



## ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

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December 18, 2017

Members of House and Senate Leadership  
Congress of the United States  
Washington D.C.

### **RE: Oppose HR 4460 — Disaster Relief Reform Act (DRRA)**

Dear Leader McConnell, Minority Leader Schumer, Speaker Ryan and Minority Leader Pelosi,

The Association of State Floodplain Managers must reluctantly oppose **H.R. 4460, the Disaster Recovery Reform Act**, as recently reported by the House Transportation and Infrastructure Committee. Further, we strongly urge that this legislation be subject to regular order and not be added as an attachment to appropriations legislation.

While the bill includes a number of useful and potentially valuable reforms to the Robert T. Stafford Disaster Assistance Act, notably additional assistance for pre-disaster hazard mitigation, we must strongly oppose the bill as currently drafted due to the serious long-term damage the bill would do to Federal disaster assistance programs. This is particularly due to the inclusion of Section 207 allowing use of FEMA's hazard mitigation funds for major structural flood control projects and the failure of Section 202 to result in any meaningful fix to a widely known problem with accomplishing post-disaster damage assessments in a timely manner.

Section 207 of the bill, as written (by waiving Section 312 of the Stafford Act), would allow critically important Stafford Act funds to be diverted from FEMA's hazard mitigation programs to Army Corps of Engineers-type flood control projects, thus depleting the already far under-resourced Federal funding for voluntary buyouts and building elevations after major flood disasters. It is clear, especially in the wake of this year's record coastal and inland flooding, that these flood risk management tools will be increasingly important going forward into the future. The changes proposed by H.R. 4460, however, will greatly weaken FEMA's hazard mitigation potential. Barring removal of this provision, we would urge a vote against this legislation.

For nearly fifty years, it has been Federal policy that federal agencies providing disaster assistance must ensure that entities suffering losses as a result of major disasters not receive assistance for losses for which they have already been compensated. Under Section 312 of the Stafford Act, any entity that has received or is entitled to receive federal disaster assistance is

*Dedicated to reducing flood risk and losses in the nation.*

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liable to the United States for the repayment of such assistance to the extent that such assistance duplicates benefits available for the same purpose from another source, including insurance and other federal taxpayer funded programs. As drafted, Section 207(a) of H.R. 4460 would authorize the President, at the request of a Governor, to waive this requirement with only vague justification, allowing disaster assistance funds to be directed to other activities, without even requiring benefits of those activities to exceed their costs. We believe, with such vague and weak direction and requirements, this provision will invite chaotic and potentially misdirected use of federal taxpayer disaster funds.

Of even greater concern, Section 207(b), specifically allows Stafford Act Section 404 hazard mitigation funds to be diverted for building Army Corps of Engineers projects, regardless of whether the Army Corps and Congress have determined that such projects should be considered as priority. We are concerned that with this provision, FEMA's hazard mitigation program could be turned into a "slush fund" to build structural projects that fail to meet basic Corps of Engineers' feasibility and funding priority tests, at the expense of chronically-oversubscribed and critically-needed FEMA "non-structural" flood risk hazard mitigation funding. Currently, at an average of more than \$2.5 billion, including discretionary and emergency disaster spending, the Army Corps annual flood control project spending is nearly five times FEMA's entire average \$584 million HMGP annual budget, and many times more than FEMA spends on non-structural hazard mitigation projects overall. Numerous highly acclaimed studies have repeatedly shown that FEMA's non-structural hazard mitigation projects deliver among the highest benefit-cost ratios and reductions of future residual risks of all flood risk reduction techniques available.

Section 202 of HR 4460 attempts to address the urgent need for timely damage assessments post-disaster but, unfortunately as written, will not have the intended impact. Since 1998 FEMA has had a policy in place that impedes building inspections and related floodplain management code inspections from taking place in a timely manner after a major disaster event. The policy prohibits the reimbursement of those activities under all categories of public assistance. What this means is that unlike the ability to mobilize search and rescue and other resources immediately because expenses can be reimbursed, no such mechanism exists for building inspections (including substantial damage determinations) because of this FEMA policy. So after events like Harvey where over 100,000 inspections needed to be done, the only mechanisms are using FEMA contractors at 100% federal cost. Further, events like Harvey showed that FEMA's combined staff and contractor resources are not enough. The bottom line is that if these inspections and substantial damage determinations do not get done promptly, no rebuilding can take place and property owners do not have access to resources to become more resilient.

Unfortunately, the proposed language in Section 202, while potentially helpful, amends the wrong section of the Stafford Act and could be interpreted in a limited way that would not address the national need. ASFPM proposes that Section 202 of the proposed bill be corrected to amend Section 403(a)(3) of the Stafford Act, and clarify its intent by adding a new subsection (H) to say "**(H) Building code and floodplain management ordinance administration and enforcement including inspections for substantial damage and compliance.**" One concern about our proposed approach that has been raised is whether there needs to be a time limitation for this assistance so the Federal government isn't paying for normal building code administration activities. Per FEMA policy, all essential assistance (which this would be

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considered) is limited to six months after the declaration. In our opinion that would provide enough time to mobilize inspectors and floodplain managers nationally to assist with these large disasters and the massive number of inspections and other administrative functions that are critical to be performed as soon as possible after the disaster. Further, amending Section 403 would authorize expense reimbursement for this essential mutual aid, not wages for new hires as authorized in Section 202 as currently written.

For these important reasons, the Association of State Floodplain Managers must oppose passage of H.R. 4460 as written. We oppose attaching the bill to “must pass” appropriations measures, thereby bypassing appropriate consideration of the legislation by the Senate. Thank you for the opportunity to let you know of our concerns. Please contact me with any questions at 608-828-3000 or [cberginnis@floods.org](mailto:cberginnis@floods.org).

Respectfully,



Chad Berginnis, CFM  
Executive Director

cc: Chairman Johnson, Ranking Member McCaskill, Senate Committee on Homeland Security and Governmental Affairs  
Chairman Boozman and Ranking Member Tester, Senate Appropriations Subcommittee on Homeland Security  
Chairman Shuster, Ranking Member DeFazio, House Committee on Transportation and Infrastructure  
Chairman Carter, Ranking Member Roybal-Allard, House Appropriations Subcommittee on Homeland Security