SUBCHAPTER D—DISASTER ASSISTANCE

PART 200 **[**RESERVED**]**

PART 201—MITIGATION PLANNING

Sec.

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AUTHORITY: Robert T. Stafford Disaster

Relief and Emergency Assistance Act, 42

U.S.C. 5121 through 5207; Reorganization

Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978

Comp., p. 329; Homeland Security Act of 2002,

6 U.S.C. 101; E.O. 12127, 44 FR 19367, 3 CFR,

1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3

CFR, 1979 Comp., p. 412; E.O. 13286, 68 FR

10619, 3 CFR, 2003 Comp., p. 166.

SOURCE: 67 FR 8848, Feb. 26, 2002, unless otherwise noted.

**§ 201.1 Purpose.**

(a) The purpose of this part is to pro- vide information on the polices and procedures for mitigation planning as required by the provisions of section

322 of the Stafford Act, 42 U.S.C. 5165.

(b) The purpose of mitigation plan- ning is for State, local, and Indian trib- al governments to identify the natural hazards that impact them, to identify actions and activities to reduce any losses from those hazards, and to estab- lish a coordinated process to imple- ment the plan, taking advantage of a wide range of resources.

**§ 201.2 Definitions.**

*Administrator* means the head of the Federal Emergency Management Agen- cy, or his/her designated representa- tive.

*Flood Mitigation Assistance* (FMA) means the program authorized by sec- tion 1366 of the National Flood Insur- ance Act of 1968, as amended, 42 U.S.C.

4104c, and implemented at parts 78 and

79.

*Grantee* means the government to which a grant is awarded, which is ac- countable for the use of the funds pro- vided. The grantee is the entire legal entity even if only a particular compo-

nent of the entity is designated in the

grant award document. Generally, the State is the grantee. However, after a declaration, an Indian tribal govern- ment may choose to be a grantee, or may act as a subgrantee under the State. An Indian tribal government acting as grantee will assume the re- sponsibilities of a ‘‘state’’, as described in this part, for the purposes of admin- istering the grant.

*Hazard mitigation* means any sus-

tained action taken to reduce or elimi- nate the long-term risk to human life and property from hazards.

*Hazard Mitigation Grant Program*

(HMGP) means the program authorized under section 404 of the Robert T. Staf- ford Disaster Relief and Emergency As- sistance Act, 42 U.S.C. 5170c, and imple- mented at part 206, subpart N of this chapter.

*Indian Tribal government* means any

Federally recognized governing body of

an Indian or Alaska Native Tribe, band, nation, pueblo, village, or com- munity that the Secretary of Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C.

479a. This does not include Alaska Na- tive corporations, the ownership of which is vested in private individuals.

*Local government* is any county, mu-

nicipality, city, town, township, public authority, school district, special dis- trict, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; any Indian tribe or authorized tribal organization, or Alas- ka Native village or organization; and any rural community, unincorporated town or village, or other public entity.

*Managing State* means a State to

which FEMA has delegated the author- ity to administer and manage the HMGP under the criteria established by FEMA pursuant to 42 U.S.C.

5170c(c). FEMA may also delegate au- thority to tribal governments to ad- minister and manage the HMGP as a Managing State.

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*Pre-Disaster Mitigation Program* (PDM) means the program authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133.

*Regional Administrator* means the head of a Federal Emergency Manage- ment Agency regional office, or his/her designated representative.

*Repetitive Flood Claims* (RFC) program means the program authorized under section 1323 of the National Flood In- surance Act of 1968, as amended, 42

U.S.C. 4011, which provides funding to reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage and that will result in the greatest savings to the National Flood Insurance Pro- gram (NFIP) in the shortest period of time.

*Severe Repetitive Loss* (SRL) program means the program authorized under section 1361(a) of the National Flood Insurance Act of 1968, as amended, 42

U.S.C. 4102a, and implemented at part

79 of this chapter.

*Severe Repetitive Loss properties* are de- fined as single or multifamily residen- tial properties that are covered under an NFIP flood insurance policy and:

(1) That have incurred flood-related damage for which 4 or more separate claims payments have been made, with the amount of each claim (including building and contents payments) ex- ceeding $5,000, and with the cumulative amount of such claims payments ex- ceeding $20,000; or

(2) For which at least 2 separate claims payments (building payments only) have been made under such cov- erage, with cumulative amount of such claims exceeding the market value of the property.

(3) In both instances, at least 2 of the claims must be within 10 years of each other, and claims made within 10 days of each other will be counted as 1 claim.

*Small and impoverished communities* means a community of 3,000 or fewer individuals that is identified by the State as a rural community, and is not a remote area within the corporate boundaries of a larger city; is economi- cally disadvantaged, by having an aver- age per capita annual income of resi-

dents not exceeding 80 percent of na- tional, per capita income, based on best available data; the local unemploy- ment rate exceeds by one percentage point or more, the most recently re- ported, average yearly national unem- ployment rate; and any other factors identified in the State Plan in which the community is located.

*The Stafford Act* refers to the Robert T. Stafford Disaster Relief and Emer- gency Assistance Act, Public Law 93–

288, as amended (42 U.S.C. 5121–5206).

*State* is any State of the United States, the District of Columbia, Puer- to Rico, the Virgin Islands, Guam, American Samoa, and the Common- wealth of the Northern Mariana Is- lands.

*State Hazard Mitigation Officer* is the official representative of State govern- ment who is the primary point of con- tact with FEMA, other Federal agen- cies, and local governments in mitiga- tion planning and implementation of mitigation programs and activities re- quired under the Stafford Act.

*Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. Subgrantees can be a State agency, local government, private non- profit organizations, or Indian tribal government. Indian tribal governments acting as a subgrantee are accountable to the State grantee.

[67 FR 8848, Feb. 26, 2002, as amended at 72

FR 61747, Oct. 31, 2007; 74 FR 15344, Apr. 3,

2009; 74 FR 47481, Sept. 16, 2009]

**§ 201.3 Responsibilities.**

(a) *General.* This section identifies the key responsibilities of FEMA, States, and local/tribal governments in carrying out section 322 of the Stafford Act, 42 U.S.C. 5165.

(b) *FEMA.* The key responsibilities of the Regional Administrator are to:

(1) Oversee all FEMA related pre- and post-disaster hazard mitigation pro- grams and activities;

(2) Provide technical assistance and training to State, local, and Indian tribal governments regarding the miti- gation planning process;

(3) Review and approve all Standard and Enhanced State Mitigation Plans;

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**§ 201.4 Standard State Mitigation**

**Plans.**

(a) *Plan requirement.* States must have an approved Standard State Miti- gation Plans meeting the requirements of this section as a condition of receiv- ing non-emergency Stafford Act assist- ance and FEMA mitigation grants. Emergency assistance provided under

42 U.S.C. 5170a, 5170b, 5173, 5174, 5177,

5179, 5180, 5182, 5183, 5184, 5192 will not be affected. Mitigation planning grants provided through the Pre-disaster Mitigation (PDM) program, authorized under section 203 of the Stafford Act, 42

U.S.C. 5133, will also continue to be available. The mitigation plan is the demonstration of the State’s commit- ment to reduce risks from natural haz- ards and serves as a guide for State de- cision makers as they commit re- sources to reducing the effects of nat-

ural hazards.

(b) *Planning process.* An effective

planning process is essential in devel- oping and maintaining a good plan. The mitigation planning process should include coordination with other State agencies, appropriate Federal agencies, interested groups, and be integrated to the extent possible with other ongoing State planning efforts as well as other FEMA mitigation programs and initia- tives.

(c) *Plan content.* To be effective the

plan must include the following ele- ments:

(1) Description of the *planning process*

used to develop the plan, including how it was prepared, who was involved in the process, and how other agencies participated.

(2) *Risk assessments* that provide the

factual basis for activities proposed in the strategy portion of the mitigation plan. Statewide risk assessments must characterize and analyze natural haz- ards and risks to provide a statewide overview. This overview will allow the State to compare potential losses throughout the State and to determine their priorities for implementing miti- gation measures under the strategy, and to prioritize jurisdictions for re- ceiving technical and financial support in developing more detailed local risk and vulnerability assessments. The risk assessment shall include the fol- lowing:

(i) An overview of the type and loca- tion of all natural hazards that can af- fect the State, including information on previous occurrences of hazard events, as well as the probability of fu- ture hazard events, using maps where appropriate;

(ii) An overview and analysis of the State’s vulnerability to the hazards de- scribed in this paragraph (c)(2), based on estimates provided in local risk as- sessments as well as the State risk as- sessment. The State shall describe vul- nerability in terms of the jurisdictions most threatened by the identified haz- ards, and most vulnerable to damage and loss associated with hazard events. State owned or operated critical facili- ties located in the identified hazard areas shall also be addressed;

(iii) An overview and analysis of po- tential losses to the identified vulner- able structures, based on estimates provided in local risk assessments as well as the State risk assessment. The State shall estimate the potential dol- lar losses to State owned or operated buildings, infrastructure, and critical facilities located in the identified haz- ard areas.

(3) A *Mitigation Strategy* that provides the State’s blueprint for reducing the losses identified in the risk assessment. This section shall include:

(i) A description of State goals to guide the selection of activities to mitigate and reduce potential losses.

(ii) A discussion of the State’s pre- and post-disaster hazard management policies, programs, and capabilities to mitigate the hazards in the area, in- cluding: an evaluation of State laws, regulations, policies, and programs re- lated to hazard mitigation as well as to development in hazard-prone areas; a discussion of State funding capabilities for hazard mitigation projects; and a general description and analysis of the effectiveness of local mitigation poli- cies, programs, and capabilities.

(iii) An identification, evaluation, and prioritization of cost-effective, en- vironmentally sound, and technically feasible mitigation actions and activi- ties the State is considering and an ex- planation of how each activity contrib- utes to the overall mitigation strategy. This section should be linked to local

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