

119TH CONGRESS
2D SESSION

S. _____

To establish a Federal standard in order to improve the Nation’s resilience
to current and future flood risk.

IN THE SENATE OF THE UNITED STATES

Mr. VAN HOLLEN introduced the following bill; which was read twice and
referred to the Committee on _____

A BILL

To establish a Federal standard in order to improve the
Nation’s resilience to current and future flood risk.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Flood Risk
5 Management Act of 2026”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the Federal

1 Emergency Management Agency or any successor
2 agency.

3 (2) AGENCY.—The term “agency”—

4 (A) has the meaning given the term “Exec-
5 utive agency” in section 105 of title 5, United
6 States Code; and

7 (B) does not apply to an agency that does
8 not take agency actions in or affecting
9 floodplains.

10 (3) AGENCY ACTION.—The term “agency ac-
11 tion”—

12 (A) means, with respect to an agency—

13 (i) acquiring, managing, and disposing
14 of Federal lands and facilities;

15 (ii) providing construction and im-
16 provements that are undertaken, financed
17 by, or assisted by the Federal Government;
18 and

19 (iii) conducting Federal activities and
20 programs that affect land use, including
21 planning, regulating, and licensing activi-
22 ties relating to water and land resources;
23 and

1 (B) does not include a military construc-
2 tion project described in section 2802 of title
3 10, United States Code.

4 (4) BASE FLOOD.—The term “base flood”
5 means a flood that has a not less than 1 percent
6 chance of occurring in a year.

7 (5) CRITICAL ACTION.—The term “critical ac-
8 tion” means any agency action with respect to which
9 the head of the agency determines a slight chance of
10 flooding would present an unacceptable amount of
11 risk.

12 (6) EMERGENCY.—The term “emergency”
13 means a situation that would result in an unaccept-
14 able hazard to life, a significant loss of property, or
15 an immediate, unforeseen, and significant economic
16 hardship.

17 (7) EXECUTIVE ORDER 11988.—The term “Ex-
18 ecutive Order 11988” means Executive Order 11988
19 (42 Fed. Reg. 26951; relating to floodplain manage-
20 ment).

21 (8) FEDERALLY FUNDED PROJECT.—The term
22 “federally funded project” means an action in which
23 Federal funds are used, with respect to a structure
24 or facility, for new construction, for substantial im-
25 provement, or to address substantial damage.

1 (9) FLOODPLAIN.—The term “floodplain”
2 means, subject to section 4(b)(2), the lowland and
3 relatively flat area that adjoins inland and coastal
4 waters (including flood-prone areas of offshore is-
5 lands).

6 (10) NATIONAL FLOOD INSURANCE PRO-
7 GRAM.—The term “National Flood Insurance Pro-
8 gram” means the program established under the Na-
9 tional Flood Insurance Act of 1968 (42 U.S.C. 4001
10 et seq.).

11 (11) STANDARD.—The term “Standard” means
12 the Federal Flood Risk Management Standard set
13 forth in Appendix G to Guidelines for Implementing
14 Executive Order 11988, Floodplain Management,
15 and Executive Order 13690, Establishing a Federal
16 Flood Risk Management Standard and a Process for
17 Further Soliciting and Considering Stakeholder
18 Input, published on October 8, 2015.

19 (12) WATER RESOURCES COUNCIL.—The term
20 “Water Resources Council” means the Council es-
21 tablished under section 101 of the Water Resources
22 Planning Act (42 U.S.C. 1962a).

23 **SEC. 3. SENSE OF CONGRESS.**

24 It is the sense of Congress that—

1 (1) it should be the policy of the United States
2 to improve the resiliency of communities and assets
3 of the Federal Government against the impacts of
4 flooding;

5 (2) the impacts of flooding are anticipated to
6 increase over time due to increased future risk and
7 greater development on floodplains;

8 (3) losses caused by flooding affect—

9 (A) the environment;

10 (B) the economic prosperity of the United
11 States;

12 (C) public health and safety; and

13 (D) the national security of the United
14 States;

15 (4) the Federal Government must take action,
16 informed by the best available and actionable
17 science, to improve the preparedness and resilience
18 of the United States with respect to flooding;

19 (5) Executive Order 11988 requires agencies to
20 avoid—

21 (A) to the maximum extent practicable, the
22 long- and short-term adverse impacts associated
23 with the occupancy and modification of
24 floodplains; and

1 (B) direct or indirect support of floodplain
2 development whenever a more practicable alter-
3 native is available;

4 (6) to implement Executive Order 11988, the
5 Federal Government has developed processes for
6 evaluating the impacts of Federal actions in or af-
7 fecting floodplains;

8 (7) in June 2013, an interagency effort to cre-
9 ate a new flood risk reduction standard for federally
10 funded projects was initiated;

11 (8) in establishing the standard described in
12 paragraph (7), the views of governors, mayors, and
13 interested members of the public were solicited and
14 considered;

15 (9) the result of the efforts described in para-
16 graphs (7) and (8) is the Standard, a flexible frame-
17 work to increase resilience against flooding and help
18 preserve the natural values of floodplains; and

19 (10) enacting the Standard will ensure that
20 agencies expand management from the base flood
21 level in effect as of the date of enactment of this Act
22 to a higher vertical elevation and a corresponding
23 horizontal floodplain in order to—

24 (A) address current and future flood risk;

25 and

1 (B) ensure that federally funded projects
2 last as long as intended.

3 **SEC. 4. FLOODPLAIN MANAGEMENT.**

4 (a) IN GENERAL.—The head of each agency shall
5 provide leadership and shall take action, when carrying
6 out an agency action, to—

7 (1) reduce the risk of losses resulting from
8 floods;

9 (2) minimize the impact of floods on human
10 safety, health, and welfare; and

11 (3) restore and preserve the natural and bene-
12 ficial values served by floodplains.

13 (b) AGENCY RESPONSIBILITIES.—

14 (1) IN GENERAL.—In carrying out an agency
15 action, as described in subsection (a), the head of
16 each agency shall—

17 (A) evaluate the potential effects of any
18 agency action taken by the agency in a flood-
19 plain, as determined under paragraph (2);

20 (B) ensure that the planning programs and
21 budget requests of the agency reflect consider-
22 ation of flood hazards and the management of
23 floodplains; and

24 (C) prescribe procedures to implement the
25 policies and requirements of this Act—

- 1 (i) to the extent permitted by law; and
2 (ii) in accordance with the procedures
3 described in paragraph (3).

4 (2) DETERMINATION OF FLOODPLAINS.—The
5 head of an agency shall, when determining whether
6 an agency action will take place in a floodplain—

7 (A) use—

- 8 (i) the elevation and flood hazard
9 area, as determined by—

10 (I) a climate-informed science ap-
11 proach that—

12 (aa) uses the best available
13 actionable hydrologic and hydrau-
14 lic data and methods;

15 (bb) integrates current and
16 future changes in flooding based
17 on climate science;

18 (cc) includes an emphasis on
19 whether the agency action is a
20 critical action; and

21 (dd) takes into consideration
22 changes over the lifetime of the
23 project that is the subject of the
24 agency action;

1 (II) the freeboard value, reached
2 by adding an additional—

3 (aa) 2 feet to the base flood
4 elevation for an agency action
5 that is not a critical action; and

6 (bb) 3 feet to the base flood
7 elevation for an agency action
8 that is a critical action; or

9 (III) any other method that is
10 identified in any amendment made to
11 this Act; or

12 (ii) an area that has a 0.2 percent
13 chance of flooding in a year; and

14 (B) rely on—

15 (i) the best available information; and

16 (ii) the Flood Insurance Rate Map
17 published by the Administrator for the
18 community in which the agency action
19 shall take place.

20 (3) PROCEDURES.—The procedures described
21 in this paragraph are as follows:

22 (A) Before an agency takes an agency ac-
23 tion, the head of the agency shall determine
24 under paragraph (2) whether the proposed
25 agency action will take place in a floodplain.

1 (B) If an agency action described in sub-
2 paragraph (A) may have a significant effect on
3 the quality of the human environment, the eval-
4 uation required under paragraph (5) shall be
5 included in any statement prepared under sec-
6 tion 102(2)(C) of the National Environmental
7 Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

8 (C) If the head of an agency has deter-
9 mined to, or proposes to, conduct, support, or
10 allow an agency action that will take place in a
11 floodplain, as determined under paragraph (2),
12 the head of the agency shall—

13 (i) consider alternatives in order to
14 avoid adverse effects and incompatible de-
15 velopment in the floodplain;

16 (ii) when possible, rely on natural sys-
17 tems, ecosystem processes, and nature-
18 based approaches when considering alter-
19 natives under clause (i);

20 (iii) if the head of the agency deter-
21 mines that the only practicable alternative
22 consistent under law, including the require-
23 ments of this Act, requires taking an agen-
24 cy action in a floodplain, before taking the
25 agency action—

1 (I) design or modify the agency
2 action to minimize potential harm to
3 or within the floodplain consistent
4 with regulations issued under para-
5 graph (6); and

6 (II) prepare and distribute a no-
7 tice that contains an explanation with
8 respect to why the agency action shall
9 take place in the floodplain;

10 (iv) send a notice to all State, local,
11 and Tribal governments with respect to the
12 geographic areas that are affected by the
13 agency action that—

14 (I) is not more than 3 pages
15 long;

16 (II) includes—

17 (aa) a location map;

18 (bb) the reasons why the
19 agency action shall occur in a
20 floodplain;

21 (cc) a statement indicating
22 whether the agency action con-
23 forms to applicable State or local
24 floodplain protection standards;
25 and

1 (dd) a list of the alternatives
2 to the agency action that the
3 head of the agency considered;
4 and

5 (III) allows for a brief comment
6 period before the head of the agency
7 may take the agency action; and

8 (v) provide the opportunity for early
9 public review of any plan or proposal for
10 the agency action, including the develop-
11 ment of procedures for any Federal action
12 the impact of which is not significant
13 enough to require the preparation of a
14 statement under section 102(2)(C) of the
15 National Environmental Policy Act of
16 1969 (42 U.S.C. 4332(2)(C)).

17 (4) REQUESTS FOR AUTHORIZATIONS AND AP-
18 PROPRIATIONS.—The head of an agency, when mak-
19 ing any request to the Director of the Office of Man-
20 agement and Budget for a new authorization or for
21 appropriations, shall indicate, if an agency action to
22 be proposed shall take place in a floodplain, as de-
23 termined under paragraph (2), whether the agency
24 action complies with this Act.

25 (5) WATER AND LAND USE PLANS.—

1 (A) IN GENERAL.—The head of an agency,
2 when formulating or evaluating any water and
3 land use plan, shall—

4 (i) take floodplain management into
5 account; and

6 (ii) require the use of land and water
7 resources that are appropriate when com-
8 pared with the degree of hazard that is in-
9 volved.

10 (B) CONSIDERATIONS.—The head of each
11 agency shall—

12 (i) provide for the adequate evaluation
13 and consideration of flood hazards with re-
14 spect to the regulations and operating pro-
15 cedures for the licenses, permits, and loan
16 or grant programs administered by the
17 agency; and

18 (ii) with respect to an applicant for a
19 license, permit, loan, or grant that is
20 issued or administered by the agency, en-
21 courage, and provide appropriate guidance
22 to, the applicant to evaluate, before sub-
23 mitting the application, the effects that the
24 application, if granted, would have on
25 floodplains.

1 (6) REGULATIONS AND PROCEDURES.—To the
2 extent permitted by law, the head of each agency
3 shall, in consultation with the Water Resources
4 Council, the Federal Interagency Floodplain Man-
5 agement Task Force, the Administrator, and the
6 Council on Environmental Quality—

7 (A) issue regulations, or amend regulations
8 that are in effect as of the date of enactment
9 of this Act, to comply with the requirements of
10 this Act; and

11 (B) amend the regulations described in
12 subparagraph (A) as warranted.

13 (c) ANNUAL REASSESSMENT.—The Mitigation
14 Framework Leadership Group, in consultation with the
15 Federal Interagency Floodplain Management Task Force,
16 shall—

17 (1) annually reassess the implementation of the
18 requirements imposed under this section; and

19 (2) provide recommendations to the Water Re-
20 sources Council for updates to the requirements im-
21 posed under this section that are warranted based
22 on accurate and actionable science that takes into
23 account changes to climate and other changes in
24 flood risk.

1 **SEC. 5. FEDERAL FLOOD RISK MANAGEMENT STANDARD.**

2 (a) IN GENERAL.—The head of an agency shall—

3 (1) except as provided in subsection (b), with
4 respect to a federally funded project undertaken by
5 the agency, ensure that the agency complies with the
6 Standard; and

7 (2) if the agency has responsibility for the ad-
8 ministration or management of Federal real prop-
9 erty and facilities, in addition to the requirements
10 under section 4 and paragraph (1)—

11 (A) require the construction of Federal
12 structures and facilities to comply with—

13 (i) the regulations and procedures
14 issued under section 4(b)(6); and

15 (ii) any regulations issued under the
16 National Flood Insurance Program unless
17 those regulations are demonstrably inap-
18 propriate for a structure or facility;

19 (B) apply accepted floodproofing and other
20 flood protection measures to the construction or
21 rehabilitation of a structure or facility that is
22 located in a floodplain;

23 (C) when practicable, elevate a structure
24 above the floodplain instead of filling in land;

25 (D) provide on structures and, where ap-
26 propriate, other pieces of property a con-

1 spicuous delineation of past and probable flood
2 height—

3 (i) if the structure or other prop-
4 erty—

5 (I) is used by the general public;

6 and

7 (II)(aa) has suffered flood dam-
8 age; or

9 (bb) is in an identified flood haz-
10 ard area; and

11 (ii) in order to enhance public aware-
12 ness of, and knowledge about, flood haz-
13 ards; and

14 (E) when Federal property in a floodplain
15 is proposed for lease, easement, right-of-way, or
16 disposal to a non-Federal public or private
17 party—

18 (i) reference in the conveyance those
19 uses that are restricted under Federal,
20 State, or local regulations relating to
21 floodplains; and

22 (ii)(I) except where prohibited by law,
23 attach any other appropriate restrictions to
24 the uses of the property by the grantee or

1 purchaser, as applicable, and any succes-
2 sors; or

3 (II) withhold the property from con-
4 veyance.

5 (b) EXEMPTION.—

6 (1) IN GENERAL.—The head of an agency may
7 exempt a federally funded project from the require-
8 ment under subsection (a)(1) if—

9 (A) the exemption is in the interest of na-
10 tional security; or

11 (B) the undertaking of the federally fund-
12 ed project is because of an emergency.

13 (2) NOTICE.—The head of an agency shall pub-
14 lish in the Federal Register notice of any exemption
15 used by the agency under paragraph (1)(B), which
16 shall include factual findings in support of the ex-
17 emption.

18 (c) UPDATES.—Not less frequently than once every
19 5 years, the Water Resources Council shall update the
20 Standard, as determined appropriate by the Water Re-
21 sources Council.

22 **SEC. 6. FINANCIAL TRANSACTIONS IN AREAS SUBJECT TO**
23 **FLOODING.**

24 In addition to any responsibilities under this Act and
25 sections 102, 202, and 205 of the Flood Disaster Protec-

1 tion Act of 1973 (42 U.S.C. 4012a, 4106, 4128), the head
2 of any agency that guarantees, approves, regulates, or in-
3 sures any financial transaction relating to an area that
4 is subject to a base flood shall, before completing any ac-
5 tion relating to that transaction, inform any private par-
6 ties that are participating in the transaction about the
7 hazards of locating a structure in that area.

8 **SEC. 7. REPORTS.**

9 (a) IN GENERAL.—Not later than 1 year after the
10 date of enactment of this Act, the head of each agency
11 shall submit to the Council on Environmental Quality a
12 report regarding how the requirements of this Act impact
13 the procedures and operations of the agency.

14 (b) ANALYSIS OF STANDARD.—Each report sub-
15 mitted under subsection (a) shall contain a separate anal-
16 ysis regarding how the requirement under section 5(a)(1)
17 has impacted the agency.

18 (c) EVALUATION.—Not less frequently than once
19 every 2 years, the Water Resources Council shall—

20 (1) evaluate the procedures, including the effec-
21 tiveness of the procedures, of each agency relating to
22 the requirements of this Act, taking into account
23 each report submitted under subsection (a); and

1 (2) submit to the appropriate committees of
2 Congress a report that contains the result of the
3 evaluation required under paragraph (1).

4 **SEC. 8. GENERAL PROVISIONS.**

5 (a) RULES OF CONSTRUCTION.—Nothing in this Act
6 may be construed—

7 (1) as applying to assistance that is provided
8 for emergency work that is—

9 (A) performed under sections 403 and 502
10 of the Robert T. Stafford Disaster Relief and
11 Emergency Assistance Act (42 U.S.C. 5170b,
12 5192); and

13 (B) essential to—

14 (i) save human life; and

15 (ii) protect—

16 (I) property; and

17 (II) public health and safety; or

18 (2) to impair or otherwise affect—

19 (A) the authority granted by law to an
20 agency or the head of an agency; or

21 (B) the functions of the Director of the Of-
22 fice of Management and Budget relating to
23 budgetary, administrative, or legislative pro-
24 posals.

1 (b) IMPLEMENTATION.—This Act shall be imple-
2 mented consistent with applicable law and subject to the
3 availability of appropriations.

4 (c) RESPONSIBILITIES OF WATER RESOURCES
5 COUNCIL.—Except as otherwise expressly provided, the
6 Water Resources Council shall carry out the responsibil-
7 ities of the Council under this Act in consultation with
8 the Mitigation Framework Leadership Group.

9 **SEC. 9. ASSUMPTION OF RESPONSIBILITIES.**

10 If subparagraphs (A), (B), and (C) of section 4(b)(3)
11 apply to a project to which section 104(h) of the Housing
12 and Community Development Act of 1974 (42 U.S.C.
13 5304(h)) applies, an appropriate applicant may assume
14 the responsibilities under those subparagraphs if the appli-
15 cant has also assumed, with respect to the project, all re-
16 sponsibilities for environmental review, decision making,
17 and action under the National Environmental Policy Act
18 of 1969 (42 U.S.C. 4321 et seq.).