

TESTIMONY OF DAVID TERRY, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF STATE ENERGY OFFICIALS, BEFORE THE SUBCOMMITTEE ON HOMELAND SECURITY, SENATE COMMITTEE ON APPROPRIATIONS REGARDING FY'21 APPROPRIATIONS FOR THE FEDERAL EMERGENCY MANAGEMENT AGENCY

March 20, 2020

Chair Capito, Ranking Member Tester, and members of the Subcommittee, I am David Terry, the Executive Director of the National Association of State Energy Officials (NASEO). NASEO represents the Governor-designated energy directors and their offices in the 56 states, D.C., and U.S. territories. One of the key functions of the state energy offices is Emergency Support Function (“ESF-12”) related planning, mitigation, and response actions at the state level.

We are in the midst of a severe national crisis. DHS as a whole, FEMA specifically, and the states must all work together in a coordinated manner. We will (and are) facing both expected and unexpected barriers to action. We recommend that the Subcommittee approve specific funding in the following areas, either in the regular appropriations bill or in a coronavirus supplemental:

- 1) New state emergency planning and response grants of \$1 billion, with 10% of the funds directed to state energy offices, and the remainder targeted to state emergency management agencies including coordination between the energy offices, state emergency management agencies, FEMA and the DOE Office of Cybersecurity, Energy Security and Emergency Response; and
- 2) New direct funding to states of \$5 billion for public facility resilience, energy, and water system retrofits to update mission critical facilities, especially including hospitals, schools, community shelters, non-profit nursing homes, and first responder facilities, utilizing private capital for energy efficiency improvements with federal funds directed to emergency response upgrades (this program could be operated by state energy offices, who already manage the existing \$5 - \$6 billion per year in energy service performance contracting programs). In addition, special provision could be made to target underserved rural healthcare facilities.

The program recommended in #2, above, would have the double benefit of assisting states in responding to hurricanes, floods, wildfires, earthquakes, and other hazards. More energy system resilient facilities with access to longer term back-up power, efficient HVAC, lighting, and hot water systems offer far greater reliability and durability of service for communities.

NASEO remains concerned that FEMA is not implementing the Disaster Recovery and Reform Act in full compliance with congressional direction, intent, and the clear statutory language in the area of pre-disaster state and local building code training assistance. Practical, cost-effective building codes voluntarily adopted by state and local governments require robust training of code staff and the building trade community to be effective. The evidence that modern building energy codes result in more resilient and energy efficient construction and that such codes save lives and offer greater comfort to residents during a disaster is abundant..

FEMA has chosen to implement DRRA section 1206 entirely through the Public Assistance Program. As a consequence, the draft policy would prohibit activities (1) associated with “non-disaster damaged buildings,” (2) related to “[a]dopting new or updating current building codes or floodplain management ordinances,” and (3) that extend beyond “180 days after the date of the major disaster declaration.”

Where a community has not adopted disaster resistant codes pre-disaster, post-disaster is the ideal time for that adoption or update. Post-disaster is also when permitting loads and training needs are at their greatest. Addressing these challenges through sec. 1206 would allow FEMA to provide support to jurisdictions seeking to ensure that rebuilding is done to modern standards, which in turn can help impacted communities be better positioned to weather the next storm. Providing federal reimbursement for administering and enforcing older and less resilient codes risks perpetuating an unending cycle of damage and repair if those older codes are never updated.

DRRA section 1206(a) permits FEMA to assist communities in adopting or updating building codes post disaster, in training code officials and builders on updated or existing building codes, and in boosting efforts to ensure rebuilding work communitywide is done to code. We believe FEMA should act now to implement that section, which is consistent with the Agency’s current Strategic Plan, ongoing programmatic work, the National Mitigation Investment Strategy, mitigation research, the DRRA, and congressional intent.

To ensure DRRA section 1206(a) is implemented in the near-term, we request the addition of the following report language in your appropriations bill or converted to bill text:

*The Committee is concerned that the Agency has implemented Disaster Recovery Reform Act section 1206 solely through the Public Assistance program. In so doing, the Agency has not implemented section 1206(a), which permits FEMA to assist communities in adopting or updating building codes post disaster, in training code officials and builders on updated or existing building codes, and in boosting efforts to ensure rebuilding work communitywide is done to code. The Committee urges the Agency to take immediate steps to implement section 1206(a) as required under the law, which will ensure that rebuilding is done to modern standards, helping impacted communities be better positioned to confront future natural hazards.*

If the Subcommittee has any questions regarding this testimony, please contact David Terry, (NASEO Executive Director) ([dterry@naseo.org](mailto:dterry@naseo.org)) or Jeff Genzer (NASEO Counsel) ([jcg@dwgp.com](mailto:jcg@dwgp.com)).