing the increasing flood problem.³⁵ **To the fullest extent possible, FEMA must now adjust its regulations and its programs toward this more regional framing for floodplain management, helping additional states and localities to more effectively understand and manage the impacts of the built and environment and development patterns.**

Pew sees strong evidence—in the data on flood losses and the scientific literature—supporting the fact that a watershed approach to flood risk management can not only reduce flood losses over time but also better protect natural functions, habitat, and Threatened and Endangered species.

More specifically, naturally-occurring wetlands are increasingly being highlighted for their role in protecting property from flooding events by reducing flood velocities, flood peaks, and providing areas for storing precipitation-based flood waters.³⁶ In particular, research demonstrates that freshwater or

³⁵ For example, in 2019 Texas implemented a state-wide regional flood planning initiative based on watershed units. With guidance from the Texas Water Development Board, stakeholder groups are being formed for each watershed that will draft a plan addressing flood management problems. The first regional flood plan is due in January 2023. Also, in 2016 Louisiana implemented its state watershed initiative (LWI). This holistic approach to watershed management goes beyond conventional mitigation measures and incorporates nature-based solutions. LWI is also developing computer models to better understand flood risk and help select projects best suited for investment in each watershed region. This initiative represents a comprehensive approach to surface water management that takes into consideration both the natural functions of floodplains and land use decisions affecting the built environment.

³⁶ Acreman, M., Holden, J. How Wetlands Affect Floods. *Wetlands* 33, 773–786, 2013.
<https://doi.org/10.1007/s13157-013-0473-2>

“palustrine” wetlands, even those seemingly disconnected from navigable waters, can significantly reduce the amount of flood losses to residential communities.

Multiple studies have shown that naturally occurring wetlands provide flood mitigation by maintaining a properly functioning water cycle.³⁷ Both anecdotal and empirical research suggests that wetlands may reduce or slow flooding. In a comprehensive literature review from 2003, researchers note that 23 of 28 studies on wetlands and flooding found that “floodplain wetlands reduce or delay floods”.³⁸ Field-based, simulated, and observation research all points to the same conclusion: The presence of naturally-occurring wetlands protects residents from the adverse impacts of floods and altering these natural habitats results in increased financial losses to property owners. Palustrine wetlands, with the ability to absorb, store, and slowly release water, should be considered the most effective land cover for mitigating the effects of rainfall-based flooding.³⁹ For example, a study of Gulf of Mexico coastal watersheds from 2008-2014 found that large, expansive, and continuous patches of naturally-occurring open spaces most effectively reduce losses from flood events.⁴⁰

Studies such as these underscore the relevance of conserving and restoring wetlands and other coastal and riverine ecosystems for flood risk management and suggest that **FEMA should work to align its floodplain management rules and programs with these important environmental objectives.**

Related to this goal, **we again urge FEMA to consider major rule changes regarding fill,**⁴¹ which has very commonly been used to “remove” structures from the designated SFHA but can have serious detrimental impacts on the environment and worsen flooding problems.

Overall, the use of fill within the FEMA-defined floodplain can result in unintended impacts, especially on neighboring properties.⁴² FEMA itself warns that fill can increase the chance of flooding in places that would not flood otherwise.⁴³ In particular, large amounts of fill can cause losses downstream during peak flow conditions. This issue makes it particularly important to examine flood impacts at a watershed scale to better understand the implications of upstream alterations. Raising land elevations within the floodplain

³⁷ Mitsch, William & Gosselink, James. *The Value of Wetlands: Importance of Scale and Landscape Setting*. Ecological Economics. Vol.35. 25-33., 2000, 10.1016/S0921-8009(00)00165-8, <https://www.sciencedirect.com/science/article/abs/pii/S0921800900001658?via%3Dihub>; Lewis, W. M., *Wetlands Explained: Wetland Science, Policy and Politics in America* Oxford University Press, New York, NY (2001)

³⁸ Bullock, Andrew & Acreman, Mike. (2003). The Role of Wetlands in the Hydrological Cycle. *Hydrology and Earth System Sciences*. 7. 10.5194/hess-7-358-2003, https://www.researchgate.net/publication/29626943_The_Role_of_Wetlands_in_the_Hydrological_Cycle

³⁹ Brody, S. D., Highfield, W. E., & Blessing, R. (2015). An analysis of the effects of land use and land cover on flood losses along the Gulf of Mexico coast from 1999 to 2009. *JAWRA Journal of the American Water Resources Association*: 51(6): 1556-1567.

⁴⁰ Brody, Samuel, Highfield, W., Blessing, R., Makino, T., Shepard, C. (2017). Evaluating the Effects of Open Space Configurations in Reducing Flood Damage along the Gulf of Mexico Coast. *Landscape and Urban Planning* 167: 225-231.

⁴¹ The Pew Charitable Trusts, *Pew comments FEMA RFI July 21 2021 FINAL*, Docket ID FEMA-2021-0011

⁴² Atoba, K. O. (2018). *Fill and Floods: Analysis of the Impact of Parcel Fill on Residential Flood Damages* (Doctoral dissertation).

⁴³ FEMA. (2001). *Ensuring That Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding in accordance with the National Flood Insurance Program*. Technical Bulletin FIA-TB-10. FEMA Mitigation Directorate, 2001, <http://www.fema.gov/media-library-data/20130726-1511-20490-3169/tb1001.pdf>; FEMA. (2013). *Community Rating System. Coordinator's Manual*.

without adequate provision for compensatory storage can significantly increase losses in adjacent areas with limited infrastructure to deal with those losses. Natural compensatory storage provisions are extremely limited when fill is used in floodplains.⁴⁴ Floodplain levels are also expected to rise when fill is used on the floodplain fringe.⁴⁵

As our earlier comments indicated, we believe that **FEMA should seriously consider disallowing new build on fill. At a minimum, we urge FEMA to require that local floodplain administrators explicitly and clearly consider potential adverse impacts on adjacent areas when new subdivisions or major development proposals call for the use of fill in flood-prone areas.** We note that the program's primary and enforceable regulations in 60.3, 60.4, and 60.5 focus nearly exclusively on preventing damage to the proposed new structures. Those rules should be amended to assure protection for existing structures and other buildable land.

In cases where compensatory storage, such as detention ponds and open space protection, is proposed to accommodate increased runoff and rise in elevation created from upstream fill, the regulations should also address appropriate mechanisms for assuring long-term maintenance and adherence to any assumed restrictions. At the same time, FEMA might also work to incentivize adoption of "zero-rise" and "no adverse impact" policies, assuring that any authorization to use fill is linked to additional purchase of adjacent easements to make way for residual flooding and compensatory flood storage. Another option might include additional freeboard requirements, possibly in the range of one to two feet or more in watersheds where extensive fill has been used.

Question 18: Hazard mitigation planning reduces loss of life and property by minimizing the impact of disasters, including floods. It begins with State, local, and Tribal governments identifying natural disaster risks and vulnerabilities that are common in the area and then developing long-term strategies for protecting people and property from similar events. Mitigation plans are key to breaking the cycle of disaster damage and reconstruction. How should FEMA consider integrating mitigation planning with other Federal, State, or local mitigation planning such as community planning, economic planning, coastal zone planning, and other types of planning activities to improve the overall effectiveness of mitigation planning and floodplain management activities? Are there planning best practices, processes, or data that could better inform planning decision-making and the development and implementation of floodplain management standards?

Pew considers the issues raised in question 18 as critical to assuring real, on-the-ground improvements in flood risk management. We read into the question a supposition that **effective and enduring resiliency can be achieved as floodplain management and flood mitigation planning are woven into the myriad planning activities that drive and sustain the growth and development of local communities.** We concur strongly with that supposition, and we believe that the Agency can move toward enabling this much-needed integration, despite the wide range of existing capabilities and approaches in the more than 22,000 communities participating in the NFIP. In fact, to the extent that important actions that are now siloed specifically into purview of floodplain management can be integrated into other community

⁴⁴ Larson, L. & D. Plasencia. (2001). No adverse impact: New direction in floodplain management policy. *Natural Hazards Review* 2: 167-181.

⁴⁵ FEMA, Community Rating System: Coordinator's Manual, 2013

functions, each community's effort to assess and prepare for floods may become a more manageable, shared responsibility.

To consider how such integration might be promoted in the context of the federal flood insurance law, we believe it may be useful to draw from experiences with the state and local hazard mitigation planning required by federal disaster assistance law.

The concept of hazard mitigation planning, while it predated the 1988 Robert T. Stafford Disaster Relief and Emergency Assistance Act, gained enormous and critical momentum as a result of the passage of the Disaster Mitigation Act of 2000, which directly tied state and local eligibility for certain categories of federal hazard mitigation grants to FEMA approval and local or state adoption of hazard mitigation plans. Simply put, the objective was to engage the states and localities in breaking an increasingly costly cycle of build, disaster, and rebuild. However, certain shortcomings quickly became apparent, and as later documented in a report to FEMA, for the most part, many mitigation plans failed to establish linkages to other local plans, make clear connections to future land-use and development trends, or consider how those might affect hazards and risks, for ill or for good. Many communities were slow to adopt plans, and many plans were simply box-checking exercises completed for purposes of grant submissions.

In response to the problems identified, FEMA and the American Planning Association (APA), began collaborating to explore how local planners and planning agencies, who are generally trained in public outreach and long-term visioning and who manage many other planning processes in their communities, could assume a greater role in the mitigation planning process and how planners might partner with emergency managers to move mitigation planning beyond the stage of hazard identification to the implementation of effective mitigation strategies.

The study produced by APA,⁴⁶ has been important in promoting new, more multi-disciplinary hazard mitigation planning teams and in refocusing attention to the intersection of resilience with the wide range of ongoing community programs, from land use and transportation planning to stormwater management and conservation planning. That shift in thinking has accelerated in recent years, particularly within the planning and allied professions,⁴⁷ and multiple jurisdictions have pioneered new approaches to flood risk management.⁴⁸

Pew believes that work and the follow-ups that ensued will now help FEMA **adjust the NFIP regulations and its policies to foster more direct linkages between floodplain management and land-use planning and other environmental planning.**

⁴⁶ Schwab, James C., ed. Hazard Mitigation: Integrating Best Practices into Planning. 2010. Chicago: American Planning Association. Available at <https://www.planning.org/publications/report/9026884/>

⁴⁷ James Schwab, then manager of APA's Hazards Planning Center, addressed this trend as part of an opening plenary panel at the 2015 Natural Hazards Workshop in Colorado. Using 20 years of attendance data from the APA National Planning Conference, he showed that attendance at disaster-related or climate-related sessions had grown from 73 people at two sessions in 1995 to nearly 3,000 people attending 23 sessions in Seattle in 2015

⁴⁸ See, for example, See, e.g., Integrating Hazard Mitigation into Local Planning: Case Studies and Tools for Community Officials. March 31, 2013. Washington, D.C.: FEMA. Available at <https://www.fema.gov/media-collection/integrating-hazard-mitigation-local-planning-case-studies-and-tools-community>. Also see Plan Integration: Linking Local Planning Efforts, July 2015, available at https://www.fema.gov/sites/default/files/2020-06/fema-plan-integration_7-1-2015.pdf; FEMA has also issued two-page flyers such as this one, dealing with integrating hazards into comprehensive plans: <https://www.fema.gov/sites/default/files/2020-07/integrating-hazard-mitigation-local-plan.pdf>

We note a few examples that may offer models or ideas for new initiatives and for adjustments to the rules to clarify and strengthen section 60.22 and related requirements.

As part of a technical assistance effort during the recovery from the devastating 2008 Midwest floods,⁴⁹ the U.S. Environmental Protection Agency's (EPA) Office of Smart Growth and FEMA signed a Memorandum of Understanding. Their joint work with the Rebuild Iowa Office (RIO) assisted in the 2010 passage of the Iowa Smart Planning Act, which outlined 10 principles of smart growth and 13 elements for inclusion in local comprehensive plans, including an element specifically related to hazard mitigation planning.⁵⁰ While the element is focused on all-hazards approach, flooding remains by far the dominant natural hazard affecting communities in Iowa. Sensibly, the law did not ignore the federal requirements for hazard mitigation planning but requires reference to such plans. State laws, which promote or require the integration of hazard planning into local comprehensive planning and vice-versa, offer useful support for effective floodplain management.

EPA also partnered with Vermont as that state worked to recover from Hurricane Irene in 2011. A pilot project in the state's Mad River watershed,⁵¹ led to a report that has functioned as a practical guidebook for choosing local land use policies and strategies to improve flood resilience. "Planning for Flood Recovery and Long-Term Resilience in Vermont,"⁵² and the accompanying "Flood Resilience Checklist,"⁵³ though created with the authorities and policies of that state in mind, might readily be adapted to other jurisdictions to promote the integration of flood mitigation into the day-to-day management of key local functions.

Another example comes from Colorado, which created the Colorado Resiliency Office (CRO) after major flooding in 2013. Now residing within the state's Department of Local Affairs,⁵⁴ the CRO focuses heavily on recovery from disasters but also reinforces the principle that the path to resilience is through effective hazard mitigation and adaptation. The difficult circumstances that spawned this initiative included the cascading disasters of drought, fire, and flood. As such threats multiply in many states, they produce strong motivation for not only considering floods but a multi-hazard approach in a holistic planning approach such as Colorado has undertaken.⁵⁵

⁴⁹ The 2008 floods forced evacuation of 10 percent of the city of Cedar Rapids and caused an estimated \$15 billion in damages throughout the region. See

<https://www.everycrsreport.com/reports/R40201.html#:~:text=The%202008%20floodwaters%20caused%20local,not%20in%20saturated%20upland%20areas>; Most other overall estimates are substantially similar

⁵⁰ For a concise summary, see Iowa Smart Planning: Legislative Guide, March 2011, available at

https://rio.urban.uiowa.edu/sites/rio/files/Iowa_Smart_Planning_Overview_0.pdf

⁵¹ Zind, Steve, "Mad River Towns are Models for National Flood Planning," Vermont Public Radio, July 8, 2014,

<https://www.vpr.org/vpr-news/2014-07-08/mad-river-towns-are-models-for-national-flood-planning>

⁵² EPA, Office of Sustainable Communities, "Planning for Flood Recovery and Long-Term Resilience in Vermont: Smart Growth Approaches for Disaster-Resilient Communities," July 2014,

<https://www.epa.gov/sites/default/files/2014-07/documents/vermont-sgia-final-report.pdf>

⁵³ Environmental Protection Agency, "Flood Resilience Checklist," 2014, <https://www.epa.gov/sites/default/files/2014-07/documents/flood-resilience-checklist.pdf>

⁵⁴ One essential function of CRO is the maintenance of a website that provides a great deal of guidance for local planning. The website can be found at <https://www.coresiliency.com/>

⁵⁵ See, e.g., Brian Varrella, Colorado Framework for Hazard Mitigation, presentation at the 2017 ASFPM Annual National Conference (https://asfpm-library.s3-us-west-2.amazonaws.com/Website/CON/Plenary3_Varrella.pdf); Varrella, with the Colorado Department of Transportation, formerly worked as an engineer with the City of Fort Collins during recovery from the 2013 floods and previously discussed that experience in a multi-hazard context in October 2014 at ASFPM's Sixth Triennial Flood Mitigation and Flood Proofing Workshop in Broomfield, Colorado. Although presentations from the 2014 event do not appear to be available online, discussion of the event is available in Jim Schwab's "Home of the Brave" blog at <http://www.jimswab.com/Hablarbooks/2014/11/02/one-thing-leads-to-another/>

One important result of that State's ongoing work has been the development of the Colorado Resiliency Framework.⁵⁶ In clear language, this report discusses Colorado's risks and vulnerabilities, ways of advancing resiliency across sectors and departments, the state's priorities for resiliency, and how to take action. The state's commitment to integration is clear in this document, which sets out six resiliency priorities: future-ready economy and workforce; climate and natural hazard resiliency; building and infrastructure sustainability; agriculture and food security; housing attainability; and community capacity. While the Framework is focused largely on a collaborative, multi-sector approach to resiliency across state agencies, its innovative and integrated approaches to problem-solving offer useful lessons and models that could also be adopted at local levels.

In addition to these state initiatives, we highlight work by academic researchers who have looked at plan integration by testing scorecard methodologies in specific communities. With grant support from the U.S. Department of Homeland Security (DHS), Berke and colleagues tested what is termed the Plan Integration of Resilience Scorecard (PIRS) in two distinctly different municipal settings: Norfolk, Virginia and Nashua, New Hampshire.

The PIRS tool was used to identify inconsistencies or conflicts across plans that may have gone unnoticed by siloed personnel in various agencies and that may have presented obstacles to effective risk management. Its use may highlight not only problems but also opportunities for better plan integration. In the case of Norfolk, for instance, the findings led to significant revisions of its comprehensive plan. In Nashua, the city strengthened the role of the Office of Emergency Management by giving it a role in scrutinizing proposed developments to highlight opportunities for reducing vulnerability through specific practices. As one member of the plan evaluation team noted, PIRS provided "a methodology to establish a coordination process between both disciplines like emergency management and urban planning, and a source of stimulation to institutionalize coordination moving forward."⁵⁷

Pew recommends that FEMA consider employing more extensive use of this or similar tools to promote the integration of flood risk management and resilience efforts into local planning and development.

⁵⁶ See, 2020 Colorado resiliency Framework, https://drive.google.com/file/d/1efF8j0JLAmAnxi8_U4jq75uEWTAKxrGm/view

⁵⁷ Berke, Philip, et al. 2021. Using a resilience scorecard to improve local planning for vulnerability to hazards and climate change: An application in two cities. *Cities* 119 (2021) 103408), <https://doi.org/10.1016/j.cities.2021.103408>



Testimony of J. Adam Riggsbee, PhD
The Refuge Resource Group
Subcommittee on Economic Development, Public Buildings, and Emergency Management
Hearing on "FEMA Priorities for 2022: Stakeholder Perspectives"
February 16, 2022

Chairman DeFazio and Ranking Member Graves, I am pleased to provide this testimony for the record to the House Committee on Transportation and Infrastructure. My name is Adam Riggsbee, President of The Refuge Resource Group (RRG), a start-up founded to develop and implement innovative models for disaster mitigation programs operated by FEMA and HUD. RRG's principal initiative is focused on improving floodplain buyouts efficiencies, which can provide more money to homeowners while saving taxpayer funds. In addition to my role at RRG, I am the president of an environmental restoration company specializing in stream and wetland projects (RiverBank Conservation, LLC) and an executive board member for the Ecological Restoration Business Association. I also contribute regularly to the academic literature, often concentrating on the intersection of federal environmental policy and entrepreneurialism. I have decades of experience with floodplain land and homeowners, floodplain restoration projects and federal environmental policy.

It is a privilege to provide this testimony to the Subcommittee on Economic Development, Public Buildings, and Emergency Management for this hearing, "FEMA Priorities for 2022: Stakeholder Perspectives". My remarks are intended to highlight the challenges and shortcomings of the FEMA's floodplain buyout programs and suggest a new model that utilizes the private sector to deliver federal funds more efficiently and effectively, especially to underserved communities.

Summary of Buyout Program Benefits and Accomplishments

Floodplain buyouts, which account for ~75% of FEMA's flood mitigation spending,¹ are considered the most effective means of mitigating future flood damages. Purchasing and demolishing floodplain homes completely avoids future losses for the acquired properties. In addition, future damages downstream of acquired properties can be lessened in scenarios where natural flood functions are reestablished by removing impervious cover and reforesting floodplain habitats. According to buyout benefit-cost analyses, avoided future damages exceed land acquisition costs by a factor of five or six (i.e., \$5 to \$6 of benefits are realized for every \$1

¹ Government Accountability Office. 2020. National Flood Insurance Program: Fiscal Exposure Persists Despite Property Acquisition. GAO-20-508

of costs).^{2,3} From 1989 to 2017, FEMA funded the voluntary acquisition of 43,633 flood-prone properties.⁴

Key Shortcomings of Federal Buyout Programs

The key challenges faced by federal buyout programs include: transaction timing, scale of implementation, locations of project implementation, and federal data collection. Collectively, these challenges affect program efficiency, efficacy and FEMA's ability to adaptively manage them.

Transaction Timing

The average FEMA buyout has required more than 5 years to complete.^{5,6} Given such prolonged timelines, homeowner attrition is considerable. For example, New Jersey's Blue Acres Program typically applies for funding for twice the number of properties it expects to purchase.⁶ Given that many homeowners interested in buyouts are economically distressed, protracted acquisitions greatly reduce program efficiency and efficacy. Many of the homeowners cannot afford to move and wait for FEMA to purchase their homes. Instead, they are forced to reoccupy their homes and, in the meantime, find any way possible to repair them. Once the homes are reoccupied, and emotional and financial investments are made on repairs, homeowners are less likely to accept buyout offers.

Scale of Implementation

If considered from a project perspective (a project being a FEMA grant that bundles home buyouts), the scale of completions (homes purchased) is troubling. From 1989 to 2017, the number of homes purchased with FEMA funds has declined with each successive decade. The best decade was 1989-1998, when the average buyout project closed on 19 properties. The worst decade was 2008-2017, when the average buyout project closed on 7 properties.⁷ This trend indicates that the diminishing efficiency of FEMA's buyout programs. It also indicates the scale of buyout projects is too small to affect the federal government's continued exposure with respect to future disaster appropriations and payouts from the National Flood Insurance Program (see attached white paper for further details on the NFIP).⁸

² Johnson et al. 2020. A benefit-cost analysis of floodplain land acquisition for US flood damage reduction. *Nature Sustainability* Vol. 3: 56-62.

³ Multi-Hazard Mitigation Council. 2019. *Natural Hazard Mitigation Saves: 2019 Report*. Porter, K et al. National Institute of Building Sciences. www.nibs.org

⁴ Mach et al. 2019. Managed retreat through voluntary buyouts of flood-prone properties. *Science Advances* Vol 5: eaax8995.

⁵ Mach et al. 2019. Full reference provided in footnote 4.

⁶ Weber, A and R. Moore. 2020. Going under: long wait times for post-flood buyouts leave homeowners underwater. *Natural Resources Defense Council*. Report 19-08-A

⁷ Mach et al. 2019. Full reference provided in footnote 4.

⁸ Government Accountability Office. 2020. National flood insurance program: fiscal exposure persists despite property acquisitions. GAO-20-508.

Locations of Project Implementation

FEMA buyout funds have predominantly been utilized in urban jurisdictions, disproportionate to flood-related damages. More specifically, to date, flood-related damages have been relatively evenly distributed between urban and rural counties; however, more than 75% of buyouts have occurred in urban areas.^{9,10} Such discrepancies are likely attributable to local government capacity that better enables urban jurisdictions to successfully navigate FEMA's complex and lengthy application processes¹¹ and administer FEMA grant funds once received.¹² In other words, rural areas do not have the human and financial capital available to secure and/or administer FEMA grants. Thus, it appears FEMA's buyout programs are unintentionally underserving rural communities—the floodplains of which often house the nation's most economically distressed citizens.

Federal Data Collection

Numerous studies have repeatedly found that FEMA's data collection, with respect to buyout transaction costs and other pertinent details, is insufficient to support the objective evaluation and adaptive management of its programs.¹³

Proposed Solution for the Committee's Consideration

FEMA's current buyout model is designed to reimburse local governments for transaction costs. While the model has resulted in nearly 45,000 buyouts, it has not relieved the actuarial pressures on the NFIP, and it has left numerous willing sellers in harm's way. New buyout models need to be developed and tested to improve programmatic efficiencies and equitability. If properly designed, operated and scaled, buyout programs can alleviate risks to life and property for the nation's most economically vulnerable citizens while reducing financial exposure for its taxpayers.

From my perspective as an environmental entrepreneur with extensive floodplain real estate experience, there is an obvious role for the private sector to play with respect to buyouts. If done correctly, the private sector can help the government deliver much needed assistance to the nation's underserved and economically distressed rural communities. These communities lack sufficient government capacity and tax bases to secure and deploy FEMA funds. If appropriately structured, the private sector would be willing to administer buyout projects—with federal, state and local coordination and direction—using a pay-for-performance model (described briefly below and in more detail in the attached white paper).

⁹ Mach et al. 2019. Full reference provided in footnote 4.

¹⁰ Elliott, J et al. 2020. Racial inequities in the federal buyout of flood-prone homes: a nationwide assessment of environmental adaptation. *Socius: Sociological Research for a Dynamic World* Vol 6: 1-15.

¹¹ Government Accountability Office. 2021. Disaster resilience: FEMA should take additional steps to streamline hazard mitigation grants and assess program effects. GAO-21-140.

¹² Government Accountability Office. 2020. Disaster recovery: additional actions needed to identify and address potential recovery barriers.

¹³ Curran-Groome, W et al. 2021. Assessing the full costs of floodplain buyouts. *Climatic Change* Vol 168: 3. Also see previously cited references: Weber and Moore (2020), Mach et al. (2019), and Elliott et al. (2020).

The Senate is currently reviewing legislation to authorize a pilot program for HUD’s Community Development Block Grant Disaster Recovery (CDBG-DR) program that utilizes a public-private partnership buyout model. S. 1879 The Strategic Acquisition and Floodplain Efficiency Reform (SAFER) Act¹⁴ is designed to “evaluate the cost effectiveness and project delivery efficiency” of CDBG-DR buyouts using a pay-for-performance approach. The bill is structured so that a state/local government requests CDBG-DR funds from HUD based on explicit acquisition objectives—i.e., a certain number of homes in a specific flood-prone area. If a private company believes it can meet the acquisition objectives for less money than the state/local government requested, the parties enter a project partnership agreement. The agreement establishes roles and responsibilities, project schedules and key performance milestones, which are detailed further below.

Once the partnership agreement has been finalized, it is provided to HUD for approval. Following approval and execution, the requested funds are transferred from the CDBG-DR account and held in escrow. Funds are released from escrow as project milestones are met—meaning the private partner operates at its own financial risk until it performs. After project completion—i.e., all agreement milestones have been met—any leftover funds are split between the state/local government and the private partner. This provides additional CDBG-DR funds for the state/local government and the opportunity for a reasonable rate of return for the private company. If the private partner fails to perform, they do not receive payment, and the state/local government retains the funds to implement the buyout project using its own resources.

To limit state/local government risk, agreement details such as roles and responsibilities and project milestones are of obvious importance. With respect to roles and responsibilities, the state/local government would establish the scope and scale of the buyout effort, coordinate with federal and private partners on project reporting and implementation, and accept title from acquired properties. The private partner would lead buyout negotiations, execute buyout contracts, and administer all real estate closings—including contracting with all necessary services (legal, environmental, survey, etc.).

The private partner’s roles and responsibilities would dictate performance milestones, which would be overseen and approved by their state/local government partners. Milestones would likely consist of, but are not limited to, the following: 1) delivery of a predetermined number of buyout contracts; 2) delivery of title from acquired properties to state/local government partners; and 3) meeting acquisition objectives for less money than requested.

Conclusion

The SAFER Act, which can easily be adapted for FEMA’s purposes, addresses key shortcomings of federal buyout programs: 1) timing—private companies are likely more nimble and responsive, as payment is performance-based (“time is money”); 2) scale—the larger the scope of a project (i.e., number of buyouts) the greater the savings and profit potential; 3) location—this model is

¹⁴ S. 1879, introduced May 27, 2021 by Senator Thom Tillis (R-NC), referred to Senate Committee on Banking, Housing, and Urban Affairs.

ideally suited for areas without adequate local government capacity; and 4) data collection—the structure of this model requires detailed accounting of transactional costs to accurately determine savings and profits.

One final point for the committee’s consideration, structuring the SAFER Act, or any other experimental buyout model, as a pilot is essential in my opinion. A pilot will encourage state/local participation as it can be funded independent of other disaster appropriations; therefore, states do not have access to the funds if they do not participate. Asking states to experiment with disaster funds outside of normal operations is simply too risky. If the experiment fails, it exposes state administrations to criticisms associated with delays, which is the most common public critique associated with disaster appropriations deployment. If Congress is interested in improving buyout programs, a series of pilot projects testing different models are necessary to identify and implement targeted reforms ensuring more effective and equitable buyout programs.

PRIVATE-SECTOR RISK AND PUBLIC-SECTOR SAVINGS: A FLOODPLAIN BUYOUT PILOT PROJECT PROPOSAL

J. Adam Riggsbee^a and Martin Doyle^b

^aThe Refuge Resource Group, LLC, Austin, TX; ^bDuke University, Durham, NC

JANUARY 22, 2019

INTRODUCTION

Using a Public-Private Partnership (P3) model, a pilot project is proposed to test an innovative approach to floodplain buyouts in response to inland and coastal flooding associated with hurricanes and other severe storms. The success of floodplain buyout programs is often limited by two key factors—timing and value. By more appropriately aligning financial incentives based on performance, the P3 model proposed below is structured to more quickly initiate (i.e., weeks to months, not years, following disasters) and more effectively administer buyout programs. Moreover, the proposed model is expected to result in greater efficiencies, freeing up more capital for property owners, thereby improving their opportunities for relocation. If successful, the proposed P3 pilot will secure more buyouts for less money, delivering more people from harm's way and permanently reducing the ballooning expenses of the National Flood Insurance Program (NFIP)—costs ultimately borne by taxpayers.

BACKGROUND

Floods are the most destructive natural disasters in terms of economic loss within the United States.¹ For those affected by flooding, FEMA's NFIP is the primary source of funds supporting their recovery. However, the NFIP is not actuarially sound (Figure 1).² Recent flood-related disasters have been so pervasive that as of March 2017, FEMA owed the U.S. Treasury (Treasury) \$24.6B³ for covering NFIP losses sustained during six of the preceding 12 years (Figure 1). FEMA's indebtedness grew even worse in the latter months of 2017 following hurricanes Harvey, Irma and Maria.^{4,5} In fact, by September 2017, the NFIP had reached its congressionally-mandated debt limit of \$30.425B. Recognizing the NFIP's insolvency, Congress forgave \$16B of its debt in October 2017, instantly reducing its obligations to the Treasury by more than half. However, as of September 10, 2018, the NFIP was only \$9.9B below its borrowing capacity,⁶ just four days before Hurricane Florence made landfall in North Carolina and exactly one month before Hurricane Michael struck the Florida Panhandle.

Given the recent pervasiveness of flood-related disasters, it is unlikely FEMA will be able to repay its debt (Figure 1), as future premiums are heavily subsidized and not expected to be sufficient.⁷ Moreover, aside from its current debt, the NFIP's longer-term actuarial future is not promising: a FEMA-sponsored study⁸ estimated that by 2100, the nation's 100-year floodplains (Figure 2) will expand by 45%, nearly doubling the NFIP's total number of policies and increasing its financial

losses by 50-90%. The Treasury's exposure related to the NFIP will therefore increase significantly in the coming years. The net result being that taxpayers are increasingly subsidizing the relatively few living in flood-prone areas.

FEMA has attempted to reduce the NFIP's risk through several mitigation programs—including rebuilding to local flood codes, incentivizing local floodplain management,⁹ elevating properties in place or buying properties outright and converting to open space. Of these strategies, property acquisition or buyouts are by far the best way to prevent flood damage,¹⁰ as it eliminates risk altogether, thereby preventing future losses. For example, in Charlotte, NC, \$10M in buyouts generated \$65M in long-term savings.¹¹ This is why fiscal conservatives and public safety advocates, along with an unusual coalition of interest groups, point to buyouts as not just good, but necessary.

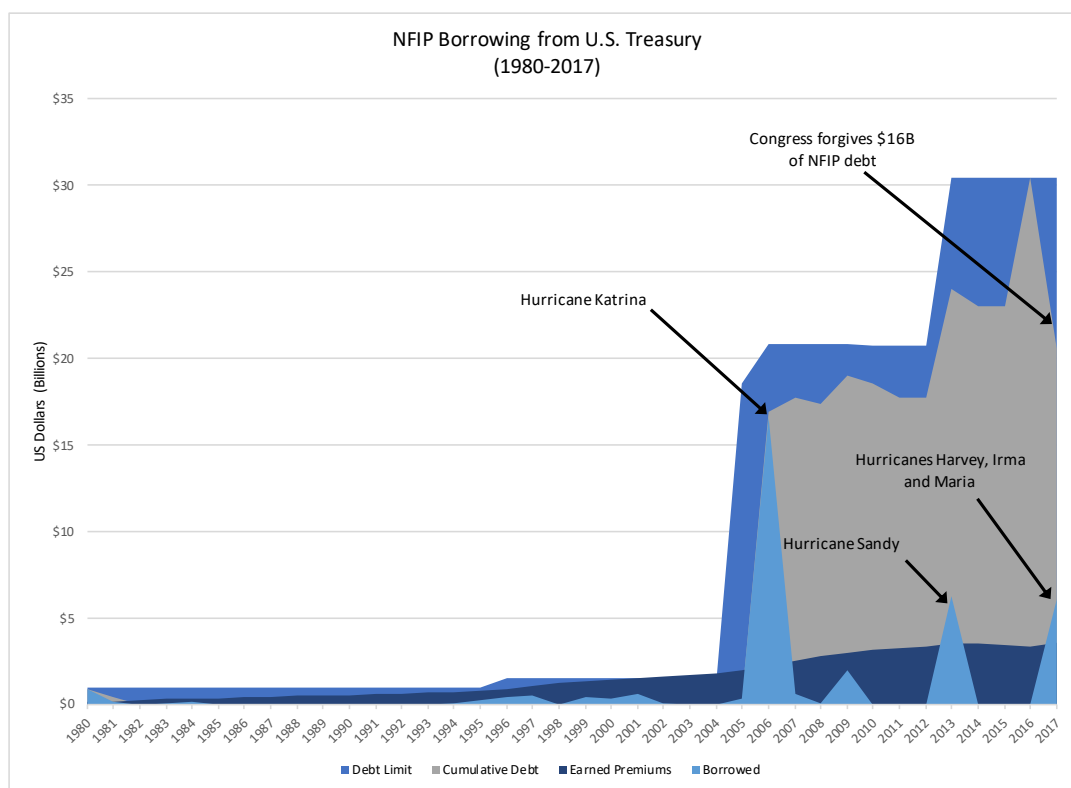


Figure 1: NFIP debt and revenue (1980-2017)

While buyout programs offer the best form of flood loss mitigation, they have been notoriously inefficient and ineffective. First, buyout programs often require years to initiate and several more years to complete, as state and local governments have other, higher priorities when responding to disasters (e.g., emergency housing, infrastructure repairs, waste disposal, etc.). Such implementation delays are certainly understandable; however, timing is likely the greatest impediment to buyout program efficacy. Once buyout programs are initiated, homeowners have

often rebuilt and reoccupied homes well before purchase offers are made in earnest. Conversely, by initiating programs much earlier (i.e., weeks or months following disasters), deals are more likely to be successful and provide the greatest benefit, as disaster victims are dealing with the acute problem of homelessness. Moreover, buyouts secured sooner have the added benefit of saving the Treasury by avoiding NFIP claim payments and other forms of public assistance that would otherwise be provided for reconstruction.

With respect to efficiency, administrative costs appear to be a buyout program's greatest burden. Administrative costs are hard to quantify because FEMA's record keeping is simply too opaque.^{12,13,14} However, FEMA's lack of transparency notwithstanding, some experts estimate administrative costs exceed 200 to 300% of property acquisition expenses.¹⁵ That is, the government appears to be consuming two to three times as much money as floodplain property owners are receiving from buyout programs.

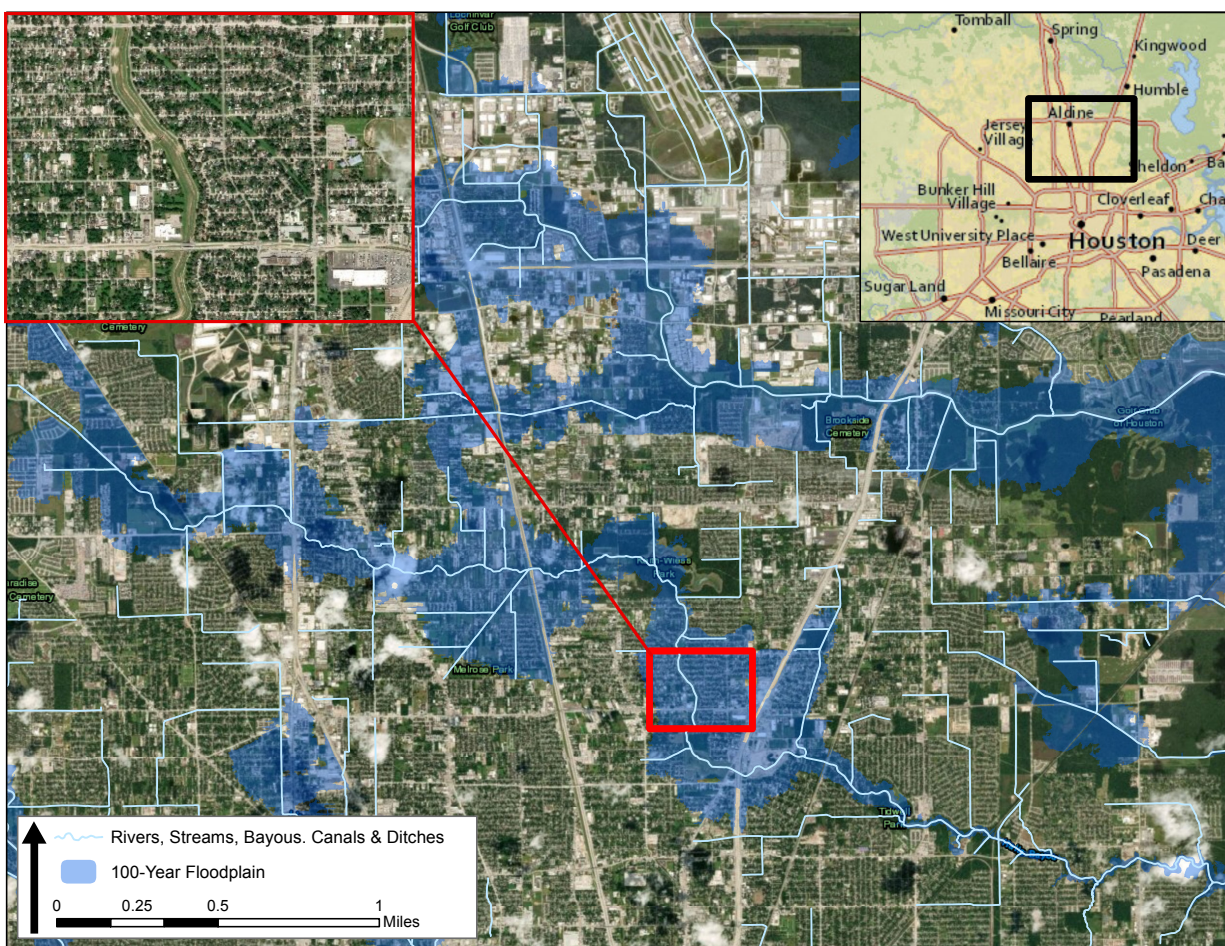


Figure 2: 100-Year Floodplain Example: Green Bayou, Houston, TX

Despite challenges quantifying the Treasury's losses with respect to buyout inefficiencies, there are undoubtedly numerous opportunities to reduce the costs of buyout programs, which would

dramatically decrease the number of homeowners living in hazardous conditions while also decreasing the chronic and unsustainable drain on the Treasury (Figure 1).

PUBLIC-PRIVATE PARTNERSHIPS (P3)

Public-private partnerships (P3) may present a more effective and efficient buyout solution, delivering more people from harm's way, while saving taxpayers by reducing future NFIP losses and lessening programmatic costs. As proposed below, the private-sector can use its own capital, expertise and labor—at risk—to more quickly initiate and more efficiently administer buyout programs in an innovative way. By using a pay-for-performance model, FEMA, state, tribal and local governments (Public Partners) would not pay private-providers (Private Partners) unless explicit performance standards are met—mostly, the delivery of contracted buyouts.

Key Assumption

Inefficiencies within NFIP buyout programs, if corrected, provide opportunities to realize significant time and cost savings for the Treasury as well as state, tribal and local governments.

If these inefficiencies are large enough, Private Partners would be willing to directly administer floodplain buyout programs—at their own risk, using their own capital, labor and expertise—in exchange for splitting the realized savings with the Treasury. If correct, this assumption represents an opportunity to leverage two usually conflicting motives—savings (government) and profits (private sector)—to more effectively deliver floodplain buyouts.

A Public-Private Partnership (P3) Pilot Project

In the model proposed here, Private Partners would contract with Public Partners to administer a buyout program—with local and state government coordination—in limited geographic areas (e.g., counties or watersheds) under the following general terms:

1. The Private Partner leads buyout negotiations and executes buyout contracts;
2. If enough contracts are delivered, the Private Partner will complete all closings, transferring property titles to the local Public Partner;
3. Using calculations defined within the P3 Agreement, which account for and reimburse the Private Partner's direct costs, the amount of Treasury funds saved is then split between the Treasury (Savings) and the Private Partner (Profits); and
4. Private Partners may retain certain limited rights to develop future, compatible uses of acquired properties consistent with FEMA buyout and hazard mitigation objectives and regulations.^{16,17}

The Funding Model

Government risk could be controlled by using the following funding structure within a P3 Agreement (example transaction illustrated in Figure 3):

1. Public Partners request funds from FEMA in amounts sufficient to meet their buyout goals using a traditional government-administered program;
2. If a Private Partner believes it can administer a buyout program at a lower total cost, a P3 Agreement is developed that uses the FEMA-approved funding amount in 1 above as the contract's basis for calculating Savings and Profit; and

3. The P3's Private Partner is then entitled to reimbursements for direct costs only when performance standards are met, and Profits are distributed only if Savings are realized;

If the Private Partner fails to perform, the Public Partners have no costs and can pursue buyout administration through normal mechanisms.

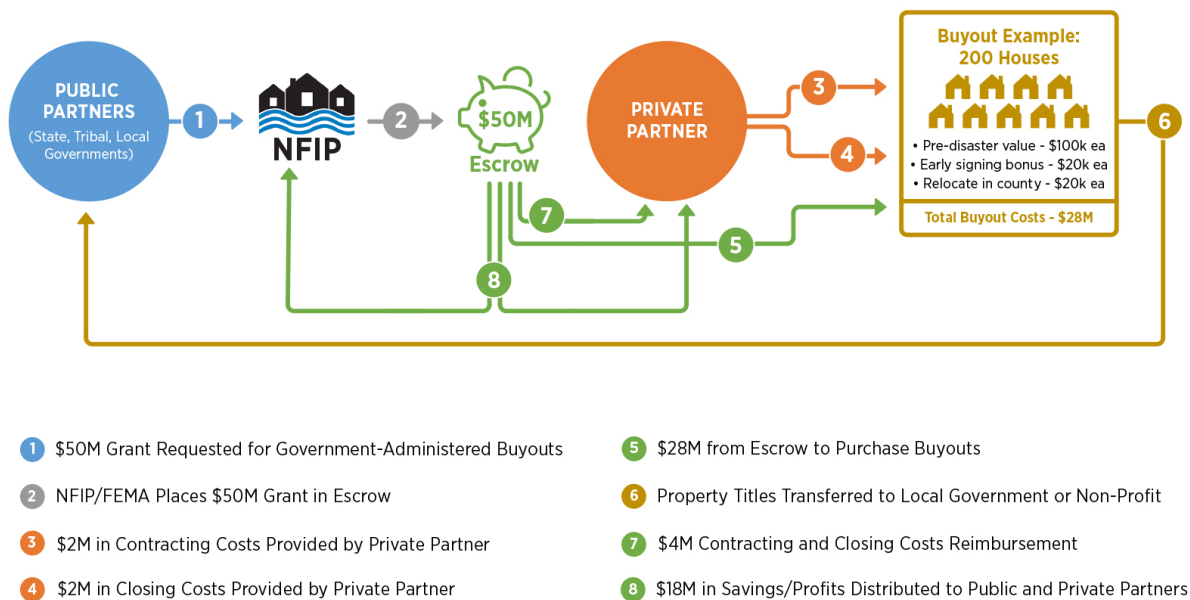


Figure 3: P3 example transaction

CONCLUSION

The P3 model potentially changes buyout programs in two key respects. First, Private Partners are better positioned to quickly initiate programs, as Public Partners are preoccupied attending to their citizens' more immediate needs—e.g., search and rescue, emergency food, water and shelter, medical attention, etc. Second, the P3 model changes programmatic motivation significantly by not paying Private Partners until contractual milestones are met—i.e., delivering a minimum number of buyout contracts. Such a pay-for-performance model, when coupled with greater efficiencies (i.e., lower administrative costs), should also translate into greater compensation for homeowners. For example, incentive payments could be offered above and beyond pre-disaster property values for entering contracts earlier. Additional incentives can also be incorporated to meet regional objectives and to increase overall participation: such as bonus payments for homeowners choosing to relocate within the same community.¹⁸ As incentive payments accumulate, participating homeowners will increase their buying power, thereby improving their opportunities for relocation and potentially the local tax base.

The current approach to NFIP floodplain buyouts is insufficient and ineffective for the scale of the problem. The P3 model represents potential, and needed, innovation. Given the possible

benefits for all participants, the proposed P3 model for floodplain buyouts may well represent a compelling and novel win-win-win scenario.

¹ Government Accountability Office (GAO). 2001. Information on Financial Condition of National Flood Insurance Program.

² GAO. 2017. High Risk List.

³ *Ibid.*

⁴ National Oceanic and Atmospheric Administration (NOAA). 2018. 2017 U.S. billion-dollar weather and climate disasters: a historic year in context.

⁵ These three hurricanes now join Katrina and Sandy as the top 5 costliest hurricanes in U.S. history.

⁶ Congressional Research Service. 2018. National Flood Insurance Program Borrowing Authority.

⁷ See Footnote 2.

⁸ AECOM, Michael Baker Jr., Inc, and Deloitte Consulting, LLP. 2013. The Impact of Climate Change and Population Growth on the National Flood Insurance Program through 2100. Prepared for Federal Insurance and Mitigation Administration, Federal Emergency Management Agency (FEMA).

⁹ FEMA. Community Rating System.

¹⁰ FEMA. 2017. Buyouts a Win-Win for Harris County and Residents. Mitigation Best Practices series

¹¹ Duke University Nicholas Institute for Environmental Policy Solutions. 2018. U.S. Geological Survey Value of Data for Flood Management. Unpublished study provided by Dr. Martin Doyle.

¹² Personal communication with Dr. Todd BenDor and Dr. David Salvesen, authors of footnotes 14 and 15, regarding the condition of FEMA data with respect to buyout efficiency analyses.

¹³ See Footnote 12 for general reference regarding FEMA data condition. Not a specific reference regarding buyout efficiency analyses.

¹⁴ Sack, K and J. Schwartz. 2018. As Storms Keep Coming, FEMA Spends Billions in 'Cycle' of Damage and Repair. *The New York Times*. October 8, 2018. Note: General reference regarding FEMA data condition, not a specific reference regarding buyout analyses.

¹⁵ Personal communication with Dr. Todd BenDor and Dr. David Salvesen, authors of footnotes 14 and 15, regarding the floodplain buyout cost inefficiencies.

¹⁶ Current regulations require the final disposition of buyout properties to be maintained as open space. Title can be held by state or local governments. In some cases, land trusts have been approved to hold title to purchased properties.

¹⁷ Examples of alternative compatible uses may be: stream/wetland mitigation banks; water quality banks (e.g., N, P, TSS, etc.); hunting clubs, etc.

¹⁸ See the following link for an example of how a similar concept used in North Carolina, the NC State Acquisition and Relocation Fund.

Written Testimony
“FEMA Priorities for 2022: Stakeholder Perspectives”
Subcommittee on Economic Development, Public Buildings, and Emergency Management
Committee on Transportation and Infrastructure
U.S. House of Representatives
February 15, 2022

Chair Titus, Ranking Member Webster, and Members of the Subcommittee, thank you for the opportunity to submit written testimony for the hearing entitled “FEMA Priorities for 2022: Stakeholder Perspectives.” The SmarterSafer Coalition (SmarterSafer) appreciates the opportunity to outline our priorities on the important work being done by the Federal Emergency Management Agency (“FEMA” or “the Agency”).

SmarterSafer is a diverse coalition of conservation and environmental groups, taxpayer-focused organizations, insurance and reinsurance interests, and housing advocates all united behind the premise that pre-disaster mitigation and resiliency investments can offer environmental and community protection while simultaneously fostering responsible stewardship of taxpayer dollars. For your reference, a complete list of our coalition members is attached.

SmarterSafer commends FEMA Administrator Deanne Criswell and the FEMA staff in their tireless efforts to provide emergency and disaster assistance to communities in need. There is a clear link between climate change and natural disasters,¹ yet we fear that the United States is years away from making meaningful strides in combatting climate change. Immediate action must be taken by FEMA, other Executive Branch agencies, and lawmakers to better ensure that individuals and communities are able to better withstand natural catastrophes. While individual and localized decisions have the potential to make an impact and promote individual safety, comprehensive and modernized federal policy is essential for both pre-disaster mitigation and more effective post-disaster recovery. We believe that efforts outlined below will allow FEMA to better pursue its mission of “reduce[ing] the loss of life and property and protect[ing] the nation from all hazards.”

Pre-Disaster Mitigation and Post-Disaster Recovery

Friederike Otto, co-founder of World Weather Attribution, has said that “disasters occur when hazards [such as climate change] meet vulnerability.”² SmarterSafer views pre-disaster mitigation as our nation’s best defense against anticipated, yet unexpected, natural disasters. Outdated mitigation strategies have caused the federal government to spend billions of dollars reacting to disasters. Without change, this number is only expected to increase exponentially and in short order. Implementation of mitigation and resiliency strategies is critical as every dollar

¹ <https://www.worldweatherattribution.org/heavy-rainfall-which-led-to-severe-flooding-in-western-europe-made-more-likely-by-climate-change/>

² <https://e360.yale.edu/features/its-not-just-climate-are-we-ignoring-other-causes-of-disasters>

invested in mitigation efforts is estimated to save \$13 on post-disaster spending³. To that end, SmarterSafer urges FEMA and Congress to tie federal disaster spending to pre-disaster mitigation efforts. SmarterSafer also supports the continued commitment to FEMA's Building Resilient Infrastructure and Communities (BRIC) program to help implement pre-disaster mitigation strategies and calls on FEMA and Congress to address the growing demand for the program. Additional resiliency and pre-disaster mitigation strategies can be realized through private-public partnerships. Strengthened existing and new partnerships will allow FEMA to access up-to-date information and incorporate forward-looking technology to help address the growing frequency and severity of natural disasters.

Pre-disaster mitigation strategies must be paired with aggressive post-disaster recovery efforts. SmarterSafer recommends that FEMA contemporize the idea of post-disaster recovery by incorporating how a community's demographic information, such as race, income, and gender ratio, can impact their recovery trajectory and future mitigation efforts. FEMA should adjust its post-disaster recovery efforts accordingly to accurately meet the needs of the community.

Flooding

Flooding is the most expensive type of natural disaster in the U.S. because of the damage it causes to individuals, property, economic activity, government operations, and the fatal effect it has on human life. Rising sea levels and increased extreme weather events continue to pose an increasing threat to the livelihoods of many individuals, most who do not know that their homes and other belongings are at risk for flooding. As extreme and unpredictable weather patterns pursue, flood risks only increase. SmarterSafer believes that as the intensity and frequency of floods increase, FEMA should do everything in their power to help communities prepare for what is to come.

At the core of flood-risk management is being able to accurately capture flood risk. SmarterSafer believes that it is in FEMA's best interest to update their maps with the most recent geographical and meteorological data to understand how flood risks have changes and understand where flood risks are heading. It is only with these revised maps that will FEMA be able to accurately communicate risks to communities and formulate new best practices for minimum flood plain management standards. With an updated understanding of flood risk, SmarterSafer suggests that FEMA require to communities to have flood risk information easily accessible to the public as well as work with state and local governments and other federal agencies to consider a paradigm in which sellers of properties disclose that information to potential buyers.

SmarterSafer also strongly supports Risk Rating 2.0. Modernization of the standards is a significant step forward in addressing premium pricing to better reflect risk. Under its current construct, the National Flood Insurance Program (NFIP) remains the only federal program that incentivizes people to live in harm's way. Over the past two decades, the program has been hit with major losses from a series of powerful storms, including Hurricane Katrina (\$16.3 billion), Hurricane Harvey (\$8.9 billion), Superstorm Sandy (\$8.8 billion), Hurricane Irene (\$1.3 billion),

³ <https://apnews.com/press-release/pr-newswire/science-north-america-oregon-portland-united-states-eb04d17c5ae3afbe56e525ad3d699110>

and Hurricane Irma (\$1 billion),⁴ and more recently, Hurricane Ida (\$65.5 billion).⁵ Unfortunately, the situation has resulted in FEMA paying out claims at an unsustainable rate, borrowing approximately \$40 billion from U.S. taxpayers to date.⁶

It has long been a priority of the coalition members to ensure that NFIP policies reflect accurate levels of risk. Risk Rating 2.0 is a significant step in that endeavor. Evidence has shown that a significant number of NFIP policyholders that reside in less flood-prone areas will see a decrease in their rates, while a far more modest number of coastal properties, which are often more valuable and inhabited by higher wage earners, will see a risk-based increase. At the same time, and while we are supportive of full implementation of Risk Rating 2.0, SmarterSafer believes it is important that FEMA bear in mind the impact that any unexpected or rapid premium increases could have on vulnerable populations. Thus, premium changes should be paired with means testing and other programs to ensure that all who need insurance are able to access it. FEMA should work with trusted community leaders to engage in rigorous outreach campaigns to spread awareness about how Risk Rating 2.0 can bring more equity into the program.

SmarterSafer also encourages FEMA to do more to expand the role of private insurance in the flood insurance market. A more robust private flood insurance market will not only offer consumers choice but also advance taxpayer protections. We also support efforts to impose limitations on new construction inside FEMA-designated floodplains.

Climate-Resilient Infrastructure

It is not enough to build in environmentally sound areas; rather, we must keep durability and longevity in mind. SmarterSafer supports increased scientific climate data sharing within the government and between FEMA and private sector experts to gain access to granular data and draw better conclusions on forward-looking metrological projections and associated risks. It is necessary that FEMA follow the science to pursue outcome-driven projects that strengthen communities and reduce long-term exposure.

As the Agency continues explore and experiment with mitigation strategies, SmarterSafer believes that a greater emphasis should be placed on natural infrastructure that can act as a buffer and protect communities from increased catastrophic risk as well as promote environmental restoration. Nature-based mitigation efforts, including the restoration of wetlands, dunes, and other coastal barriers, make communities more resilient to increased flood risk. NOAA estimates that U.S. coastal wetlands alone provide \$23.2 billion in storm protection each year. During Hurricane Sandy, wetlands reduced damages by more than 22 percent in more than half of the areas directly affected by the storm. On inland waterways, researchers have found that wetlands provide \$237 billion a year in benefits for flood mitigation and groundwater recharges.⁷ Investment in natural restoration and resilience projects will provide important wildlife habitats, assist in creating outdoor recreational opportunities, and help restore tourism activity. Those investments across U.S. floodplains will also help confront the climate crisis by naturally sequestering more carbon and bolstering community resilience to wildfires, hurricanes, and

⁴ <https://www.iii.org/fact-statistic/facts-statistics-flood-insurance>

⁵ <https://www.ncdc.noaa.gov/billions/events>

⁶ <https://www.insurancejournal.com/blogs/right-street/2018/07/09/494466.htm>

⁷ <https://www.ducks.org/conservation/conserving-wetlands-waterfowl/the-many-benefits-of-wetlands-conservation>

flooding, while advancing environmental justice by removing pollution from our air, water, and soils. SmarterSafer encourages FEMA to place greater emphasis on natural infrastructure and encourage the use of nature-based solutions where feasible to promote infrastructural safety and soundness.

Housing

Housing is the largest expense and investment for most Americans, and many homeowners are both unaware and unprepared for the risks and dangers that come from natural disasters. SmarterSafer urges FEMA to carefully consider the impact that natural disasters have on low-income communities, disabled individuals, and communities of color. These communities are often the most vulnerable to the effects of severe weather events, either because of their proximity to high-risk areas or the condition of the housing in which they live. Moreover, many of these communities lack the technical capability to fully access and utilize FEMA's assistance programs and require additional financial support to adopt climate-resilient building strategies. SmarterSafer recognizes the growing intersectionality between climate change, natural disasters, and access to safe housing and urges FEMA to continue to focus their efforts and resources in this direction.

Equity

SmarterSafer implores FEMA to hold equity paramount in every aspect of how the Agency approaches disaster relief and recovery. Marginalized communities are often disproportionately impacted by natural disasters and have the most trouble accessing assistance which prolongs, and sometimes even inhibits their recovery. SmarterSafer is confident that, if FEMA takes an active role and purposely striving for equity and reducing barriers to enter the program, there will be a ripple effect in the entire disaster relief process, reducing hardships and saving taxpayer dollars in the long run.

Risk Transfer

The United States has an infrastructure funding gap of more than 2 trillion. Policymakers at all levels of government must find innovative ways to stretch every dollar and maximize results. To that end, it is important to realize the benefits of public-private partnerships and risk-transfer opportunities. Facilitating and strengthening public-private partnerships will give FEMA's programs increased access to better technology and more capital to increase efficiency to better serve the individuals and communities it intends to help. The private sector, particularly the insurance industry, is eager to take on additional risk associated with natural disasters. As natural disasters intensify, SmarterSafer believes that FEMA should lean more into this space to avoid financial insolvency. By leveraging private financing, insurance, and reinsurance availability, policymakers can shift some of the financial burden associated with natural disasters from FEMA's balance sheet to willing private sector participants.

Climate change continues to present itself in traditional and unconventional ways. The conversation around climate change must be depoliticized to formulate truthful, effective, and

fair policies to assist FEMA and other agencies advance meaningful change. These policies can and will simultaneously provide economic growth, environmental protection, security for communities, and long-term savings for taxpayers.

Again, we appreciate the opportunity to submit this testimony for the hearing record. SmarterSafer greatly appreciates your efforts and stands ready to be a resource to you and your colleagues.

MEMBERS

Environmental Organizations

American Rivers
Center for Climate and Energy Solutions (C2ES)
ConservAmerica
Defenders of Wildlife
National Wildlife Federation
Natural Resources Defense Council (NRDC)
Surfrider Foundation

Consumer and Taxpayer Advocates

Coalition to Reduce Spending
National Taxpayers Union
R Street Institute
Taxpayers for Common Sense
Taxpayers Protection Alliance

Insurer and Reinsurer Interests

American Property Casualty Insurance Association (APCIA)
Association of Bermuda Insurers and Reinsurers (ABIR)
The Chubb Corporation
Liberty Mutual Group
National Association of Mutual Insurance Companies (NAMIC)
National Flood Association
Reinsurance Association of America
Swiss Re
USAA

Mitigation Interests

Natural Hazard Mitigation Association

Housing

Habitat for Humanity
National Housing Conference
National Leased Housing Association

ALLIED ORGANIZATIONS

Allianz of America
American Consumer Institute
Center for Clean Air Policy
Friends of the Earth
Institute for Liberty
Zurich Insurance