

Congress of the United States
Washington, DC 20515

May 1, 2018

Mr. William B. "Brock" Long
Administrator
Federal Emergency Management Agency
500 C Street, SW
Washington, D.C. 20024

Dear Administrator Long,

We write regarding a recent Federal Emergency Management Agency ("FEMA") interpretation of section 406 of the Robert T. Stafford Act and corresponding regulations that adversely affects states and local governments' ability to receive federal reimbursement for rebuilding efforts after a federally declared natural disaster.¹ Specifically, we are concerned that recent interpretations of FEMA regulations would require that *all projects* follow specific codes, regardless of the type of project or location of project.

In 2013, Colorado endured historic flooding, resulting in millions of dollars in damage to public roadways and facilities. On September 14, 2013, a federal disaster declaration was made, making the state, local jurisdictions and Colorado families eligible for disaster recovery funding from FEMA. As Colorado continues its efforts to rebuild in a cost-effective and resilient manner, it is imperative that FEMA provide states the flexibility to rebuild based on the unique terrain of the state and communities.

Recently, certain Colorado counties have been denied reimbursement from FEMA for the repair and replacement of facilities. FEMA claimed that the counties' local codes are not being applied uniformly to all projects and as a result, running afoul of requirements as set forth in FEMA's regulations.² This misinterpretation treats all construction projects the same, regardless of the type of project or even location of the project.

Counties adopt local codes and standards that not only comply with professional engineering requirements and safety standards, but that also fit their community's design needs. Many of Colorado's counties cover different types of terrain, including plains, valleys and mountains. In recognition of the differing terrain and possible design deviations, local jurisdictions have adopted building standards and codes that enable them to provide exceptions to design specifications without sacrificing safety standards. Local governments should have the flexibility to apply objective criteria to determine if a facility meets safety standards based on the specifics of that facility as well as the context in which the facility is located.

¹ Robert T. Stafford Act, 42 U.S.C. 5172 (2018).

² 24 CFR 206.226(d)(1)- (4).

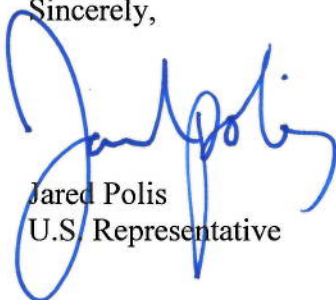
FEMA's new interpretation would make it nearly impossible for any local jurisdiction to comply with existing regulations, as many jurisdictions adopt codes and standards that allow for deviation based on the type of project.

Further, it is also concerning that FEMA did not articulate this interpretation of the regulations to local jurisdictions as they developed the damage assessment and worksheets in coordination with FEMA staff. Communities have put millions of dollars into repairing and rebuilding damaged facilities in reliance of the damage assessments and worksheets and FEMA's new interpretation would make those projects ineligible for federal reimbursement.

This is a serious issue that not only affects Colorado counties, but other communities across the country that will need to or are in the process of rebuilding after a federally declared disaster. We respectfully request that your staff provide our offices with additional information regarding the Administration's interpretation of eligibility requirements that local jurisdictions need to meet in order to qualify for federal reimbursement funding; the basis for granting waivers of the regulations; the number of waivers that FEMA has granted; and where the communities were located that received waivers. Further, we request that FEMA brief our staff regarding the Administration's ongoing efforts to assist Colorado with rebuilding efforts.

Please feel free to contact Hilary Gawrilow (hilary.gawrilow@mail.house.gov) with Rep. Jared Polis and James Thompson (James_Thompson@bennet.senate.gov).

Sincerely,



Jared Polis
U.S. Representative



Michael F. Bennet
U.S. Senator