FEMA

Public Assistance Required Minimum Standards

FEMA Recovery Policy FP-104-009-4

BACKGROUND

FEMA's Public Assistance program will generally require the integration and use of the hazard-resistant provisions of the International Code Council's (ICC) International Building Code (IBC), the International Existing Building Code (IEBC), and/or the International Residential Code (IRC) as a minimum design standard for all eligible building restoration projects where the design standard is triggered.

PURPOSE

The purpose of the policy is to establish minimum standards for Public Assistance projects to promote resiliency and achieve risk reduction under the authority of the Stafford Act §§ 323 and 406(e) (42 U.S.C. §§ 5165a and 5172) and 44 CFR § 206, subpart M.

PRINCIPLES

Integration of nationally recognized consensus-based building codes and standards into Public Assistance activities will:

A. Protect Lives and Property: Use of nationally recognized consensus-based building codes and standards will further FEMA's core mission to protect lives and property by increasing the safety and risk reduction capabilities of buildings that receive Public Assistance funding.
B. Support the Efficient Use of Federal Dollars: Recipients and sub-recipients using nationally recognized consensus-based building codes and standards for federally funded projects will reduce vulnerability to new construction and repaired and retrofitted buildings, thus reducing the need for future Federal disaster recovery grants and other assistance.
C. Increase Effectiveness: Consideration of standards-based approaches are necessary to increase the predictability of authorized FEMA activities, enhance feasibility and effectiveness requirements, as well as advance the sustainability of FEMA-funded activities.

REQUIREMENTS

A. MINIMUM STANDARDS FOR PUBLIC ASSISTANCE-FUNDED BUILDINGS

Outcome: As a condition of assistance, buildings eligible for repair, replacement, or construction located in hazard-prone areas will use, at a minimum, the hazard-resistant standards referenced in the most recent edition of the model building code (IBC, IEBC, and IRC) as of the disaster declaration date.

1. Public Assistance will use the hazard-resistant design standards in or referenced in the most recent IBC, IEBC, and/or IRC as a minimum design standards for all Public Assistance funded buildings in hazard-prone areas when the design standard is triggered.[1]
   a. Applicability
      i. This policy applies to all Public Assistance funded repair, replacement, or construction[2] of buildings in tornado, wind, seismic, and flood-prone areas, the location of which is identified in the IBC, IEBC, or IRC, regardless of the type of incident that caused the damage.
      ii. This policy applies when a building: is Substantially Damaged, suffers Substantial Structural Damage, and/or eligible for Replacement in accordance with the 44 CFR part 206.226(f).
         1. Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
         2. Substantial Structural Damage: Significant damage to the vertical elements of the lateral force-resisting system and/or the vertical gravity load-carrying components in accordance with the IBC or IEBC.
         3. Replacement: Disaster-related damage exceeds 50% of the cost to replace a facility to its pre-disaster condition.
      iii. The determination of whether a standard is triggered may be made by the appropriate building official or inspector, where applicable, or by the recipient's or subrecipient's registered design professional or other appropriate and qualified individual. FEMA will generally accept this determination, but may review the determination to ensure it was made consistent with the standard.
      iv. This policy applies to all major disasters declared after the date of publication.
   b. Eligible costs
      i. Costs associated with implementing these standards are eligible costs under the Public Assistance Program at the cost share for the disaster.
      ii. These standards must apply to the type of repair or restoration required; be appropriate to the pre-disaster use of the facility; and be reasonable.
      iii. Funding for capped projects (Improved, Alternate, and Alternative Procedure projects) will be capped based on the estimated amount to restore the building to its pre-disaster design and function and any codes or standards, including those established by this policy. The capped amount will not be adjusted to include additional costs for codes and standards that apply to the new project.

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[1] FEMA has determined that these codes represent the minimum adequate standards which are generally necessary to protect the federal investment of Public Assistance funding. Stafford Act § 323, 42 U.S.C. § 5165a, § 406(e), 42 U.S.C. § 5172, and 44 CFR § 206.400.

[2] This includes improved and alternate projects. Per 44 CFR § 206.203(d), funding for improved and alternate projects is capped at the cost to restore the facility to its pre-disaster design and function in accordance with codes and standards, including the required codes and standards referenced in this section, that would otherwise be applicable to the facility if rebuilt as it existed.

c. Standards
   i. When triggered by the eligible repair, replacement, or construction, disaster-specific requirements include, but are not limited to, the following:[3]
      1. In areas where tornado shelter design wind speeds are 250 miles per hour (mph), a storm shelter or safe room designed to the ICC 500, *Standard for the Design and Construction of Storm Shelters*. The 2015 IBC requirement is specific to elementary and secondary schools with an occupant load of 50 or more, emergency operation centers, 911 call stations, fire stations, rescue stations, ambulance stations and police stations.
      2. For wind-resistant requirements, applicable wind-resistant design and construction standards contained in the IBC, IEBC, or IRC and its referenced standards [i.e., American Society of Civil Engineers (ASCE), Structural Engineering Institutes (SEI) 7, etc.].
      3. For seismic-resistant requirements, applicable seismic resistant design and construction standards contained in the IBC, IEBC, or IRC and its referenced standards (i.e., ASCE/SEI 7 and 41).[4]
      4. For flood-resistant requirements, applicable flood-resistant design and construction standards contained in the IBC, IEBC, or IRC and its referenced standards (i.e., ASCE/SEI 7 and 24).

d. Implementation Requirements
   i. FEMA will generally require that the subrecipient incorporate the standards referenced in this policy in the planning and design of eligible repair, replacement, or construction of the eligible building even if these standards exceed local standards or in instances where communities have not adopted building standards. FEMA will generally accept the determination of the local building official, registered design professional, or other appropriate and qualified individual to determine how the IBC, IEBC, or IRC standards apply to a specific project. If the IBC, IEBC, or IRC have been adopted under another name (for example California Building Code), and the local building official, registered design professional, or other appropriate and qualified individual have determined that the code meets the hazard-resistant provisions in the model codes, that code will meet the requirement of this policy.
   ii. FEMA may deviate from this policy in circumstances where utilization of the standards would create an extraordinary burden on the subrecipient or would otherwise be inappropriate for the facility.
   iii. Failure to incorporate these minimum standards or their equivalent in the planning and design of eligible repair, replacement, or construction, if required, may result in denial or de-obligation of FEMA funding for the facility. Therefore, the subrecipient should work with its local building official,

[3] See http://www.fema.gov/building-code-resources for additional guidance on hazard-specific standard requirements.
[4] These seismic-resistant requirements are also mandated by Executive Order 13717, Establishing a Federal Earthquake Risk Management Standard.

registered design professional, or other appropriate and qualified individual to ensure compliance with any building standards and requirements.

iv. If local codes or standards require a stricter hazard-resistant upgrade than those required by the IBC, IEBC, or IRC or an upgrade that is not related to reducing disaster risk, FEMA will determine the eligibility of the costs to comply with the local standards based on 44 CFR 206.226(d) and related policy.

e. Verification Requirements

i. Upon completion of the project, the subrecipient must provide proof of compliance.[5] Acceptable forms of proof include, but are not limited to, written certification by a registered design professional that the hazard-resistant design elements comply with IBC, IEBC, or IRC requirements or a valid certificate of occupancy from the local building department that supports that the project was constructed or restored as designed. Non-compliance will result in denial or de-obligation of PA funding for the facility.

2. Additional information

a. Eligible building projects involving substantial improvement or new construction in flood hazard areas must meet the floodproofing or elevation requirements as described in 44 CFR § 9.11(d), or the IBC, IEBC, or IRC, whichever is higher.

b. When evaluating whether a building is eligible for replacement under 44 CFR § 206.226(f), upgrades to meet the IBC, IEBC, or IRC codes will be treated in the same manner as locally adopted codes and standards for the purposes of calculating repair and replacement costs. For example, any whole building upgrade, such as elevation or floodproofing, of a building will be included in the replacement cost calculation only.

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Assistant Administrator for Recovery

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Date

[5] Stafford Act § 323, 42 U.S.C. § 5165a, and 44 CFR § 206.402

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ADDITIONAL INFORMATION

REVIEW CYCLE

FEMA Recovery Policy FP-104-009-4 Public Assistance Required Minimum Standards will be incorporated into Chapter 2:VII.C.2 Public Assistance Program and Policy Guide, which will be reviewed, revised, and reissued on an annual basis.

AUTHORITIES

A. Stafford Act § 323, 42 U.S.C. § 5165a and § 406(e), 42 U.S.C. § 5172
B. Executive Order 13717, *Establishing a Federal Earthquake Risk Management Standard.*
C. Code of Federal Regulations 44 CFR §§ 206.400 – 206.402
D. Code of Federal Regulations 44 CFR § 206.226(d)

REFERENCES

A. *Public Assistance Program and Policy Guide. FP 104-009-2. January 2016.*
B. *Disaster Risk Reduction Minimum Codes and Standards*, FEMA Policy 204-078-2 (September 6, 2016)

DEFINITIONS

Building[6]: Any structure used or intended for supporting or sheltering any use or occupancy.

Certificate of Occupancy: A document issued by a local government agency or building department certifying a building's compliance with applicable zoning requirements, building codes and other laws, and indicating it to be in a condition suitable for occupancy.

International Building Code: A model building code developed by the International Code Council.

International Code Council: A non-profit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes.

Registered Design Professional: An individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

Substantial Damage: Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

[6] *2015 International Building Code, Chapter 2.*

Substantial Structural Damage: Significant damage to the vertical elements of the lateral force-resisting system and/or the vertical gravity load-carrying components in accordance with the IBC or IEBC.

QUESTIONS

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