

United States Senate

April 23, 2024

The Honorable Deanne Criswell
Administrator
FEMA
500 C Street, SW
Washington, DC 20472

Mr. Robert Samaan
Regional Administrator, Region 4
FEMA
3003 Chamblee Tucker Road
Atlanta, GA 30341

Dear Administrator Criswell and Regional Administrator Samaan:

I would like to thank you for your commitment and efforts in response to my concerns with Federal Emergency Management Agency's (FEMA) recent decision to retrograde the Community Rating System (CRS) rating of several municipalities in Lee County, Florida. I have spoken with several local officials in the affected area about the issue and their work to comply with FEMA's requests and we appreciate your continued efforts to coordinate and communicate with them. I would also like to thank FEMA for the additional 30 days granted to the five municipalities affected on April 19, 2024.

I have informed Lee County and city officials that I have had a positive experience with FEMA and my hope is that FEMA's ultimate decision will be clear and transparent with regard to any regulation and guidance required for compliance and, secondly, that it is made clear whether local officials complied. My goal is that Lee County and city officials know exactly what the regulations are for full compliance and that it will be abundantly clear whether or not they complied with those requirements.

During my most recent conversation with officials this week, the following requests were made were made to FEMA so that local officials can better comply and productively work with the Agency to fulfill your requests for information and ultimately work to reverse the rating decision during this 60-day extension. I will meet with Lee County area officials again next week. Therefore, I would greatly appreciate FEMA's response to these inquiries, in writing, to all stakeholders *before* that time so we can all continue to make meaningful progress on this important issue.

Requests for FEMA:

1. **Please provide timely feedback on information submitted by local officials to FEMA** so they are aware of any additional documentation needed well before any set deadlines.

2. **Please provide written clarification regarding the regulation for damage assessments.** The manual allows a choice of proactively inspecting buildings soon after the event, or notifying owners of the requirement to get permits and making the determination when owners apply for permits. Some local officials have been told that they should have reviewed proactively and that the manual will be changed in the future to eliminate options.

Please confirm in writing if these evaluations will be based on the regulations and policies in effect at the time of Hurricane Ian, and not upon proposed or future changes to regulations or policies. Local officials are concerned about complying with a regulation that has not yet gone into effect. It would be helpful if you could make it absolutely clear to all those involved what exactly are the rules and guidance for compliance.

3. Once an individual property identified in the Findings Report is submitted from the municipality to FEMA, **please confirm a standard timeframe of response of sufficiency.** Further, once an individual property is determined sufficient, **please confirm a standard timeframe of response from FEMA to the municipality on a determination of compliance.**
4. Regarding FEMA's "Substantial Improvement/Substantial Damage Desk Reference" (FEMA P-758/May 2010, page 7.6), local officials are seeking verification on the two available options for communities concerning substantial damage determinations (*see below manual text*).

Excerpt from FEMA's Manual Text:¹

7.5 Damage Assessments for Substantial Damage Determinations Communities have choices about how to handle making substantial damage determinations when many buildings have been damaged by a significant event:

- *They can proactively inspect buildings soon after the event and use available information to estimate repair costs and market values; those data can then be used to develop substantial damage determinations in advance of owners submitting applications with more detail; or*
- *They can notify owners of the requirement to get permits and then wait for property owners to apply for permits and make substantial damage determinations at that time, following their normal permit review procedures.*

During a recent team meeting with FEMA Region 4 staff, local officials were informed that FEMA's preferred method is option 1 (first bullet above) and the manual is in the process of being amended. Local officials have concerns that the

¹ FEMA, "Substantial Improvement/ Substantial Damage Desk Reference," FEMA P-758. Published May 2010.

retrograde decision was based at least partially on a future amendment to FEMA's Substantial Improvement/Substantial Damage manual. **Please verify, in writing, that both options available to communities under section 7.5 comply with the National Floodplain Insurance Program's current floodplain management standards.** For example, due to the significant number of structures (51,818) located in the Special Flood Hazard Area and the lack of available resources after Ian, the City of Cape Coral utilized both available methods. It seems more fair if future change to update the manual should be applied to future events and ratings.

5. Previously, local officials had received some pictures and claims data from FEMA related to the properties in their Findings Report. However, some had not yet received individual assistance data or other documentation related to FEMA's Findings Report. **Please confirm when local officials will receive this documentation.**
6. Local officials would like clarification on procedures and shared data. For example, the Town of Fort Myers Beach is still operating with the exact same procedures that it had in place prior to Hurricane Ian, at which time their rating was a five in the CRS rating system. **Local officials would like to know what happened to change the parameters so drastically that lead to FEMA's current position.**
7. Previously, local officials had been told that FEMA would be releasing data that it compiled after the disaster, and that each affected municipality would receive the files no later than Friday, April 12th. Some local officials received their information late and have received files that cannot be accessed. **Please resend this documentation in a readily accessible format to local officials and confirm that all information has been shared with local officials to date.**
8. Previously, FEMA indicated local officials would have 30 days to respond to FEMA's concerns before issuing a decision to "retrograde" or "probation" (retrograde meaning eliminating the discount of on all flood insurance policies for a period of about 1 year, or probation, which also eliminates the discount on all flood insurance policies, but for an extended number of years). However, some local officials have not received the letter and are unclear in their understanding of when the "clock starts on the 30 days". **Please confirm that these letters were provided to local officials with clarity on this language.**
9. Previously, there were concerns about understanding what data FEMA will rely on to make the retrograde and probation determination. The data requested is a

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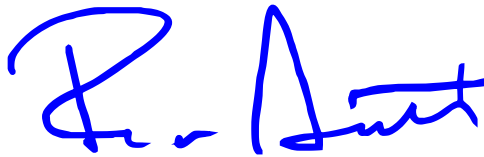
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relatively small subset of the flooded properties, while the total number of flooded properties is much larger, and the total number of properties in the potential flood zones, most likely receiving some discount on their flood insurance policies, is much larger still. **Please confirm that FEMA has provided additional clarity to local officials about which subset(s) of data will be used by FEMA to make determination decisions.**

I would like to extend my sincere gratitude for your assistance in our efforts to reverse FEMA's recent decisions regarding the Community Rating System (CRS) in the Lee County area. Your responses will be instrumental in ensuring the community's concerns are heard and addressed. Thank you for your prompt attention to my requests.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rick Scott". The signature is stylized and cursive.

Rick Scott
United States Senator

CC:

Lee County Board of County Commissioners
City of Bonita Springs
City of Cape Coral
Town of Fort Myers Beach
Village of Estero