NRDC

March 21, 2016

Submitted via: Federal eRulemaking Portal

The Honorable Craig Fugate
Federal Emergency Management Agency
500 C Street S.W.
Washington, D.C. 20472

Re: Comments on Establishing a Deductible for FEMA's Public Assistance Program; Docket ID FEMA-2016-0003

Dear Administrator Fugate:

The Natural Resources Defense Council is pleased to submit these comments on FEMA's proposal to establish a disaster deductible for the Public Assistance Program. NRDC is an international environmental advocacy organization, which on behalf of our more than 2.3 million members and online activists uses law, policy, and science to ensure a safe and healthy environment for all living things. NRDC believes actions that incentivize meaningful disaster planning and risk mitigation at the state and local levels of government are important for creating sustainable communities. Fostering resilience better protects people and property, reduces future disaster costs, and saves taxpayer dollars long-term.

NRDC supports the idea of establishing a deductible for FEMA's Public Assistance Program and other strategies that encourage state and local communities to adopt natural disaster risk reduction measures and policies. FEMA's concept to establish a deductible for the Public Assistance Program is a unique and effective approach for fostering mitigation efforts on a national-scale and reducing the rising post-disaster recovery costs to the federal government. NRDC believes the main purpose of the deductible should be to stimulate risk reduction mitigation efforts by state governments, which spur additional actions at the local level. As such, the provision of credit toward recipients' deductible requirement in exchange for enacting pre-event actions that focus on resiliency and reducing post-event recovery costs should receive the greatest emphasis. Simultaneously, FEMA must avoid actions that will simply shift post-event recovery costs onto states and local governments as cost shifts do not necessarily equate to increased mitigation. Increased resilience and increased investment in risk reduction mitigation strategies are the primary objectives.

NATURAL RESOURCES DEFENSE COUNCIL
20 N WACKER DRIVE | SUITE 1600 | CHICAGO, IL | 60606 | T 312.663.9900 | F 312.332.1908 | NRDC.ORG

Increasing Costs of Natural Disasters

Proposals that seek to foster resiliency on a national scale must be pursued. Each year, extreme weather events cause billions of dollars in disaster-related damages. In 2015 alone, ten weather-related disasters, each exceeding $1 billion in damage, occurred in the United States. As the climate changes, every region of the United States will be more susceptible to the impacts of extreme weather. Extreme heat, droughts, heavy downpours, and floods will become more common. Coupled with population growth, expanding community development, and loss of natural ecosystem functions, the costs associated with natural disasters are projected to increase.

Paralleling this trend has been a rise in the number of federal disaster declarations made over the last 60 years. In the last twenty years, there was an average of 121 annual disaster declarations, compared to an average of 40 over the previous twenty years. In the first three months of 2016 alone, there have been 23 federal declarations related to natural disasters.

This uptick in federal disaster declarations reflects the growing share of disaster recovery costs borne by the federal government. According to a study conducted by the National Academy of Sciences, the federal share of disaster aid following major tropical cyclones has climbed from 6 percent (Hurricane Diane, 1955) to more than 75 percent (Hurricane Sandy, 2012).[1] This is an unsustainable practice, particularly in light of the impacts of climate change, and all levels of government must adopt measures and policies that will make our Nation more resilient. By establishing a deductible for Public Assistance grants, FEMA creates an incentive for states to do more to increase their resiliency and that of their communities and does it in a way that maintains FEMA's responsibility for providing much-needed post-disaster assistance in times of need.

Incentivizing Change

NRDC agrees that a deductible could improve disaster resilience nationally if state governments, in exchange for implementing measures that make them more resilient or more capable to respond to future disasters, could receive a reduction on their deductible. This quid pro quo approach provides an incentive to state governments to act and makes the enactment of a disaster deductible more enticing if recipients know that their fiscal responsibility for a disaster can be reduced. To solely enact a disaster deductible without providing means for its reduction will not foster the same level of desired resiliency; state governments will have a harder time conceptualizing the long-term cost savings that mitigation measures can achieve. Linking the enactment of mitigation measures with a reduction in the deductible provides an upfront, tangible cost savings to the recipient.

However, NRDC neither proposes how the deductible should be calculated nor proposes how various risk reduction strategies should be monetized. Our intent is solely to advocate for sound and tested strategies that promote improvements in disaster management and

[1] National Academy of Sciences, *Reducing Coastal Risk on the East and Gulf Coasts*, 2014, Table 1-3, p. 20.

resilience. The following is a non-exclusive list of actions that would help achieve the aforementioned goal.

(1) **Enact legislation similar to the Federal Flood Risk Management Standard at the state level.** In January 2015, the President issued Executive Order 13690, updating the Federal Flood Risk Management Standard. The updated standard requires federally-funded infrastructure located in floodplains to account for increased flood-risk due to climate change in their siting and design.

(2) **Provide credit for hazard mapping and risk identification that go beyond the minimum criteria of the NFIP, including the mapping of erosion zones, future climate conditions, and anticipated land use changes.** For example, Vermont's Flood Hazard Area and River Corridor Protection Procedure is the type of state – initiated action that should receive credit.

(3) **The adoption of sea level rise projection regulations for planning purposes.** The State of New York recently proposed enacting science-based sea level rise projections for planning and design purposes to mitigate the effects of climate change.

(4) **Increased non-federal investment of buyout and acquisition programs for the most at-risk properties.**

(5) **Mandatory state-wide freeboard standard.** Over 20 states have mandatory freeboard standards of one foot or more.

(6) **Enforceable minimum State-wide building code standards based on the IBC, which do not restrict local communities enacting more restrictive standards.**

(7) **Insuring of public infrastructure against damage from flooding.** Communities should take responsibility for insuring their own assets, rather than relying on federal assistance to rebuild vulnerable infrastructure in the wake of a disaster.

(8) **Actions that encourage NFIP policy take-up in flood-prone communities located inside and outside the Special Flood Hazard Area (e.g. 100-year floodplain).** 25 percent of all flood claims occur outside the SFHA. Greater take-up of NFIP policies will help reduce the amount of Public Assistance funding for "permanent work."

(9) **Nature-based approaches to mitigation, such as living shorelines.** For example, Maryland's *Living Shorelines Act* is an action for which states should receive credit.

(10) **Enactment of legislation similar to the Coastal Barriers Resources Act at the state level.**

(11) Adoption of stormwater standards to combat urban flooding, including an emphasis on green infrastructure.

(12) Disaster planning actions at the state level, including increased State emergency management staffing and funding.

Concerns about Scope

Building state capability is of primary importance. While mitigation efforts at the local level have merit and are an important component of fostering resiliency, credit should only be provided for state-level actions. To do otherwise could lead to a patchwork approach, exacerbate economic disparity issues, and possibly permit states to escape responsibility if they are permitted to count sub-recipient actions toward a reduction in their deductible. States must assume greater responsibility in preparing for natural disasters to ease the burden on the federal government. Thus, we recommend the deductible only be applied at the State, Territorial, and Tribal level.

Investment in Mitigation is the Goal

While it is important that state governments take on greater financial responsibility in responding to disasters to ease the burden on the federal taxpayer, the main goal of the disaster deductible should be to increase investment in mitigation strategies. As stated above, offering a reduction in the amount of the deductible in exchange for a recipient undertaking mitigation measures would best achieve this goal. While enhancing resiliency can create additional up-front costs, the long-term benefits of better protecting people and property and reducing potential future losses, far outweigh them. NRDC recommends that FEMA move forward with instituting a disaster deductible for the Public Assistance Program.

Sincerely,

Joel Scata
Water Policy Advocate, NRDC