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TESTIMONY

Statement of

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U.S. House of Representatives

Hearing On

"Rebuilding After the Storm: Lessening Impacts and Speeding Recovery"

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Good morning Mr. Chairman, Ranking Member and Members of the Committee.

I am privileged to appear before you today to discuss the increasing number and cost of major disaster declarations. I will also touch on options for limiting the number of disaster declarations and some suggested ways of beginning to control disaster costs. While some of these suggestions are specific to regulation and legislation, the broader approach to savings may rest just as much in the general concept of mitigation, and how the future of that concept appears today following Hurricane Sandy.

Describing the Issue

An Increasing Number of Major Disaster Declarations

In the context of our discussions it is important to acknowledge that there has been a steady increase in major disaster declarations:

> Since 1953 the number of declarations issued each year has steadily increased. For example, the average number of major disaster declarations issued from 1960 to 1969 was roughly 18 per year. In contrast, the average number of major disaster declarations issued from 2000 to 2009 was 56 per year. The highest number was declared in 2011, with 99 major disaster declarations.[1]

Of course, having noted this trend I should also note that in 2014 there were 45 major disaster declarations. That is the lowest number since 2001.

I mention that exception not only because it is the most recent year with complete data but because that smaller number tends to reinforce one factor regarding disaster declarations that is often ignored: they are based on actual events. Often discussions of declarations focus on political considerations or formula-driven spending. But disaster declarations do begin with actual natural events.

The trend of increased numbers of declarations issued each year has accelerated over the last 25 years. In addition to an increase in actual extreme weather events that can be observed over as long as the last fifty years[2] there are also other factors that might be considered. For example, during the last seven decades the population of the nation nearly doubled. In addition it could be argued that the population growth has increased the density of already existing communities and spurred development into areas that were previously uninhabited. These areas might have previously been hit by disasters but since there was little or no population, no declarations would have resulted.

Another contributing factor to increasing the number of major disaster declarations was FEMA's own change of policy regarding snow emergencies, which has led to an increased number of major disaster declarations. As a recent report explains:

> Prior to 2009, FEMA provided federal assistance for snow removal costs for a stipulated period—usually two or three days. Most of these events were defined as a "snow emergency" because of the relatively limited assistance requested and provided. In November 2009, FEMA published new regulations for snowstorms and severe winter storms. Under the new regulations, snow related events could be defined as major disasters.[3]

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[1] For additional information see CRS Report R42702, *Stafford Act Declarations 1953-2011: Trends and Analyses and Implications for Congress*, by Bruce R. Lindsay and Francis X. McCarthy.

[2] Ibid, "Figure 7. Weather Incidents and Emergency and Major Disaster Declarations: A Comparison," p. 12. Note: This figure is referencing increases in tornado activity and hail storms and does not include flooding and hurricanes.

[3] See CRS Report R43802, *Major Disaster Declarations for Snow Assistance and Severe Winter Storms: An Overview*, by Bruce

Given the discretionary nature of the disaster declaration process it is inevitable that many motives can be read into the process. Some might suspect it is only a political process while others might assert that it is a product of incomplete regulations or some other form of favoritism built into the process to benefit states of a certain size or location.

Also inherent in some critiques of the increased number of declarations is the assumption that smaller disasters are of a size that are within the state's capacity to respond and assist communities in their recovery, and thus should not be declared major disasters. But the central point of the declaration process, particularly the use of a threshold based on damage and population, is that all states are not the same. There is an expectation in the process that larger states do have more resources and should be able to offer more aid on their own.

What appears like a minor event to some observers may be an acutely difficult event for less populated states with little capacity to assist their citizens. This does raise the question, as do almost all declarations, of state priorities and how much of their resources they devote to disaster response and recovery. This has always been a difficult area to measure and evaluate, and FEMA has made some previous attempts to assess state readiness and their capabilities. But the per capita threshold amount used by FEMA in reviewing damage has remained the agent of such concerns regarding state capabilities.[4]

There can be many interpretations and there are other factors to note regarding increasing number of declarations. This includes the growing professionalism of emergency management as a whole that contributes to more complete requests and compilations of information being submitted, and arguably more favorable consideration for those disaster declaration requests.[5]

Defining Declarations

Within the discussion of the increase in the number of disaster declarations it is also important to note that it is valuable to concentrate on major disaster declarations rather than combining major disasters, emergencies, and fire management assistance grants. While all three are funded by the Disaster Relief Fund, major disasters account for the overwhelming majority of all spending. Also, the fire management grants work through a formula delegated to the FEMA regional level and the White House is not a part of the process.[6] Conflating the three together results in much higher numbers of "declarations" but is not an accurate accounting of actual major disaster declarations that result in significant spending.

Where the Dollars Go

The increasing number of declarations tracks with the increasing costs of federal disaster assistance. But it is also important to note that the greatest amount of disaster spending is attributable to the largest declarations. For instance, CRS reviewed disaster declarations and amounts obligated to those declarations from 1989 to 2014. During that period under review there were 1,364 major disaster

R. Lindsay.

[4] FEMA adds up all eligible damage (under the Stafford Act legislation for disaster relief) and divides that amount by the state's population. The current threshold amount for a state must exceed $1.37 per person in the state. For example, if a state has 10 million people then its total damage amount must be beyond $13.7 million.

[5] For a more complete discussion, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy.

[6] For more detailed information on fire grants, see CRS Report R43738, *Fire Management Assistance Grants: Frequently Asked Questions*, by Bruce R. Lindsay.

declarations. Half of those declarations (682), with costs from as low as $200,000 up to $13.9 million, amount to less than 3% of disaster costs over that 25-year period. In fact, if we look at the highest quartile, the 341 disaster declarations with spending in excess of $41.8 million, that grouping accounts for nearly 93% of all disaster spending. Included in that quartile, since 1996, are 15 events with spending in excess of $500 million.[7]

The Effect of the Increasing Number of Disaster Declarations

Another question posed by the reality of increased disaster expenditures, is what effect an increasing number of declarations may have on the quality of emergency management.

Some observers have suggested that the increasing number of smaller disasters ties up FEMA resources and leaves the agency unprepared for larger, catastrophic incidents. They contend that the constancy of declarations across the nation may overextend FEMA's regional and national staff. This is a question that FEMA is best able to address, but there are some assumptions that can be considered.

The smaller disasters do require a base level of administrative involvement. This can include: the establishment of Joint Field Offices; the triggering of call centers for individual and household applicants in the event that Individual Assistance is part of the declaration; and operational staffing from Federal Coordinating Officers, regional program managers, and temporary field/cadre staff. This is almost always a significant commitment. This might also be a rationale for increasing the state's administrative role in the disaster rather than taxing FEMA resources.

Some might argue, however, that the small disasters present essential training opportunities for field staff, particularly for the reservist corps and the newer staff that receive both training and experience working on disasters that are not on a catastrophic scale. Additionally, the small scale disasters also present openings for detailed discussion of regulations and policy implementation prior to such questions surfacing, on a much grander scale, during large incidents.

Options for Limiting the Number and Cost of Disaster Declarations

Changes to the Stafford Act

The following are some options for potential changes to the Stafford Act that might limit the number of declarations being issued each year and reduce the amount of spending from the Disaster Relief Fund (DRF). This is not an inclusive list but it does explore a range of possibilities.

Repeal of Section 320

Section 320 of the Stafford Act restricts the use of an arithmetic or sliding scale to provide federal assistance. This section was enacted by Congress as a response to some FEMA legislative suggestions that would have applied a strict formula to the declarations process and also would have reduced the federal share for disaster assistance from 75% to 50%. Through Section 320, Congress insisted that a

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[7] A complete list of large events appears in CRS Report R43537, *FEMA's Disaster Relief Fund: Overview and Selected Issues*, by Bruce R. Lindsay, p. 6.

formula not be the sole determinant on declarations. This also draws attention to the factors considered for a declaration as listed in regulations beginning in 1999.

There are at least six factors considered for both Public Assistance and Individual Assistance respectively. Only one of these factors considers the per capita impact.[8]

Repealing Section 320 would allow the inclusion of formulas that establish certain thresholds that states would have to meet to qualify for assistance. Or the Congress could consider amending Section 320 to permit, or direct, the use of various measurements of state capacity when evaluating a request for a major disaster declaration. Such actions would arguably be a major change to the spirit of the section.

Section 404

Section 404 of the Stafford Act[9] authorizes the President to contribute up to 75% of the cost of an incident toward mitigation measures that reduce the risk of future damage, loss of life, and suffering. Section 404 could be amended to make mitigation assistance contingent on state codes being in place prior to an event. For example, states that have met certain mitigation standards could remain eligible for the 75% federal cost-share. States that do not meet the standards would be eligible for a smaller share, such as a 50% federal cost-share.

Such an amendment may incentivize mitigation work on the behalf of the state and possibly help reduce damages to the extent that a request for assistance is not needed, or the cost of the federal share may be lessened. The amendment could be set to take effect in three years, giving states time to act in reaction to the provision, or not.

Other Potential Amendments to the Stafford Act

Other amendments to the Stafford Act could either limit the number of declarations being issued, or the amount of assistance provided to the state by the federal government.

The Stafford Act could be amended so that there could be no administrative adjustment of the cost-share,[10] and therefore the cost-share could only be adjusted through congressional action. The amendment could be designed to apply immediately.

The Stafford Act could be amended so that federal assistance would only be available for states with corollary programs (such as Public Assistance, Individual Assistance, and housing assistance). Establishing these programs at the state level may increase state capacity to handle some incidents without federal assistance. The amendment could be designed to take effect in three years, giving states time to act, or not.

The Stafford Act could be amended to discontinue all assistance for snow removal unless directed by Congress. The amendment could be designed to take effect in three years to give states and localities an opportunity to increase snow removal budgets, or not.

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[8] 44 C.F.R. Section 206.48.

[9] 42 U.S.C. §5170c.

[10] This authority currently exists in 44 C.F.R. 306.47.

Adjust the State Cost-Share

Most discussions regarding state cost-shares in disaster programs and projects involve ways in which the state amount may be reduced and the federal share increased.[11] Some may contend, however, that the opposite approach should be adopted and efforts should be undertaken to reduce disaster costs by shifting the costs to the state and local level. Currently, state and local governments provide 25% of disaster costs on infrastructure projects and grants to families and individuals with the federal government assuming, at a minimum, 75% of all costs.[12] There is no statutory limit on the number of people that can be helped following a disaster.[13]

Similarly, when assessing damage to state and local infrastructure there is no cap on the amount of federal funds that can be expended to make the repairs or accomplish a replacement. The only limitation is that the damage must be to eligible facilities and that it is disaster-related damage. Given that open-ended commitment by the federal government, some may argue that increasing the state share of 25% to a higher percentage would be warranted given the federal government's fiscal condition. Another option would be, as noted above, to make the cost-share arrangement not subject to administrative adjustment. Congress would still retain the option to adjust the cost-share legislatively for extraordinary circumstances.

Disaster Loans

The assistance provided, at least for emergency declarations to prevent greater damage, could be provided through the form of loans. Similarly, some or all of the assistance provided to the state after a major disaster could be converted to low-interest or no-interest loans. For example, a state might receive the traditional 75% cost-share for an incident but be required to reimburse 25% of that funding to the federal government. Loans for disaster recovery could also be incentivized. For instance, states that undertook certain preestablished preparedness mitigation measures could qualify for a larger federal share or a lower interest rate.

Given the variables under discussion that can lead to increased declarations, including trends in severe weather patterns, population growth, and development, the upward trend of declarations will likely continue if declarations policies remain unchanged.

Some may contend that the policy mechanisms used to address the increase in declarations should be shaped by its causes. Others may argue that if the causes are due to an increase in severe weather incidents, population growth, or development, then the declaration process should remain unchanged.

Alternatively, thresholds for federal assistance could be adjusted to eliminate what are perceived to be marginal incidents and focus federal assistance on large-scale disasters. Another method would be shifting a greater share of the responsibility for providing assistance from the federal government to states and localities.

The approach to reduce declarations might shift somewhat if the increase in declarations and their cost is due primarily to federal policies. If that is the case, it could be argued that constraining the President's discretion to issue declarations or reforming FEMA policies may be more suitable. If the increase is tied

[11] For additional discussion on this topic see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy.

[12] Ibid.

[13] There is however, a limit on how much any one household can receive ($32,400 at the time of this testimony).

to state policies, then mechanisms such as the use of loans or other incentives could be implemented to help decrease the number of state requests for assistance.

Finally, a combination of all of the above could be implemented. At the heart of the declaration phenomenon is the role of the government when a disaster strikes. While it is generally agreed that the government should help disaster victims in time of need, it is unclear whether the fiscal responsibility resides primarily with the federal or the state government. Finding the balance has thus far been elusive, and altering the declaration process could have important implications for both federal and state officials, as well as disaster victims.

Many of the policy options described in this testimony would shift a greater share of disaster-related costs to states and localities. It remains to be seen if reducing declarations and/or limiting the amount of disaster assistance provided to requesting states would severely disrupt the state's ability to adequately recover from an incident, or if states would be able to adjust to the changes by reallocating available state resources.

Reducing Disaster Costs Through Mitigation

Mitigation is the attempt to lessen disaster damage and the risk of future damage and loss of life through specific actions. It has been an important component of disaster relief assistance over the last quarter century. Last spring, this subcommittee honed in on the uncertain message currently being sent by the Administration regarding the role of disaster mitigation. As the Chairman's opening statement explained:

> Disaster mitigation has been proven to reduce the risks in disasters, including floods. At the federal level, there are programs that can help states and communities mitigate against disasters. For example, the Hazard Mitigation Grant Program, the Pre-Disaster Mitigation program, as well as the Hazard Mitigation Assistance Program help offset the costs of mitigation activities across the Nation.
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> That is why I am concerned the Administration's proposed budget for fiscal year 2015 removes the Pre-Disaster Mitigation Program funding out of FEMA's base budget. Recently, I along with Ranking Member Carson and other Members of Congress wrote a letter to the appropriators making clear continued funding for this program is critical.[14]

At a time when consensus appeared to have developed regarding the efficacy of mitigation, some mitigation funding was being reduced while, at the same time, the President's budget message sought to place other funds into the PDM program:

> The FY2015 request appears to send mixed signals in this area. Although the line item for the PDM program is zero, the PDM *fund* is included in the Administration's "Opportunity, Growth and Security Initiative." That initiative would provide significant funding for the PDM fund, although not for the PDM program as currently understood. As the budget request notes, the initiative "would provide $400 million to this fund."[15] At one oversight hearing a FEMA witness sought to explain the dissonance in the budget message by framing the initiative as forward-looking while mitigation was based on past, previous events.[16] While mitigation does include

[14] U.S. House of Representatives, Hearing before the Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings and Emergency Management, "Disaster Mitigation: Reducing Costs and Saving Lives," Opening Statement of Rep. Barletta, April 3, 2014.

[15] DHS/FEMA, National Pre-Disaster Mitigation Fund, FY2015 Submission, I. Appropriation Summary, C. Budget Request Summary.

[16] U.S. House of Representatives, Hearing before the Subcommittee on Economic Development, Public Buildings and

> some calculations based on losses from previous events, mitigation is generally considered to be actions taken to lessen the threat of future hazardous events. Congress may wish to explore this difference in definitions through its budget discussions.[17]

Also, the actual message regarding losses from previous events and subsequent savings due to mitigation actions is vitally important when such savings can be verified when disasters repeatedly strike the same areas.

Historically, most would point to the aftermath of the great Mississippi River flooding of 1993 as the time when modern disaster mitigation took hold. Thousands of homes were purchased and communities, as best they could, moved back from the river. A prime example of this work was in St. Charles County, Missouri. The same area was inundated just two years later in 1995. But there was a significant difference.

> In 1993 there were 4,227 applicants for supplemental federal assistance, while in 1995 only 333 applications were received. More dramatically, in 1993 FEMA program expenditures exceeded $26 million, but in 1995 those same programs reported spending of less than $300,000.[18]

These types of stories have continued over the ensuing decades and represent an avenue for reduced disaster costs in the future. Other mitigation practices, such as safe houses, may not offer the promise of reduced eligible damage, but they do save lives and prevent injury. These types of results are built into the mitigation programs regulations regarding eligibility for mitigation projects which call for them to be "cost effective and substantially reduce the risk of future damage, hardship, loss or suffering resulting from a major disaster."[19]

While the mixed messages on mitigation have arguably caused some uncertainty for those wishing to participate in mitigation programs, it should also be pointed out that the Administration has introduced a nationwide resilience competition with resources of just under $1 billion through the Department of Housing and Urban Development (HUD).[20]

This initiative could be a substantial boost to future disaster mitigation savings but it's not clear how this initiative links to other mitigation programs. It does not appear to have the same cost-benefit requirements as the FEMA mitigation programs nor is there any reported collaboration among the existing programs.

Still, the size and breadth of the resilience competition does hold out the possibility of fostering creative new approaches to preventing future disaster damage. This program, which encourages innovation and is open to states that have had recent disaster declaration, will be accepting applications through March of this year. So a more informed evaluation may be possible based on the applications received.

Mitigation is not a panacea for all of the problems created by natural disasters. But it does offer the possibility of savings in federal expenditures, safer states and communities, and a process that involves a partnership at all levels with the participation of the non-profit community and the private sector as well.

Emergency Management of the Committee on Transportation and Infrastructure, "Disaster Mitigation: Reducing Costs and Saving Lives," April 3, 2014.

[17] CRS Report R43796, *Department of Homeland Security: FY2015 Appropriations*, William L. Painter, Coordinator, pp. 80-81.

[18] *FEMA Property Acquisition Handbook,* St. Charles County, Missouri, p.viii, http://www.fema.gov/government/grant/resources/acqhandbook.shtm.

[19] 44 C.F.R. 206.434(c)5.

[20] U.S. Department of Housing and Urban Development, *HUD Launches National Disaster Resilience Competition: Partnership with Rockefeller Foundation,* HUD No. 14-109, September 17, 2014, hud.govhttp://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2014/HUDNo_14-109.

Fewer disaster declarations would likely result in less spending. But avoiding or continuing to mitigate or lessen the impact of future catastrophic disaster events may arguably hold the most promise in reducing disaster expenditures.

Thank you for the opportunity of appearing before you today. I would be happy to respond to any of your questions.