U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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July 20, 2012

BRIEFING MEMORANDUM

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

SUBJECT: Legislative Hearing on "A Review of Building Codes and Mitigation Efforts to Help Minimize the Costs Associated with Natural Disasters"

PURPOSE

The Subcommittee on Economic Development, Public Buildings and Emergency Management will meet on Tuesday, July 24, 2012, at 10:00 a.m., in 2167 Rayburn House Office Building to receive testimony from a Member of Congress, the Federal Emergency Management Agency (FEMA), emergency management organizations and officials and the private sector. The purpose of the hearing is to examine how building codes and mitigation efforts minimize costs associated with disasters and save lives. In particular, the Subcommittee will examine H.R. 2069, the Safe Building Code Incentive Act, introduced by Representative Diaz-Balart of Florida.

BACKGROUND

Legislation

On June 1, 2011, Rep. Diaz-Balart introduced H.R. 2069, the Safe Building Code Incentive Act. The bill currently has 30 co-sponsors. The bill would provide incentives, through mitigation assistance, to States to adopt and implement statewide building codes to minimize damages from disasters and save lives. Rep. Diaz-Balart introduced similar legislation in the 111th Congress and the provisions of that bill were incorporated into H.R. 3377, the Disaster Response, Recovery, and Mitigation Enhancement Act of 2009, which was favorably reported out of the Committee last congress.

Federal Emergency Management Agency: History

FEMA was established in 1979 by Executive Order by President Carter following a number of massive disasters in the 1960s and 1970s which resulted in proposals by the National Governors Association and others to streamline and cut the number of agencies States were required to work with following a disaster. Prior to the creation of FEMA, the federal government's emergency response mechanisms were scattered among many agencies throughout the government. The creation of FEMA helped to centralize these authorities and the coordination of the federal government's response to a disaster. FEMA's primary authority in carrying out its emergency management functions stems from the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).[1] Following more than two decades as an independent agency, the Homeland Security Act of 2002 (P.L. 107-296), which created the Department of Homeland Security (DHS), placed FEMA within DHS, and FEMA's functions were dispersed among various offices and directorates of DHS.

In 2005, Hurricanes Katrina and Rita devastated the Gulf Coast. Following Hurricanes Katrina and Rita and the poor response that occurred, several investigations and congressional inquiries and hearings took place to examine the preparation for, response to, and later recovery from these hurricanes. In particular, the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina was formed and culminated in the issuance of a report entitled, "A Failure of Initiative: The Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina" on February 15, 2006.

Following the issuance of this report, Congress enacted the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA) (P.L. 109-295), which put FEMA back together again within DHS. PKEMRA authorized the National Preparedness System and, among other things, FEMA for the first time in legislation. Legislation pending this Congress, H.R. 2903, the FEMA Reauthorization Act, would reauthorize FEMA and other FEMA programs and includes various reforms to cut costs and streamline the response and recovery processes following a disaster. That legislation was favorably reported by the Committee on March 8, 2012.

Disaster Assistance Programs

FEMA's major Stafford Act programs for disaster response and recovery in the aftermath of a major disaster are in the Public Assistance Program and the Individual Assistance Program. The Public Assistance Program, authorized primarily by sections 403, 406, and 407 of the Stafford Act, reimburses state and local emergency response costs and provides grants to state and local governments, as well as certain private non-profits to rebuild facilities. The Public Assistance Program generally does not provide direct services to citizens.

The Individual Assistance Program, also known as the Individuals and Households Program, is primarily authorized by section 408 of the Stafford Act. The program provides assistance to families and individuals impacted by disasters, including housing assistance. Housing assistance includes money for repair, rental assistance, or "direct assistance," such as the provision of temporary housing.

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[1] 42 U.S.C. §§ 5121-5207.

Section 404 of the Stafford Act authorizes the Hazard Mitigation Grant Program (HMGP). HMGP provides grants to state and local governments to rebuild after a disaster in ways that are cost effective and reduce the risk of future damage, hardship, and loss from natural hazards. FEMA also provides grants under HMGP to assist families in reducing the risk to their homes from future natural disasters, through such steps as elevating the home or purchasing the home to remove it from the floodplain.

The Pre-Disaster Mitigation (PDM) program provides funds to states, territories, Indian tribal governments, communities, and universities for hazard mitigation planning and the implementation of mitigation projects prior to a natural disaster event. Funding these plans and projects reduces overall risks to the population and structures, while also reducing future disaster assistance payments. Congress reauthorized PDM last congress in the Pre-Disaster Mitigation Act of 2010 (P.L. 111-351).

Disaster Declarations

When state and local resources are overwhelmed and the "disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments,"[2] the Governor of the affected State may request that the President declare a major disaster. If the President issues a declaration, federal resources are deployed in support of state and local response efforts.

There are two categories of incidents included in the Stafford Act – "major disasters" and "emergencies". A "major disaster" is defined under the Stafford Act as:

> Any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.[3]

An "emergency" is defined as:

> Any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.[4]

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[2] Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5170.
[3] 42 U.S.C. § 5122.
[4] Id.

The key distinction between a major disaster and emergency is that emergencies authorize fewer types of assistance and do not require a state level disaster declaration or a request from a governor. In addition, emergencies are typically less severe events, limited in cost or can be declared to "lessen or avert the threat of a catastrophe."[5]

In 2011, the President issued 99 major disaster declarations and 29 emergency declarations. The costs of these disasters can be significant. The PDM and HMGP grants are intended to lower these costs by encouraging communities to build in a way that mitigates the damages and thus lower the amount of assistance needed for those communities to recover.

Mitigation and Cost Savings

HMGP and PDM are important programs in reducing costs. Pursuant to a requirement of the Disaster Mitigation Act of 2000, the Congressional Budget Office (CBO) completed an analysis on the reduction in Federal disaster assistance as a result of mitigation efforts.[6] That study examined mitigation projects funded from 2004 to mid-2007. CBO found that of the nearly $500 million invested through Pre-Disaster Mitigation grants, future losses were reduced by $1.6 billion for an overall ratio of 3 to 1. In essence, for every dollar invested in mitigation, $3 were saved. CBO's analysis reaffirmed a prior study commissioned by FEMA and conducted by the Mutlihazard Mitigation Council of the National Institute of Building Sciences that concluded, in 2005, each dollar spent on mitigation saves $4 in future losses due to disasters.[7]

More recently, the National Association of Mutual Insurance Companies (NAMIC) commissioned a study to specifically examine the impact of the Building Code Incentive Act and states adopting and enforcing state-wide building codes.[8] The study focused specifically on hurricane and wind damages and concluded that the net savings since 1988 had building codes been adopted in hurricane damaged areas would have been $11 billion. Specifically, the study highlighted that since 1988, $125 billion had been paid out by FEMA in grants related to natural disasters, of which $67 billion was directly related to hurricane damage (54%). If the buildings exposed to these disasters had been built to model building codes, the losses could have been reduced by as much at $13 billion or close to 20%. While the Building Code Incentive Act provides an incentive of up to 4% more in mitigation funding for States which adopt building codes, the net reduction would still have been $11 billion.

Notwithstanding these studies, including CBO's own study on the subject, CBO's score for incentivizing building codes included as part of H.R. 3377 in the 111th Congress failed to account for the reduction of future costs. The hearing is intended to receive and review testimony from FEMA and emergency management, building code, and insurance experts on how mitigation measures and building codes, in fact, reduce the costs to the taxpayer and save lives.

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[5] 42 U.S.C. § 5122.

[6] "Potential Cost Savings from the Pre-Disaster Mitigation Program," Congressional Budget Office, September 2007.

[7] "Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities," Multihazard Mitigation Council, National Institute of Building Sciences, 2005.

[8] "Safe Building Code Incentive Act, Impact of Building Code Adoption and Enforcement of FEMA Disaster Grants, Final Report, Prepared by Thomas A. Ryan, FCAS and Robert K. Briscoe, April 4, 2012.

WITNESSES

The Honorable Mario Diaz-Balart (R-FL)
Member of Congress

Mr. David Miller
Associate Administrator, Federal Insurance and Mitigation Administration
Federal Emergency Management Agency

Mr. Jim Mullen
President
National Emergency Management Association

Mr. Jimmy Gianato
Director of Homeland Security and Emergency Management
State of West Virginia

Chief Hank C. Clemmensen
First Vice President
International Association of Fire Chiefs

Mr. Chad Berginnis
Executive Director
Association of State Floodplain Managers

Ms. Julie Rochman
President and CEO
Insurance Institute for Business and Home Safety

Mr. Rod Matthews, CPCU
P&C Operations Vice President
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