

## **PUBLIC NOTICE**

### **FEMA-4678-DR-WV**

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by West Virginia Severe Storms, Flooding, Landslides and Mudslides (FEMA-4678-DR-WV) occurring from July 12, 2022 – July 13, 2022. This notice applies to the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206.

Under a major disaster declaration (FEMA-4678-DR-WV) signed by the President on November 28, 2022, the following county has been designated adversely affected by the disaster and eligible for PA: McDowell County. This County is eligible for PA only. Additional counties may be designated at a later date. All Counties in the State of West Virginia are eligible for HMGP.

FEMA intends to provide HMGP funding to the State of West Virginia to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published, if necessary, as more specific information becomes available.

This public notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-year floodplain, and critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Presidential Executive Orders 11988 and 11990 require that all federal actions in or affecting the floodplain or wetlands be reviewed for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts.

As of July 2022, FEMA partially implemented the Federal Flood Risk Management Standard (FFRMS) pursuant to Presidential Executive Order 14030, which reinstated Executive Order 13690 via FEMA Policy FP-206-21-0003. This interim policy partially implements the FFRMS by establishing the use of the Freeboard Value Approach (FVA) to determine the minimum flood protection elevation and construction requirements for certain non-critical actions involving structures in the base floodplain (Special Flood Hazard Area). FEMA applies this standard to PA projects occurring in the 100- and 500-year floodplain that involve the new construction of structures, structures that have a substantial damage determination, or structures that require substantial improvement. The interim policy also applies to non-critical actions funded under HMGP for projects consisting of structure elevation, dry floodproofing, and mitigation reconstruction located in the 500-year floodplain. For all FEMA programs and project types, if a state, local,

tribal, or territorial government has its own higher elevation standard, FEMA policy requires the use of the higher standard.

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain/wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous Presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except for certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published, if necessary, as more specific information becomes available.

In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will fund eligible restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and flood control facilities), or the project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of West Virginia and local officials will confirm to FEMA that proposed actions comply with all applicable State and local floodplain management and wetland protection requirements.

Presidential Executive Order 12898, Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, directs each federal agency to avoid disproportionate and high adverse human health or environmental effects to low-income and minority populations. FEMA aims to identify low income and minority communities at the onset of a declared event to gain better understanding of how response and recovery efforts, including mitigation may impact such groups and communities. Additionally, once low income and minority communities have been identified, FEMA aims to minimize any potential adverse impacts to those communities through encouraging alternative selection of response and recovery actions including HMGP projects.

Executive Orders 13985 and 14008 further address the need to achieve environmental justice and equity across the federal government. The issuance of these two executive orders more than 20 years after Executive Order 12898 was signed indicates the current administration's directive to federal agencies to renew their energy, effort, resources, and attention to environmental justice. Presidential Executive Order 12898, Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,

directs each federal agency to avoid disproportionate and high adverse human health or environmental effects to low-income and minority populations. FEMA is working with applicants and sub-applicants to identify communities with Environmental Justice concerns and provide an avenue for local groups and non-profits with an Environmental Justice mission to self-identify so FEMA can work with them on specific projects from the beginning of the application process.

The Rehabilitation Act of 1973 protects the civil rights of persons with disabilities. It prohibits discrimination on the basis of disability by the federal government, federal contractors, and by recipients of federal financial assistance. Any recipient or sub-recipient of federal funds is required to make their programs accessible to individuals with disabilities. Its protections apply to all programs and businesses that receive any federal funding. This applies to all elements of physical/architectural, programmatic and communication accessibility in all services and activities conducted by or funded by FEMA. FEMA intends to comply with the Rehabilitation Act in all federally conducted and assisted programs in alignment with the principals of whole community inclusion and universal accessibility.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

As noted, this may be the only public notice regarding the above-described actions under the PA and HMGP programs. Interested persons may obtain information about these actions or a specific project by writing to the Federal Emergency Management Agency, Joint Field Office, 405 Capitol Street 10th floor, Suite 1003, Charleston, West Virginia 25301; or by email: [FEMA-R3-EHP-PublicComment@fema.dhs.gov](mailto:FEMA-R3-EHP-PublicComment@fema.dhs.gov). Comments should be (addressed) sent in writing to Jeffrey L. Jones, Federal Coordinating Officer, at the above address within 15 days of the date of this notice.