

March 21, 2016

Regulatory Affairs Division
Office of Chief Counsel
Federal Emergency Management Agency
8NE, 500 C Street SW.
Washington, D.C. 20472-3100

Docket ID FEMA-2016-0003

Re: Advanced Notice of Proposed Rulemaking on Establishing a Deductible for FEMA's Public Assistance Program.

SmarterSafer—a diverse coalition of environmental organizations, taxpayer advocates, insurance interests, and mitigation and housing groups—is pleased to submit these comments on the Administration's contemplated proposal to establish a disaster deductible. The goals laid out in the Advanced Notice of Proposed Rulemaking are shared by SmarterSafer—to better protect people in harm's way by incentivizing community planning and resiliency.

Natural disasters are increasing in frequency and severity, and federal disaster declarations are on the rise. From 2001 to 2014, there were an average of 132 disaster declarations annually, compared to 40 per year from 1984 to 1994. The federal government is increasingly bearing the costs for these events—shifting the costs as well as the responsibilities from local and state governments. In 1989, after Hurricane Hugo, the federal government covered only 20 percent of disaster costs, compared to 80 percent after Superstorm Sandy. With the federal government taking on a growing share of damage costs and nearly all recovery, there is little responsibility for disaster-prone states to reduce risk. In fact, some of the states most at risk for disasters spend the least amount on mitigation activities.

The Proposed Rule would require recipients of disaster assistance to meet a 'deductible' which could be met through local funding or local activities designed to plan for and mitigate risk. This is similar to a proposal that the coalition has advanced to provide disaster assistance on a sliding scale, with those states that take action to reduce their risk able to receive the maximum percentage. We believe it is critical that the federal government require action from states that receive federal funding instead of responding to disasters with blank checks. This does nothing to reduce risk or reduce the costs to taxpayers.

The Proposed Rule asks a number of important questions about how to structure a disaster deductible.

- **Goals for deductible-** SmarterSafer urges FEMA to ensure that the goal of the deductible is reduced long term impact of disasters, reduced risk of loss from disasters, and decreased future disaster costs. While shifting some costs from the federal government to localities can help ensure states and localities have 'skin in the game,' and that alone provides some incentives to take actions to reduce risk, cost-shifting alone should not be the goal. SmarterSafer believes that the disaster deductible should act to incentivize mitigation and incentivize non-federal spending on preparation or resiliency. This will reduce long-term costs and losses from disasters.

- **Where should FEMA focus incentives-** Incentives should focus on better planning and preparedness as well as increased resiliency from natural disasters. This could include many activities; however, we believe FEMA should encourage actions that will help communities in the long-term—reducing risk, damage, and the cost of response. FEMA should ensure that any activities that get credit are proven to be effective in reducing risk in the long-term. This includes better building codes and enforcement of such codes, protecting environmental buffers to storms and preserving or creating green space in risky areas, policies and investments in mitigation activities (community and individual), as well as better planning for disasters. We also believe that states and localities should be encouraged to look at reducing the financial costs of disasters, including purchasing insurance for infrastructure and public buildings. FEMA has asked whether recipients should be encouraged to set aside funding for disaster response and recovery. While it is important that states and localities be prepared for disasters, SmarterSafer does not believe rainy day funds are an efficient use of funds. However, the uses of state and local funds on planning and mitigation activities are proven to be efficient and should be encouraged.
- **What activities should get credit-** There will be many activities that should qualify for credit under a disaster deductible; however, we believe FEMA should give the most credit to those activities that reduce risk in the long-term. Nature based approaches to mitigation, including land use decisions that lessen risk, are critical. In addition, communities should get credit for adopting freeboard standards, enforcing better building codes, insurance of infrastructure, increasing the penetration of insurance, buyouts of risky properties, adopting and utilizing the most up to date mapping/risk identification. Further, credits should not be permanent. Annual or other periodic reviews should be undertaken to ensure that the credits being given continue to be appropriate and associated with continued long-term risk reduction. As an example, if credits were given for construction of a levee to protect an existing community, those credits should be reduced if the community's catastrophic risk rises due to increased construction behind the levee.

As FEMA looks to adopt a disaster deductible, it is important that the agency keep in mind equity issues and the different abilities and resources that communities have to take actions to reduce risk. We urge FEMA to consider giving additional credit for activities taken in lower-income areas that face disproportionate risk due to socioeconomic factors and for activities that help protect low-income households from disasters. For administrative and equity reasons, it is important for FEMA to consider implementing the deductible on a statewide basis, with states required to take action to ensure all communities can better prepare for disasters—states can do this through state programs, funding, and additional authorities for localities to take needed action. However, many decisions are made at a local level, and we want to ensure FEMA takes into account actions at a local level. If implemented at a state level, actions by any sub-recipient should get credit, and the state must bear the responsibility for tracking and maintaining records and information on any actions in the state. It will be important for FEMA to balance these needs as it moves forward.

SmarterSafer supports FEMA's disaster deductible idea and looks forward to working with the agency as it moves forward.

MEMBERS

Environmental Organizations

American Rivers
Center for Climate and Energy Solutions (C2ES)
Ceres
ConservAmerica
Defenders of Wildlife
Natural Resources Defense Council
National Wildlife Federation
Sierra Club

Consumer and Taxpayer Advocates

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

Insurer Interests

Allianz of America
Association of Bermuda Insurers and Reinsurers
The Chubb Corporation
Liberty Mutual Group
National Association of Mutual Insurance Companies (NAMIC)
National Flood Determination Association
Reinsurance Association of America
SwissRe
USAA

Mitigation Interests

Natural Hazard Mitigation Association
National Fire Protection Association

Housing

National Housing Conference
National Leased Housing Association

ALLIED ORGANIZATIONS

American Consumer Institute
Association of State Floodplain Managers
Center for Clean Air Policy
Friends of the Earth
Institute for Liberty
Property Casualty Insurers Association of America
Union of Concerned Scientists
Zurich