



FEMA

March 21, 2023

MEMORANDUM FOR: FEMA Regional Administrators
Regions 1-10

ATTENTION: Federal Coordinating Officers
Regional Recovery Division Directors
Regional Mitigation Division Directors
Consolidated Resource Center Directors

FROM: Melissa K. Forbes
Assistant Administrator
Recovery Directorate, Office of Response and Recovery

Eric Letvin
Assistant Administrator for Mitigation (Acting)
Federal Insurance and Mitigation Administration, Resilience

SUBJECT: Implementation of Inflation Reduction Act Section 70006(1) for
FEMA Public Assistance and Hazard Mitigation Assistance Programs

The purpose of this memorandum is to announce FEMA's implementation of Section 70006(1) of the Inflation Reduction Act of 2022 (IRA) for the Public Assistance (PA), Building Resilient Infrastructure and Communities (BRIC), and Hazard Mitigation Grant Programs (HMGP).¹

On August 16, 2022, the President signed the IRA into law. Section 70006 of the IRA authorizes FEMA to provide financial assistance under sections 203(h)², 404(a)³, and 406(b)⁴ of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) for: "(1) costs associated with low-carbon materials; and (2) incentives that encourage low-carbon and net-zero energy projects." Section 70006 authorities expire on September 30, 2026.

The IRA provides a valuable opportunity for FEMA to support state, tribal, territorial, and local partners in their efforts to build resilient communities and reduce climate effects by incentivizing investments in greenhouse-gas reduction strategies, such as the use of low-carbon materials, and low-carbon and net-zero energy projects. Please see the attached definitions addendum for more information regarding how FEMA will define key terms such as low-carbon materials. Information on low-carbon projects, and net-zero energy projects will be provided in future guidance.

¹ Inflation Reduction Act of 2022, Pub. L. No. 117-169, § 70006, 136 Stat. 2087, *available at*: <https://www.congress.gov/bill/117th-congress/house-bill/5376/text>.

² Building Resilient Infrastructure and Communities (BRIC) 42 U.S.C. § 5133(h)

³ Hazard Mitigation Grant Program (HMGP) 42 U.S.C. § 5170c(a).

⁴ Public Assistance (PA) Program 42 U.S.C. § 5172(b).

For the purposes of this memo, FEMA defines low-carbon materials eligible for funding by PA, HMGP, and BRIC, as concrete, asphalt, glass, and steel which have a [Global Warming Potential \(GWP\)](#) lower than the estimated industry average for similar products in North America as demonstrated by their [Environmental Product Declaration \(EPD\)](#). A product-specific Type III (third-party verified) EPD must be shown and reported in a third-party dataset. Use of a published and verifiable dataset is required until superseded by notice of publicly available standards and/or database issued by the Environmental Protection Agency (EPA), FEMA, the General Services Administration (GSA), or other Federal Agency guidance.

IRA Section 70006(1) authorizes PA to reimburse ‘costs associated with low-carbon materials,’ even when the costs are higher than those for conventional materials. This new authority applies to disasters declared 60 days after the issuance of this memorandum. It is important to note that the use of low-carbon materials is voluntary and based on the applicant’s discretion. However, applicants who elect to use low-carbon materials on PA recovery projects must adhere to the FEMA definition for low-carbon materials. Additionally, PA applicants who include costs associated with low-carbon materials in their scopes of work, including capped grants and fixed cost estimates, must use low-carbon materials.⁵

IRA Section 70006(1) authorizes the HMGP and BRIC programs to fund ‘costs associated with low-carbon materials,’ even when the costs are higher than those for conventional materials. For HMGP this is applicable for major disaster declarations issued 60 days after the issuance of this memorandum, or for disasters with open application periods as of 60 days after the issuance of this memorandum, provided all other program requirements are satisfied. The BRIC Program published the [Fiscal Year \(FY\) 2022 Notice of Funding Opportunity](#) and issued an Alternative Cost-Effectiveness Methodology Memo⁶ that may apply to projects that are subject to higher costs due to incorporation of low-carbon materials.

While increased costs for low carbon materials are deemed reasonable under Title 2 Code of Federal Regulations Section 200.404 due to the IRA authority, it is important to note that the other Cost Principles in 2 CFR Part 200, subpart E will still apply, such as procurement and contracting requirements. Federal law now explicitly allows FEMA to pay for qualifying low-carbon materials thus, costs for materials that meet the low-carbon materials definition may (but not necessarily) be greater than costs for conventional materials.

Under IRA Section 70006(2) FEMA may provide financial assistance under sections 203(h), 404(a), and 406(b) of the Stafford Act for “incentives that encourage low-carbon and net-zero energy projects.” The PA, HMGP, and BRIC Programs are developing guidance to implement incentives, relative to each program’s authority. As these developments are finalized, more information will become available about FEMA’s implementation of Section 70006(2).

If you have questions about the content of this memo, please contact Robert Pesapane, Acting Director, Public Assistance Division, at robert.pesapane@fema.dhs.gov or Gerilee Bennett, Acting Director, Hazard Mitigation Assistance Division, at gerilee.bennett@fema.dhs.gov.

⁵ If capped grants under Stafford Act sections 422, 406, or 428 include additional costs for low-carbon materials in the cost estimate, applicants must use the low-carbon materials they have proposed.

⁶ See [FEMA Alternative Cost-Effectiveness Methodology for Fiscal Year 2022 Building Resilient Infrastructure Communities and Flood Mitigation Assistance Application Cycle](#) on FEMA’s website.

Implementing the Inflation Reduction Act Section 70006(1)

SEC. 70006. FEMA BUILDING MATERIALS PROGRAM.

Through September 30, 2026, the Administrator of the Federal Emergency Management Agency may provide financial assistance under sections 203(h), 404(a), and 406(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(h), 42 U.S.C. 5170c(a), 42 U.S.C. 5172(b)) for—

- (1) costs associated with low-carbon materials; and
- (2) incentives that encourage low-carbon and net-zero energy projects.

Under the authorities of the Inflation Reduction Act Sections 60503 and 60506, the U.S. Environmental Protection Agency (EPA) is directed to determine materials and products “that have substantially lower levels of embodied greenhouse-gas emissions associated with all relevant stages of production, use and disposal as compared to estimated industry averages of similar materials or products.” On December 22, 2022 the EPA released its [Interim Determination on Low-Carbon Materials Under IRA 60503 and 60506](#). In consultation with EPA, FEMA determined to adopt modified versions of the definitions and descriptions from the EPA’s Interim Determination. These definitions and descriptions may be further modified based on guidance issued by the EPA to fit the needs, mission, and existing authorities of FEMA. For the purposes of implementing the IRA Section 70006(1), FEMA has determined to use the following definitions and descriptions for low-carbon materials:

Low-Carbon Materials: Construction materials and products that “have substantially lower levels of embodied greenhouse-gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products.”

- Low-carbon materials include concrete, asphalt, glass, and steel which have a Global Warming Potential (GWP) that is lower than the estimated industry average for similar products in North America as demonstrated by their Environmental Product Declaration (EPD). A product-specific Type III (third-party verified) EPD must be shown and reported in a third-party dataset. Use of a published and verifiable dataset is required until superseded by notice of publicly available standards and/or database issued by the Environmental Protection Agency (EPA), Federal Emergency Management Agency (FEMA), General Services Administration (GSA), or other Federal Agency guidance.
- EPA’s Interim Determination focuses the low-carbon materials to the four major pollutants during production, which are concrete (and its component cement), asphalt, glass, steel, and assemblies comprised of at least 80% of qualifying materials. Based on the EPA’s initial review of state and local approaches and other research to-date, these materials offer the most significant opportunities to address the embodied greenhouse-gas emissions of federal construction projects. FEMA is currently limiting materials for funding consideration to these four materials until further guidance from EPA, or other Federal Agency guidance, is available.

Greenhouse Gas: The air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

Substantially Lower: Having a Global-Warming Potential (GWP) that is at least less than the estimated North American industry average as demonstrated by their Environmental Product Declaration (EPD).