

PUBLIC NOTICE

FEMA – 4831 – DR – VA

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 Tropical Storm Helene (FEMA-4831-DR- VA) occurring from September 25th to October 3rd. This notice applies to the Public Assistance (PA), Individual Assistance (IA), 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. §§ 5121-5207.

The President signed major disaster declaration FEMA-4831-DR-VA on October 1st, 2024, approving federal assistance for the IA, PA, and HMGP programs. The following counties have been designated as adversely affected by the disaster and eligible for IA and PA, including direct federal assistance, emergency work, and permanent work (Categories A through G): Bedford, Bland, Carroll, Giles, Grayson, Montgomery, Pittsylvania, Pulaski, Russell, Smyth, Tazwell, Washington, Wise, and Wythe as well as the independent cities of Galax and Rathford. The following counties have been designated for PA only (Categories A through G): Buchanan, Craig, Dickenson, Lee, and Scott as well as the independent cities of Bristol, Covington, Danville, and Norton. Additional counties or areas may be added at a later date. All counties in the Commonwealth of Virginia are eligible for HMGP.

Some of the activities for which FEMA provides assistance may affect historic properties, may be located in or affect wetland areas or the 100-year floodplain, and/or may involve critical actions within the 500-year floodplain. In those cases, FEMA must comply with Executive Order 11988, *Floodplain Management*; Executive Order 13690 *Federal Flood Risk Management Standards* (FFRMS); Executive Order 11990, *Protection of Wetlands*; the National Historic Preservation Act of 1966, 54 U.S.C. § 300101 *et seq.* (NHPA); and implementing regulations at 44 C.F.R. pt. 9 (*Floodplain Management and Protection of Wetlands*) and 36 C.F.R. pt. 800 (*Protection of Historic Properties*). The Executive Orders, NHPA, and/or regulations require FEMA to provide a public notice for certain activities as part of approving the award of assistance for specific projects.

Executive Orders 11988, 13690, and 11990 require that all federal actions (including federal awards of financial assistance) in or affecting the floodplain or wetlands be reviewed for alternatives to avoid adverse effects and incompatible developments in those areas. The regulations at 44 C.F.R. pt. 9 set forth the FEMA policy, procedure, and responsibilities for implementing the Executive Orders. Certain emergency actions, including emergency work essential to save lives and protect property, public health, and safety performed pursuant to Stafford Act sections 403 and 502 are exempt from the EO 11988 decision making process and are not subject to the FFRMS.

For those actions not excluded from 44 C.F.R. pt. 9, FEMA will identify and evaluate practicable alternatives to carrying out a proposed action in wetlands or floodplains and use social, economic, historical, environmental, legal, and safety factors when analyzing the practicability of the alternatives. Where there is no practicable alternative, FEMA will undertake a detailed review to determine what measures can be taken to minimize potential harm to lives and risk from flooding, the potential adverse impacts the action may have on others, and the potential adverse impact the action may have on floodplain and wetland values. The public is invited to participate in the process of identifying alternatives and analyzing their impacts. Other assistance projects will undergo more detailed review, including an evaluation of practicable alternatives and FEMA may publish subsequent public notices regarding such projects as necessary as more information becomes available.

As of September 9th, 2024, FEMA fully implemented the FFRMS pursuant to Executive Order 14030, which reinstated Executive Order 13690, that supplements Executive Order 11988 via FEMA Policy FP-206-24-005. This policy implements the FFRMS for PA, IA and HMGP projects. FEMA applies a higher flood resilience standard to reduce vulnerability to loss of life and property caused by flooding; avoid, to the extent possible, the long- and short-term adverse impacts associated with occupancy and modification of floodplains and avoid direct or indirect support of floodplain development wherever there is a practicable alternative; improve resilience of FEMA-funded actions against current and future flood risk to ensure they serve their purpose for as long as intended; and rely on best available information to inform agency decision making, including information on current and future flood risk and actionable climate science information, where available. This standard is applied only to FEMA-funded actions that result in new construction, repair of substantial damage or substantial improvement of structures or facilities. FFRMS does not apply to financial assistance for the repair of private homes or non-FEMA funded repairs or construction. FEMA will determine the appropriate FFRMS flood elevations and corresponding FFRMS floodplain for applicable critical and non-critical actions using the 1) Climate-Informed Science Approach; 2) Freeboard Value Approach; or 3) 0.2-Percent-Annual-Chance Flood Approach. Other elements of FFRMS must be considered even if outside of the FFRMS floodplain, in particular, nature-based solutions as a minimization measure must be considered and integrated, where appropriate.

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 \$364,000; 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. Critical public facilities include those for emergency services, medical care, utilities, other essential community services, major communication centers, and facilities designed for bulk storage of chemicals, petrochemicals, and hazardous or toxic substances. FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except those certain measures to mitigate the effects of future flooding or other hazards may be included in the work. 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. FEMA may not take an action if it is inconsistent with the criteria of the National Flood Insurance Program (NFIP) or any more restrictive, federal, state, or local floodplain management standards or building codes.

FEMA intends to provide PA program funding for repair and replacement of disaster-damaged, publicly owned facilities and specific facilities of certain private non-profit (PNP) organizations, and HMGP funding to mitigate future disaster damages. These projects may adversely affect a floodplain/wetland or may result in continuing vulnerability to floods. Actions may include repair, restoration or construction of housing or private bridges, purchase and placement of travel trailers or manufactured housing units, repair of structures as minimum protective measures, 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. This will be the only public notice concerning these actions. In the course of developing project proposals, subsequent public notices will be published, if necessary, as more specific information becomes available.

Section 106 of the NHPA requires FEMA to consider the effects of its activities (known as “undertakings”) on any historic property and to afford the Advisory Council on Historic Preservation an opportunity to comment on such projects before the expenditure of any federal funds. A federal assistance project is an “undertaking” for the purposes of the NHPA and a historic property is any property that is included in, or eligible for inclusion in, the National Register of Historic Places. For historic properties that will not be adversely affected by FEMA’s undertaking, this will be the only public notice. It will also be the only public notice if the work is an immediate rescue and salvage operation to preserve life and property (36 C.F.R. § 800.12(d)) or falls within the list of programmatic allowances set forth in the Programmatic Agreement among FEMA, the Virginia State Historic Preservation Officer, the Virginia Department of Emergency Management, the Catawba Indian Nation, the Chickahominy Indians Eastern Division, the Delaware Nation, the Delaware Tribe of Indians, the Nansemond Indian Nation, and the Upper Mattaponi Indian Tribe. FEMA may, for other projects, provide additional public notices if a proposed FEMA undertaking would adversely affect a historic property.

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, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, and 14008, *Tackling the Climate Crisis at Home and Abroad*, further address the need to achieve environmental justice and equity across the federal government.

The Rehabilitation Act of 1973 protects the civil rights of persons with disabilities. The act 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.

As noted, this may be the only public notice regarding the above-described actions under the PA, IA, 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, 4051 Innslake Dr. Glen Allen, Virginia 23060, or by email: FEMA-R3-EHP PublicComment@fema.dhs.gov. Comments should be (addressed) sent in writing to Timothy S. Pheil, the Federal Coordinating Officer, at the above address within 15 days of the date of this notice.