



August 9, 2024

Office of Response and Recovery, Public Assistance Division
Federal Emergency Management Agency (FEMA)
U.S. Department of Homeland Security (DHS)
500 C Street, SW
Washington, DC 20472

Via regulations.gov

RE: Comments of the International Code Council on the DHS/FEMA Proposed Revisions to “Public Assistance Program and Policy Guide, FP 104-009-2” - Docket ID: FEMA–2024–0010

The International Code Council (ICC) is a nonprofit organization of over 700 employees – driven by the engagement of its more than 60,000 members – dedicated to helping communities and the building industry provide safe, resilient, and sustainable construction through the development and use of model codes and standards used in design, construction, and compliance processes. Most U.S. states and communities, federal agencies, and many global markets choose the International Codes (I-Codes®) to set the standards for regulating construction and major renovations, plumbing and sanitation, fire prevention, and energy conservation in the built environment.

The codes, standards, and solutions developed by the International Code Council are used to ensure safe, affordable, resilient, and sustainable communities and buildings worldwide. The Code Council’s comments regarding the Department of Homeland Security’s (DHS) Federal Emergency Management Agency’s proposed revisions to its “Public Assistance Program and Policy Guide, FP 104-009-2” (PAPPG v5) are captured further below.

Federal agencies adopt I-Codes® and standards because they are national “voluntary consensus standards” under Office of Management and Budget (OMB) Circular A-119 and the *National Technology Transfer Advancement Act* (NTTAA), meaning they are developed in an open forum – with a balance of interests represented and due process – that, ultimately, ensures a consensus outcome. All I-Codes® are updated on a three-year cycle, with the 2024 editions currently being introduced. The NTTAA, supplemented by OMB Circular A-119, directs federal agencies to use voluntary consensus standards wherever possible in their procurement and regulatory activities in lieu of expending public resources developing government unique standards. OMB Circular A-119 “directs agencies to use standards developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with applicable law or otherwise impractical.”

In recent years, the federal government has increasingly moved towards ensuring federally assisted infrastructure adheres to modern construction standards. Such an approach was advanced during the

prior Administration within the federal government’s National Mitigation Investment Strategy¹ – developed by the Mitigation Federal Leadership Group (MitFLG), of which FEMA is a leading member – and continued by the current Administration through the National Initiative to Advance Building Codes² (NIABC). The goal of the NIABC is “to ensure that building activities receiving federal funding or financing will meet or exceed the latest building codes.”

Despite the federal government investing billions of dollars in infrastructure annually and requiring current codes and standards for its own portfolio, FEMA is the only federal entity that currently requires that federally assisted projects adhere to up-to-date building codes and standards. FEMA has done so to “increase the resilience of communities after a disaster,” “protect lives and property,” and to “reduc[e] the need for future Federal disaster recovery funding and other assistance.”³

Modern model building codes are among the most effective and systemic measures to reduce the risk to buildings and their occupants from natural and man-made hazards. Per FEMA, both the IRC[®] and IBC[®] provided more than \$27 billion dollars in cumulative mitigation benefits against flood, hurricane, wind, and earthquake hazards from 2000 to 2016.⁴ These benefits could have been doubled if all post-2000 construction adhered to the I-Codes[®]. FEMA projects that if all future construction adhered to current codes, the nation would avoid more than \$600 billion in cumulative losses from floods, hurricanes, and seismic hazards by 2060.⁵

The National Institute of Building Sciences (NIBS) estimates that building to modern building codes saves \$11 dollars for every \$1 dollar invested through earthquake, flood, and wind mitigation benefits⁶ These benefits represent avoided casualties, property damage, business interruptions, first responder and annual homeownership costs, and are enjoyed by all building stakeholders: from governments, developers, titleholders, and lenders, to tenants and communities. Better built buildings minimize repair and displacement costs and economic impacts following disasters⁷ and reduce the risk of loss.⁸

Further, strong code enforcement – which includes adequate staffing, personnel certification that demonstrates an understanding of the codes being enforced, and continuing education on code updates; improvements in building science; and best practices – ensures codes’ theoretical public safety and resilience benefits are fully realized in the field. These benefits have been quantified in several instances (e.g., strong code enforcement can help to reduce losses from catastrophic weather by 15 to 25 percent).⁹

¹ U.S. Department of Homeland Security (DHS) Mitigation Framework Leadership Group (MitFLG), [National Mitigation Investment Strategy](#) (Aug. 2019).

² The White House, [FACT SHEET: Biden-Harris Administration Launches Initiative to Modernize Building Codes, Improve Climate Resilience, and Reduce Energy Costs](#) (June 2022).

³ Federal Emergency Management Agency (FEMA), [Recovery Interim Policy FP-104-009-11, Version 2.1](#) (Dec. 2019).

⁴ FEMA, [Protecting Communities and Saving Money: The Case for Adopting Building Codes](#) (Nov. 2020).

⁵ FEMA, [Building Codes Save: A Nationwide Study](#) (Nov. 2020).

⁶ National Institute of Building Sciences (NIBS), [Natural Hazard Mitigation Saves: 2019 Report](#) (Dec. 2019).

⁷ Id.

⁸ Id. See also [Comments submitted by the Association of State Floodplain Managers \(ASFPM\)](#) in Response to [FR-6187-N-01](#), White House Council on Eliminating Barriers to Affordable Housing Request for Information (Docket HUD-2019-0092).

⁹ Czajkowski, J. et. al., *Demonstrating the Intensive Benefit to the Local Implementation of a Statewide Building Code*, Risk Management and Insurance Review (2017).

INTRODUCTION

Regarding “Document Scope, Purpose, and Use” (lines 11-17) and the “Document Management and Maintenance” (lines 22-26), the International Code Council commends FEMA for its continued commitment to providing a regularly updated and consolidated document regarding federal funding to repair and reconstruct public infrastructure available via the Public Assistance (PA) program administered by the Agency.

CHAPTER 4

Aligned with statutory changes to the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Pub.L. 93-288, as amended; *Stafford Act*) resulting from enactment of Sec. 1206 of the *Disaster Recovery Reform Act of 2018* (Div. D of Pub.L. 115-254; *DRRA*), Public Assistance can now be used for funding building code and floodplain management administration and enforcement activities for a limited period of time. As noted above, FP 204-079-01 was issued by FEMA following publication of PAPPG v4, and the policy is now fully integrated into the draft PAPPG v5 (ln. 902, Fig.7 on pg. 36; also Ins. 1123-1124, 1261-1264, Fig. 18 on pg. 224) under General Work Eligibility. The ICC appreciates the clarity provided by these amendments to the PAPPG.

In the Climate Considerations section of this chapter (Ins. 1106-1113), the Code Council further appreciates the Agency commitment to building a more resilient nation and the specific call out of expanding efforts under the PA program to advance the adoption of building codes and using cost share incentives to further mitigation efforts. However, we remain frustrated by the significant delay on the part of the Agency to issue any interim or final policy regarding the authorities provided more than six years ago by Sec. 20606 of the *Bipartisan Budget Act of 2018* (Pub.L. 115-123, *BBA18*), which added to Sec. 406(b)(3)(A)(iii) of *Stafford* – allowing the President to provide cost share increases for disaster impacted communities on more modern editions of consensus-based codes and standards – and required implementation guidance within one year of enactment (see *Stafford* Sec. 406(b)(3)(B)).

CHAPTER 6

In the Mutual Aid section, ICC appreciates the updated clarity regarding building code and floodplain management activities as eligible for reimbursement if conducted by personnel through a mutual aid agreement. Prior to the eligibility for reimbursement of these activities via mutual aid, the Code Council and the National Council of Structural Engineers Associations (NCSEA) established the Disaster Response Alliance in order to provide a single resource where building safety professionals were able to centrally organize to provide such services to disaster-impacted communities – ICC welcomes clearer guidance regarding PA eligibility for these vital services in the aftermath of disaster.

CHAPTER 8

Lines 3955-4137 are the most comprehensive portion of the PAPPG v5 related to how codes and standards apply to PA-eligible work and refers applicants to the “latest edition of FP-104-009-11.” The Code Council shared comprehensive feedback concerning FEMA’s draft update to this Policy to the

Office of Response and Recovery in April 2024, and would again encourage the Agency to consider the suggestions of our earlier correspondence for any future iterations of FP-104-009-11.¹⁰

Lines 5528-5648 clearly articulate the full scope of eligible and ineligible activities under the post-*DRRA* Category I, or Building Code and Floodplain Management Administration and Enforcement, portion of the PA program. As this section seemingly replaces FP 204-079-01, ICC notes that nowhere in PAPPG v5 is there language stating that policy has been superseded by this more recent and comprehensive section.

TERMS AND DEFINITIONS

Unrelated to any ICC equities in the sections noted above or below, it appears there is a duplicate term on line 6919 that is repeated and actually defined on line 6920.

APPENDIX J: Cost-Effective Public Assistance Hazard Mitigation Measures

The Code Council commends the Agency for the comprehensive updates to Appendix J (Ins. 7629-7795). We especially appreciate the agency's emphasis on recognizing the importance of wildfire-related mitigation projects to more effectively address the growing risk across the expanding wildland-urban interface and less predictable wildfire "seasons" (Ins. 7756-7765).

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Thank you for the opportunity to provide comments to the draft PAPPG v5. We would welcome the opportunity to discuss further with you as you work toward final publication of the document. Should you wish to schedule such a meeting or if you have any questions concerning these comments, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Davis', with a large, stylized flourish at the end.

Aaron Davis
Vice President, Federal Relations

¹⁰ [Comments submitted by the International Code Council](#) in response to FEMA's [Public Assistance Consensus-Based Codes, Specifications, and Standards Policy Update Public Comment Period \(April 2020\)](#).