

**American Rivers - R Street Institute**  
**Natural Resources Defense Council**

Senator Ron Johnson, Chair  
Senate Homeland Security Committee  
328 Hart Senate Office Building  
Washington, DC 20510

Senator Claire McCaskill, Ranking Member  
Senate Homeland Security Committee  
503 Hart Senate Office Building  
Washington, DC 20510

Rep. Bill Shuster, Chair  
House Transportation & Infrastructure Comm.  
2079 Rayburn House Office Building  
Washington, D.C. 20515

Rep. Peter DeFazio, Ranking Member  
House Transportation & Infrastructure Comm.  
2134 Rayburn Office Building  
Washington, DC 20515

Dear Members:

We are writing to provide comments on HR 4460, the Disaster Recovery Reform Act, which contains some promising reforms. However, we have a number of concerns, most notably, Sec. 207(b), which would allow flood control projects carried out by the U.S. Army Corps of Engineers (hereafter “USACE Flood Control Projects”) to be funded using FEMA’s Hazard Mitigation Grant Program (HMGP) dollars. We are concerned that USACE Flood Control Projects tend to be very expensive, relative to conventional HMGP projects supported by FEMA, and generally have lower benefits-to-cost ratios. As such we urge that Sec. 207(b) be stricken from the bill.

Our organizations are encouraged by the inclusion of **Sec. 101, Pre-Disaster Mitigation Grants**, and the desire to incentivize communities’ adoption of improved building codes, design specifications for critical infrastructure, and other standards. These are critical actions that communities need to take and we support this aspect of the legislation. Likewise, we are supportive of placing a 3-year limit on Pre-Disaster Mitigation (PDM) grant recipients to make use of these and making unexpended funds available through the normal competitive application.

We are also supportive of **Sec. 102 (Additional Mitigation Activities)** which ensures that FEMA Public Assistance grants should be used, whenever practicable, to rebuild damaged facilities in a way that makes them less likely to be damaged in the future. Currently, FEMA can rebuild substantially damaged facilities to meet the most recent local codes and standards that have been adopted. However, communities have often failed to adopt the more recent building codes or standards, like the most recent version of the International Building Code. This provision would give FEMA the authority to rebuild to the most recently published versions of these codes and standards, even if the local community has not formally adopted them yet.

We support **Sec. 202 (Eligibility for Code Implementation and Enforcement)** which allows communities, in the wake of a declared disaster, to use FEMA funds to adopt and enforce more up-to-date building codes and design standards. In the aftermath of a disaster there is a heightened awareness of how updated codes and standards can make their community safer from future disasters. Allowing communities to use FEMA funds to help in this process is entirely appropriate.

Our organizations has some concerns with **Sec. 201 (Federal Cost Share Adjustments for Repair, Restoration, and Replacement of Damaged Facilities)** which increased the federal cost share to recipients of federal disaster aid to 85 percent without much clearer guidelines and criteria defined in statute. We support providing incentives for state and local governments to take actions that decrease their vulnerability to natural disasters but, as written, this provision does not give a clear enough directive to FEMA about how to do that. We are worried that in the wake of a federal disaster declaration, FEMA will be politically pressured to give credit for relatively minor actions that meet the descriptions under sub-paragraphs (i)-(v). Without adequate safeguards and clearly defined criteria, the result could be much

greater federal expenditures to repair and rebuild in the wake of a disaster with only de minimis actions taken by local governments to qualify for the 85% cost share.

Instead, we would urge the committee to create a sliding scale for cost share to incentivize states to take concrete steps to plan for and mitigate known risks. The more documented progress a state makes to enhance resilience, the more preferential cost share they would be eligible for under this system.

**Finally, our organizations oppose Sec. 207 (a) and (b)**

*(a) Waiver of General Prohibition*

We are deeply concerned about both paragraphs (a) and (b) of this section. Paragraph (a) would allow the President to issue a waiver to the existing Duplication of Benefits provisions that currently govern FEMA's use of federal disaster aid. These safeguards are in place for good reason: to ensure the reasonable and prudent use of federal disaster funds. Allowing for a waiver to be issued would enable federal disaster aid to be spent on any number of projects that states, communities, and private interests have wanted to see funded, but may not be the best use of disaster aid dollars.

*(b) Funding of a Federally Authorized Water Resources Development Project*

As stated above, our groups have concerns over allowing FEMA HMGP funds to be used for USACE Flood Control Projects. FEMA's HMGP funds are far less than the USACE's available funding for levees, sea walls, and beach replenishment projects. Given the capital-intensive nature of USACE Flood Control Projects and the higher operations and maintenance costs associated with them, this is not a cost effective use of FEMA HMGP funds. HMGP projects are generally non-structural and also have demonstrated time and again that they are cost-effective. Creating a mechanism that could siphon funding away from traditional HMGP projects to support USACE Flood Control Projects is something our organizations cannot support.

We hope the committee will be able to make the requested changes to this legislation. HR 4460 proposes many good changes, but we cannot support this bill as long as HMGP funds could be diverted to support USACE Flood Control Projects.

Sincerely

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