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# The Stafford Act

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Robert T. Stafford  
Disaster Relief and Emergency  
Assistance Act, *as Amended*

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April 2013



**FEMA**

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Robert T. Stafford Disaster Relief and Emergency Assistance Act,  
Public Law 93-288, as amended, 42 U.S.C. 5121 et seq.

*Located in United States Code, Title 42. The Public Health and Welfare, Chapter 68. Disaster Relief*

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*\*This section of the Stafford Act has been amended by the Sandy Recovery Improvement Act of 2013, Pub. L. 113-2, 127 Stat. 4 (2013), signed on January 29, 2013.*

## Title I – Findings, Declarations and Definitions

### Sec. 101. Congressional Findings and Declarations (42 U.S.C. 5121)

- (a) The Congress hereby finds and declares that -
- (1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and
  - (2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity; special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.
- (b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by -
- (1) revising and broadening the scope of existing disaster relief programs;
  - (2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;
  - (3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;
  - (4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;
  - (5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations; and
  - (6) providing Federal assistance programs for both public and private losses sustained in disasters<sup>1</sup>

### Sec. 102. Definitions (42 U.S.C. 5122)\*<sup>2</sup>

As used in this Act -

- (1) EMERGENCY - “Emergency” means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement

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1. *Typographical error in original; period should follow “disasters”.*

2. *Pub. L. 113-2, div. B, § 1110(e), Jan. 29, 2013, 127 Stat. 49, provides that: “(1) Issuance.—The President shall issue regulations to carry out the amendments made by this section [enacting section 5123 of this title and amending this section and sections 5170 and 5191 of this title]. (2) Factors.—In issuing the regulations, the President shall consider the unique conditions that affect the general welfare of Indian tribal governments.”*

- State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.
- (2) MAJOR DISASTER - “Major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.
  - (3) “UNITED STATES” means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
  - (4) “STATE” means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
  - (5) “GOVERNOR” means the chief executive of any State.
  - (6) INDIAN TRIBAL GOVERNMENT - The term “Indian tribal government” means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a et seq.).
  - (7) INDIVIDUAL WITH A DISABILITY - The term “individual with a disability” means an individual with a disability as defined in section 12102(2) of this title.<sup>3</sup>
  - (8) LOCAL GOVERNMENT - The term “local government” means –
    - (A) a county, municipality, city, town, township, local public authority, school district, special district, 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;
    - (B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization, that is not an Indian tribal government as defined in paragraph (6); and
    - (C) a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

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3. Section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

- (9) “FEDERAL AGENCY” means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.
- (10) PUBLIC FACILITY - “Public facility” means the following facilities owned by a State or local government:
- (A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.
  - (B) Any non-Federal-aid street, road, or highway.
  - (C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.
  - (D) Any park.
- (11) PRIVATE NONPROFIT FACILITY -
- (A) In General - The term “private nonprofit facility” means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.
  - (B) Additional Facilities – In addition to the facilities described in subparagraph (A), the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.
- (12) CHIEF EXECUTIVE - The term “Chief Executive” means the person who is the Chief, Chairman, Governor, President, or similar executive official of an Indian tribal government.

**Sec. 103.** References (42 U.S.C. 5123)\*

Except as otherwise specifically provided, any reference in this chapter to “State and local”, “State or local”, “State, and local”, “State, or local”, or “State, local” (including plurals) with respect to governments or officials and any reference to a “local government” in sections 5172(d)(3) and 5184 of this title [Section 406(d)(3) and Section 417] is deemed to refer also to Indian tribal governments and officials, as appropriate.

## **Title II – Disaster Preparedness and Mitigation Assistance**

### **Sec. 201. Federal and State Disaster Preparedness Programs (42 U.S.C. 5131)**

- (a) UTILIZATION OF SERVICES OF OTHER AGENCIES - The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies and includes -
- (1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;
  - (2) training and exercises;
  - (3) postdisaster critiques and evaluations;
  - (4) annual review of programs;
  - (5) coordination of Federal, State, and local preparedness programs;
  - (6) application of science and technology;
  - (7) research.
- (b) TECHNICAL ASSISTANCE FOR THE DEVELOPMENT OF PLANS AND PROGRAMS - The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damages or destroyed public and private facilities.
- (c) GRANTS TO STATES FOR DEVELOPMENT OF PLANS AND PROGRAMS - Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State \$250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from May 22, 1974. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall—
- (1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and
  - (2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.
- (d) GRANTS FOR IMPROVEMENT, MAINTENANCE, AND UPDATING OF STATE PLANS - The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, including evaluations of natural hazards and development of the programs and actions required to mitigate



such hazards; except that no such grant shall exceed \$50,000 per annum to any State.

**Sec. 202. Disaster Warnings (42 U.S.C. 5132)**

- (a) **READINESS OF FEDERAL AGENCIES TO ISSUE WARNINGS TO STATE AND LOCAL OFFICIALS** - The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.
- (b) **TECHNICAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS FOR EFFECTIVE WARNINGS** - The President shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.
- (c) **WARNINGS TO GOVERNMENTAL AUTHORITIES AND PUBLIC ENDANGERED BY DISASTER** - The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 5196(c) of this title [Section 611(c)] or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.
- (d) **AGREEMENTS WITH COMMERCIAL COMMUNICATIONS SYSTEMS FOR USE OF FACILITIES** - The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

**Sec. 203. Predisaster Hazard Mitigation (42 U.S.C. 5133)**

- (a) **DEFINITION OF SMALL IMPOVERISHED COMMUNITY** - In this section, the term “small impoverished community” means a community of 3,000 or fewer individuals that is economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.
- (b) **ESTABLISHMENT OF PROGRAM** - The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.
- (c) **APPROVAL BY PRESIDENT** - If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the President, using amounts in the National Predisaster Mitigation Fund established under subsection (i) of this section (referred to in this section as the “Fund”), may provide technical and financial assistance to the State or local government to be used in accordance with subsection (e) of this section.

(d) STATE RECOMMENDATIONS -

(1) IN GENERAL -

- (A) RECOMMENDATIONS - The Governor of each State may recommend to the President not fewer than five local governments to receive assistance under this section.
- (B) DEADLINE FOR SUBMISSION - The recommendations under subparagraph (A) shall be submitted to the President not later than October 1, 2001, and each October 1st thereafter or such later date in the year as the President may establish.
- (C) CRITERIA - In making recommendations under subparagraph (A), a Governor shall consider the criteria specified in subsection (g) of this section.

(2) USE -

- (A) IN GENERAL - Except as provided in subparagraph (B), in providing assistance to local governments under this section, the President shall select from local governments recommended by the Governors under this subsection.
- (B) EXTRAORDINARY CIRCUMSTANCES - In providing assistance to local governments under this section, the President may select a local government that has not been recommended by a Governor under this subsection if the President determines that extraordinary circumstances justify the selection and that making the selection will further the purpose of this section.

- (3) EFFECT OF FAILURE TO NOMINATE - If a Governor of a State fails to submit recommendations under this subsection in a timely manner, the President may select, subject to the criteria specified in subsection (g) of this section, any local governments of the State to receive assistance under this section.

(e) USES OF TECHNICAL AND FINANCIAL ASSISTANCE -

(1) IN GENERAL - Technical and financial assistance provided under this section—

- (A) shall be used by States and local governments principally to implement predisaster hazard mitigation measures that are cost-effective and are described in proposals approved by the President under this section; and
- (B) may be used -
  - (i) to support effective public-private natural disaster hazard mitigation partnerships;
  - (ii) to improve the assessment of a community's vulnerability to natural hazards; or
  - (iii) to establish hazard mitigation priorities, and an appropriate hazard mitigation plan, for a community.

- (2) DISSEMINATION - A State or local government may use not more than 10 percent of the financial assistance received by the State or local government under this section for a fiscal year to fund activities to disseminate information regarding cost-effective mitigation technologies.
- (f) ALLOCATION OF FUNDS -
- (1) IN GENERAL - The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).
- (2) MINIMUM AND MAXIMUM AMOUNTS - In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year -
- (A) is not less than the lesser or -
- (i) \$575,000; or
- (ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and
- (B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.
- (g) CRITERIA FOR ASSISTANCE AWARDS - In determining whether to provide technical and financial assistance to a State or local government under this section, the President shall take into account -
- (1) the extent and nature of the hazards to be mitigated;
- (2) the degree of commitment by the State or local government to reduce damages from future natural disasters;
- (3) the degree of commitment by the State or local government to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance;
- (4) the extent to which the hazard mitigation measures to be carried out using the technical and financial assistance contribute to the mitigation goals and priorities established by the State;
- (5) the extent to which the technical and financial assistance is consistent with other assistance provided under this Act;
- (6) the extent to which prioritized, cost-effective mitigation activities that produce meaningful and definable outcomes are clearly identified;
- (7) if the State or local government has submitted a mitigation plan under section 5165 of this title [Section 322], the extent to which the activities identified under paragraph (6) are consistent with the mitigation plan;
- (8) the opportunity to fund activities that maximize net benefits to society;
- (9) the extent to which assistance will fund mitigation activities in small impoverished communities; and
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- (10) such other criteria as the President establishes in consultation with State and local governments.
- (h) FEDERAL SHARE -
- (1) IN GENERAL - Financial assistance provided under this section may contribute up to 75 percent of the total cost of mitigation activities approved by the President.
- (2) SMALL IMPOVERISHED COMMUNITIES - Notwithstanding paragraph (1), the President may contribute up to 90 percent of the total cost of a mitigation activity carried out in a small impoverished community.
- (i) NATIONAL PREDISASTER MITIGATION FUND -
- (1) ESTABLISHMENT - The President may establish in the Treasury of the United States a fund to be known as the “National Predisaster Mitigation Fund”, to be used in carrying out this section.
- (2) TRANSFERS TO FUND - There shall be deposited in the Fund -
- (A) amounts appropriated to carry out this section, which shall remain available until expended; and
- (B) sums available from gifts, bequests, or donations of services or property received by the President for the purpose of predisaster hazard mitigation.
- (3) EXPENDITURES FROM FUND - Upon request by the President, the Secretary of the Treasury shall transfer from the Fund to the President such amounts as the President determines are necessary to provide technical and financial assistance under this section.
- (4) INVESTMENT OF AMOUNTS -
- (A) IN GENERAL - The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.
- (B) ACQUISITION OF OBLIGATIONS - For the purpose of investments under subparagraph (A), obligations may be acquired -
- (i) on original issue at the issue price; or
- (ii) by purchase of outstanding obligations at the market price.
- (C) SALE OF OBLIGATIONS - Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.
- (D) CREDITS TO FUND - The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

- (E) TRANSFERS OF AMOUNTS -
  - (i) IN GENERAL - The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.
  - (ii) ADJUSTMENTS - Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.
- (j) LIMITATION ON TOTAL AMOUNT OF FINANCIAL ASSISTANCE - The President shall not provide financial assistance under this section in an amount greater than the amount available in the Fund.
- (k) MULTHAZARD ADVISORY MAPS -
  - (1) DEFINITION OF MULTHAZARD ADVISORY MAP - In this subsection, the term “multihazard advisory map” means a map on which hazard data concerning each type of natural disaster is identified simultaneously for the purpose of showing areas of hazard overlap.
  - (2) DEVELOPMENT OF MAPS - In consultation with States, local governments, and appropriate Federal agencies, the President shall develop multihazard advisory maps for areas, in not fewer than five States, that are subject to commonly recurring natural hazards (including flooding, hurricanes and severe winds, and seismic events).
  - (3) USE OF TECHNOLOGY - In developing multihazard advisory maps under this subsection, the President shall use, to the maximum extent practicable, the most cost-effective and efficient technology available.
  - (4) USE OF MAPS -
    - (A) ADVISORY NATURE - The multihazard advisory maps shall be considered to be advisory and shall not require the development of any new policy by, or impose any new policy on, any government or private entity.
    - (B) AVAILABILITY OF MAPS - The multihazard advisory maps shall be made available to the appropriate State and local governments for the purposes of -
      - (i) informing the general public about the risks of natural hazards in the areas described in paragraph (2);
      - (ii) supporting the activities described in subsection (e) of this section; and
      - (iii) other public uses.
- (l) REPORT ON FEDERAL AND STATE ADMINISTRATION - Not later than 18 months after Oct. 30, 2000, the President, in consultation with State and local governments, shall submit to Congress a report evaluating efforts to implement this section and recommending a process for transferring greater authority and responsibility for

administering the assistance program established under this section to capable States.

- (m) AUTHORIZATION OF APPROPRIATIONS - There are authorized to be appropriated to carry out this section -
  - (1) \$180,000,000 for fiscal year 2011;
  - (2) \$200,000,000 for fiscal year 2012;
  - (3) \$200,000,000 for fiscal year 2013.
- (n) PROHIBITION ON EARMARKS -
  - (1) DEFINITION - In this subsection, the term “congressionally directed spending” means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.
  - (2) PROHIBITION - None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending.
  - (3) CERTIFICATION TO CONGRESS - The Administrator of the Federal Emergency Management Agency shall submit to Congress a certification regarding whether all financial assistance under this section was awarded in accordance with this section.

**Sec. 204. Interagency Task Force (42 U.S.C. 5134)**

- (a) IN GENERAL - The President shall establish a Federal interagency task force for the purpose of coordinating the implementation of predisaster hazard mitigation programs administered by the Federal Government.
- (b) CHAIRPERSON - The Administrator of the Federal Emergency Management Agency shall serve as the chairperson of the task force.
- (c) MEMBERSHIP - The membership of the task force shall include representatives of
  - (1) relevant Federal agencies;
  - (2) State and local government organizations (including Indian tribes); and
  - (3) the American Red Cross.

## **Title III – Major Disaster and Emergency Assistance Administration**

### **Sec. 301.** Waiver of Administrative Conditions (42 U.S.C. 5141)

Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

### **Sec. 302.** Coordinating Officers (42 U.S.C. 5143)

- (a) APPOINTMENT OF FEDERAL COORDINATING OFFICER - Immediately upon his declaration of a major disaster or emergency, the President shall appoint a Federal coordinating officer to operate in the affected area.
- (b) FUNCTIONS OF FEDERAL COORDINATING OFFICER - In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall—
  - (1) make an initial appraisal of the types of relief most urgently needed;
  - (2) establish such field offices as he deems necessary and as are authorized by the President;
  - (3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under chapter 3001 of title 36;<sup>4</sup> and
  - (4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.
- (c) STATE COORDINATING OFFICER - When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.
- (d) SINGLE FEDERAL COORDINATING OFFICER FOR MULTI-STATE AREA - Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.

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4. *The Act of January 5, 1905, as amended (33 Stat. 599).*

**Sec. 303.** Emergency Support and Response Teams (42 U.S.C. 5144)

- (a) **EMERGENCY SUPPORT TEAMS** – The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.
- (b) **EMERGENCY RESPONSE TEAMS**–
- (1) **ESTABLISHMENT** - In carrying out subsection (a), the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish-
    - (A) at a minimum 3 national response teams; and
    - (B) sufficient regional response teams, including Regional Office strike teams under section 317 of title 6;<sup>5</sup> and
    - (C) other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.
  - (2) **TARGET CAPABILITY LEVEL** - The Administrator shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 746(a) of title 6,<sup>6</sup> are established for Federal emergency response teams.
  - (3) **PERSONNEL** - The President, acting through the Administrator, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.
  - (4) **READINESS REPORTING** - The Administrator shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 752(a) of title 6.<sup>7</sup>

**Sec. 304.** Reimbursement of Federal Agencies (42 U.S.C. 5147)

Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as

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5. Section 507 of the Homeland Security Act of 2002.

6. Section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006.

7. Section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.



reimbursement for services or supplies furnished under the authority of this Act shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

**Sec. 305. Nonliability of Federal Government (42 U.S.C. 5148)**

The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this Act.

**Sec. 306. Performance of Services (42 U.S.C. 5149)**

- (a) UTILIZATION OF SERVICES OR FACILITIES OF STATE AND LOCAL GOVERNMENTS - In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.
- (b) APPOINTMENT OF TEMPORARY PERSONNEL, EXPERTS, AND CONSULTANTS; ACQUISITION, RENTAL, OR HIRE OF EQUIPMENT, SERVICES, MATERIALS AND SUPPLIES - In performing any services under this Act, any Federal agency is authorized -
  - (1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5 governing appointments in competitive service;
  - (2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and
  - (3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

**Sec. 307. Use of Local Firms and Individuals (42 U.S.C. 5150)**

- (a) CONTRACTS OR AGREEMENTS WITH PRIVATE ENTITIES -
  - (1) IN GENERAL - In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.

- (2) CONSTRUCTION - This section shall not be considered to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.
  - (3) SPECIFIC GEOGRAPHIC AREA - In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.
- (b) IMPLEMENTATION -
- (1) CONTRACTS NOT TO ENTITIES IN AREA - Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster shall be justified in writing in the contract file.
  - (2) TRANSITION - Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in any area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.
  - (3) FORMATION OF REQUIREMENTS - The head of a Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section.
- (c) PRIOR CONTRACTS - Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.

**Sec. 308. Nondiscrimination in Disaster Assistance (42 U.S.C. 5151)**

- (a) REGULATIONS FOR EQUITABLE AND IMPARTIAL RELIEF OPERATIONS - The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.
- (b) COMPLIANCE WITH REGULATIONS AS PREREQUISITE TO PARTICIPATION BY OTHER BODIES IN RELIEF OPERATIONS - As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

**Sec. 309.** Use and Coordination of Relief Organizations (42 U.S.C. 5152)

- (a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.
- (b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this Act, and such other regulation as the President may require.

**Sec. 310.** Priority to Certain Applications for Public Facility and Public Housing Assistance (42 U.S.C. 5153)

- (a) PRIORITY - In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:
  - (1) The United States Housing Act of 1937<sup>8</sup> for the provision of low-income housing.
  - (2) Sections 3502 to 3505 of title 40 for assistance in public works planning.
  - (3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974.<sup>9</sup>
  - (4) Section 1926 of title 7.<sup>10</sup>
  - (5) The Public Works and Economic Development Act of 1965.<sup>11</sup>
  - (6) Subtitle IV of title 40.
  - (7) The Federal Water Pollution Control Act.<sup>12</sup>
- (b) OBLIGATION OF CERTAIN DISCRETIONARY FUNDS - In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of

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8. 42 U.S.C. 1437 et seq.

9. 42 U.S.C. 5301 et seq.

10. Section 306 of the Consolidated Farm and Rural Development Act.

11. 42 U.S.C. 3121 et seq.

12. 33 U.S.C. 1251 et seq.

a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.

**Sec. 311. Insurance (42 U.S.C. 5154)**

- (a) **APPLICANTS FOR REPLACEMENT OF DAMAGED FACILITIES** -
- (1) **COMPLIANCE WITH CERTAIN REGULATIONS** - An applicant for assistance under section 5172 of this title [Section 406] (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title [Section 422] (relating to simplified procedure) or section 3149(c)(2) of this title shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.
- (2) **DETERMINATION** - In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.
- (b) **MAINTENANCE OF INSURANCE** - No applicant for assistance under section 5172 of this title [Section 406] (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title [Section 422] (relating to simplified procedure), or section 3149(c)(2) of this title may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 5141 of this title [Section 301].
- (c) **STATE ACTING AS SELF-INSURER** - A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 5172 or 5189 of this title [Section 406 or 422] or section 3149(c)(2) of this title) or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 5172 or 5189 of this title [Section 406 or 422] for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.

**Prohibited Flood Disaster Assistance (42 U.S.C. 5154a)<sup>13</sup>**

- (a) **GENERAL PROHIBITION** - Notwithstanding any other provision of law, no Federal

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13. This section was enacted as part of the National Flood Insurance Reform Act of 1994 and as part of the Riegle Community Development and Regulatory Improvement Act of 1994, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) TRANSFER OF PROPERTY -

(1) DUTY TO NOTIFY -In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to -

- (A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and
- (B) maintain flood insurance in accordance with applicable Federal law with respect to such property. Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) FAILURE TO NOTIFY - If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property -

- (A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,
- (B) the property is damaged by a flood disaster, and
- (C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage, the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) PROPERTY DESCRIBED - For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) [Omitted]

(d) "FLOOD DISASTER AREA" DEFINED - For purposes of this section, the term "flood disaster area" means an area with respect to which -

- (1) the Secretary of Agriculture finds, or has found, to have been substantially

affected by a natural disaster in the United States pursuant to section 1961(a) of title 7;<sup>14</sup> or

- (2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.
- (e) EFFECTIVE DATE - This section and the amendments made by this section<sup>15</sup> shall apply to disasters declared after September 23, 1994.

**Sec. 312.** Duplication of Benefits (42 U.S.C. 5155)

- (a) GENERAL PROHIBITION - The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.
- (b) SPECIAL RULES -
  - (1) LIMITATION - This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.
  - (2) PROCEDURES - The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.
  - (3) EFFECT OF PARTIAL BENEFITS - Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.
- (c) RECOVERY OF DUPLICATIVE BENEFITS - A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.
- (d) ASSISTANCE NOT INCOME - Federal major disaster and emergency assistance provided to individuals and families under this Act, and comparable disaster assistance

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14. *The Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).*

15. *This refers to the amendments made by section 582(c) of Pub. L. 103-325, which amended section 4012a of this title.*

provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

**Sec. 313. Standards and Reviews (42 U.S.C. 5156)**

The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this Act. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this Act.

**Sec. 314. Penalties (42 U.S.C. 5157)**

- (a) MISUSE OF FUNDS - Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.
- (b) CIVIL ENFORCEMENT - Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.
- (c) REFERRAL TO ATTORNEY GENERAL - The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.
- (d) CIVIL PENALTY - Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than \$5,000 for each violation.

**Sec. 315. Availability of Materials (42 U.S.C. 5158)**

The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

**Sec. 316.** Protection of Environment (42 U.S.C. 5159)

An action which is taken or assistance which is provided pursuant to section 5170a, 5170b, 5172, 5173, or 5192 of this title [Section 402, 403, 406, 407, or 502], including such assistance provided pursuant to the procedures provided for in section 5189 of this title [Section 422], which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. §4321 et seq.]. Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 [42 U.S.C. §4321 et seq.] to other Federal actions taken under this Act or under any other provisions of law.

**Sec. 317.** Recovery of Assistance (42 U.S.C. 5160)

- (a) **PARTY LIABLE** - Any person who intentionally causes a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action for reasonable costs shall be brought in an appropriate United States district court.
- (b) **RENDERING OF CARE** - A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering care or assistance in response to a major disaster or emergency.

**Sec. 318.** Audits and Investigations (42 U.S.C. 5161)

- (a) **IN GENERAL** - Subject to the provisions of chapter 75 of title 31, relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.
- (b) **ACCESS TO RECORDS** - For purposes of audits and investigations under this section, the President and Comptroller General may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under this Act.
- (c) **STATE AND LOCAL AUDITS** - The President may require audits by State and local governments in connection with assistance under this Act when necessary to assure compliance with this Act or related regulations.

**Sec. 319.** Advance of Non-Federal Share (42 U.S.C. 5162)

- (a) **IN GENERAL** - The President may lend or advance to an eligible applicant or a State the portion of assistance for which the State is responsible under the cost-sharing provisions of this Act in any case in which--



- (1) the State is unable to assume its financial responsibility under such cost-sharing provisions—
    - (A) with respect to concurrent, multiple major disasters in a jurisdiction, or
    - (B) after incurring extraordinary costs as a result of a particular disaster; and
  - (2) the damages caused by such disasters or disaster are so overwhelming and severe that it is not possible for the applicant or the State to assume immediately their financial responsibility under this Act.
- (b) TERMS OF LOANS AND ADVANCES -
- (1) IN GENERAL - Any loan or advance under this section shall be repaid to the United States.
  - (2) INTEREST - Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.
- (c) REGULATIONS - The President shall issue regulations describing the terms and conditions under which any loan or advance authorized by this section may be made.

**Sec. 320.** Limitation on Use of Sliding Scales (42 U.S.C. 5163)

No geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.

**Sec. 321.** Rules and Regulations (42 U.S.C. 5164)

The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this Act, and may exercise, either directly or through such Federal agency as the President may designate, any power or authority conferred to the President by this Act.

**Sec. 322.** Mitigation Planning (42 U.S.C. 5165)

- (a) REQUIREMENT OF MITIGATION PLAN - As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e) of this section, a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.
- (b) LOCAL AND TRIBAL PLANS - Each mitigation plan developed by a local or tribal government shall -
  - (1) describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and

- (2) establish a strategy to implement those actions.
- (c) STATE PLANS - The State process of development of a mitigation plan under this section shall -
  - (1) identify the natural hazards, risks, and vulnerabilities of areas in the State;
  - (2) support development of local mitigation plans;
  - (3) provide for technical assistance to local and tribal governments for mitigation planning; and
  - (4) identify and prioritize mitigation actions that the State will support, as resources become available.
- (d) FUNDING -
  - (1) IN GENERAL - Federal contributions under section 5170c of this title [Section 404] may be used to fund the development and updating of mitigation plans under this section.
  - (2) MAXIMUM FEDERAL CONTRIBUTION - With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 5170c of this title [Section 404] not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.
- (e) INCREASED FEDERAL SHARE FOR HAZARD MITIGATION MEASURES -
  - (1) IN GENERAL - If, at the time of the declaration of a major disaster, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster, the maximum percentage specified in the last sentence of section 5170c(a) of this title [Section 404(a)].
  - (2) FACTORS FOR CONSIDERATION -In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established -
    - (A) eligibility criteria for property acquisition and other types of mitigation measures;
    - (B) requirements for cost effectiveness that are related to the eligibility criteria;
    - (C) a system of priorities that is related to the eligibility criteria; and
    - (D) a process by which an assessment of the effectiveness of a mitigation action may be carried out after the mitigation action is complete.

**Sec. 323. Minimum Standards for Public and Private Structures**  
(42 U.S.C. 5165a)

- (a) IN GENERAL - As a condition of receipt of a disaster loan or grant under this Act-
  - (1) the recipient shall carry out any repair or construction to be financed with

the loan or grant in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards; and

- (2) the President may require safe land use and construction practices, after adequate consultation with appropriate State and local government officials.
- (b) EVIDENCE OF COMPLIANCE - A recipient of a disaster loan or grant under this Act shall provide such evidence of compliance with this section as the President may require by regulation.

**Sec. 324. Management Costs (42 U.S.C. 5165b)**

- (a) DEFINITION OF MANAGEMENT COST - In this section, the term “management cost” includes any indirect cost, any administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.
- (b) ESTABLISHMENT OF MANAGEMENT COST RATES - Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation establish management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this Act for management costs.
- (c) REVIEW - The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

**Sec. 325. Public Notice, Comment, and Consultation Requirements (42 U.S.C. 5165c)**

- (a) PUBLIC NOTICE AND COMMENT CONCERNING NEW OR MODIFIED POLICIES -
  - (1) IN GENERAL - The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that -
    - (A) governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this Act; and
    - (B) could result in a significant reduction of assistance under the program.
  - (2) APPLICATION - Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.
- (b) CONSULTATION CONCERNING INTERIM POLICIES -
  - (1) IN GENERAL - Before adopting any interim policy under the public assistance program to address specific conditions that relate to a major disaster or emergency that has been declared under this Act, the President, to the maximum extent practicable, shall solicit the views and recommendations of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely -

- (A) to result in a significant reduction of assistance to applicants for the assistance with respect to the major disaster or emergency; or
  - (B) to change the terms of a written agreement to which the Federal Government is a party concerning the declaration of the major disaster or emergency.
- (2) NO LEGAL RIGHT OF ACTION - Nothing in this subsection confers a legal right of action on any party.
- (c) PUBLIC ACCESS - The President shall promote public access to policies governing the implementation of the public assistance program.

**Sec. 326.** Designation of Small State and Rural Advocate (42 U.S.C. 5165d)

- (a) IN GENERAL - The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.
- (b) RESPONSIBILITIES - The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this Act.
- (c) DUTIES - The Small State and Rural Advocate shall -
  - (1) participate in the disaster declaration process under section 5170 of this title [Section 401] and the emergency declaration process under section 5191 of this title [Section 501], to ensure that the needs of rural communities are being addressed;
  - (2) assist small population States in the preparation of requests for major disaster or emergency declarations; and
  - (3) conduct such other activities as the Administrator of the Federal Emergency Management Agency considers appropriate.

## Title IV – Major Disaster Assistance Programs

### Sec. 401. Procedure for Declaration (42 U.S.C. 5170)\*<sup>16</sup>

- (a) **IN GENERAL** - All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements of this Act. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.
- (b) **INDIAN TRIBAL GOVERNMENT REQUESTS** -
- (1) **IN GENERAL** - The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that a major disaster exists consistent with the requirements of subsection (a).
  - (2) **REFERENCES** - In implementing assistance authorized by the President under this chapter in response to a request of the Chief Executive of an affected Indian tribal government for a major disaster declaration, any reference in this subchapter or subchapter III (except sections 5153 and 5165d of this title [Sections 310 and 326]) to a State or the Governor of a State is deemed to refer to an affected Indian tribal government or the Chief Executive of an affected Indian tribal government, as appropriate.
  - (3) **SAVINGS PROVISION** - Nothing in this subsection shall prohibit an Indian tribal government from receiving assistance under this subchapter through a declaration made by the President at the request of a State under subsection (a) if the President does not make a declaration under this subsection for the same incident.

16. *Individual assistance factors: Pub. L. 113-2, div. B, § 1109, Jan. 29, 2013, 127 Stat. 47, provides that, "In order to provide more objective criteria for evaluating the need for assistance to individuals, to clarify the threshold for eligibility and to speed a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), not later than 1 year after the date of enactment of this division [Jan. 29, 2013], the Administrator of the Federal Emergency Management Agency, in cooperation with representatives of State, tribal, and local emergency management agencies, shall review, update, and revise through rulemaking the factors considered under section 206.48 of title 44, Code of Federal Regulations (including section 206.48(b)(2) of such title relating to trauma and the specific conditions or losses that contribute to trauma), to measure the severity, magnitude, and impact of a disaster."*

(c) COST SHARE ADJUSTMENTS FOR INDIAN TRIBAL GOVERNMENTS

- (1) IN GENERAL - In providing assistance to an Indian tribal government under this subchapter, the President may waive or adjust any payment of a non-Federal contribution with respect to the assistance if -
  - (A) The President has the authority to waive or adjust the payment under another provision of this subchapter; and
  - (B) The President determines that the waiver of adjustment is necessary and appropriate.
- (2) CRITERIA FOR MAKING DETERMINATIONS – The President shall establish criteria for making determinations under paragraph (1)(B).

**Sec. 402.** General Federal Assistance (42 U.S.C. 5170a)

In any major disaster, the President may -

- (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance response and recovery efforts, including precautionary evacuations;
- (2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments, including precautionary evacuations and recovery;
- (3) provide technical and advisory assistance to affected State and local governments for -
  - (A) the performance of essential community services;
  - (B) issuance of warnings of risks and hazards;
  - (C) public health and safety information, including dissemination of such information;
  - (D) provision of health and safety measures;
  - (E) management, control, and reduction of immediate threats to public health and safety; and
  - (F) recovery activities, including disaster impact assessments and planning;
- (4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and
- (5) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—
  - (A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided;

and

- (B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.

**Sec. 403. Essential Assistance (42 U.S.C. 5170b)\***

- (a) IN GENERAL - Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:
- (1) FEDERAL RESOURCES, GENERALLY - Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act.
  - (2) MEDICINE, FOOD, AND OTHER CONSUMABLES - Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine durable medical equipment,<sup>17</sup> food, and other consumable supplies, and other services and assistance to disaster victims.
  - (3) WORK AND SERVICES TO SAVE LIVES AND PROTECT PROPERTY - Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including -
    - (A) debris removal;
    - (B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine durable medical equipment,<sup>18</sup> and other essential needs, including movement of supplies or persons;
    - (C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;
    - (D) provision of temporary facilities for schools and other essential community services;
    - (E) demolition of unsafe structures which endanger the public;
    - (F) warning of further risks and hazards;
    - (G) dissemination of public information and assistance regarding health and safety measures;
    - (H) provision of technical advice to State and local governments on disaster management and control;
    - (I) reduction of immediate threats to life, property, and public health and safety; and

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17. *Typographical error in original; the extra comma should probably follow "medicine."*

18. *Typographical error in original; the extra comma should probably follow "medicine."*

- (J) provision of rescue, care, shelter, and essential needs -
  - (i) to individuals with household pets and service animals; and
  - (ii) to such pets and animals.
- (4) CONTRIBUTIONS - Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.
- (b) FEDERAL SHARE - The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.
- (c) UTILIZATION OF DOD RESOURCES -
  - (1) GENERAL RULE - During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.
  - (2) RULES APPLICABLE TO DEBRIS REMOVAL - Any removal of debris and wreckage carried out under this subsection shall be subject to section 5173(b) of this title [Section 407(b)], relating to unconditional authorization and indemnification for debris removal.
  - (3) EXPENDITURES OUT OF DISASTER RELIEF FUNDS - The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.
  - (4) FEDERAL SHARE - The Federal share of assistance under this subsection shall be not less than 75 percent.
  - (5) GUIDELINES - Not later than 180 days after November 23, 1988,<sup>19</sup> the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this Act.
  - (6) DEFINITIONS - For purposes of this section—
    - (A) DEPARTMENT OF DEFENSE - The term “Department of Defense” has the meaning the term “department” has under section 101 of title 10.
    - (B) EMERGENCY WORK - The term “emergency work” includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

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19. The date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988.



## (d) SALARIES AND BENEFITS -

- (1) IN GENERAL - If the President declares a major disaster or emergency for an area within the jurisdiction of a State, tribal, or local government, the President may reimburse the State, tribal, or local government for costs relating to -
  - (A) basic pay and benefits for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section, if—
    - (i) the work is not typically performed by the employees; and
    - (ii) the type of work may otherwise be carried out by contract or agreement with private organizations, firms, or individuals;<sup>20</sup> or
  - (B) overtime and hazardous duty compensation for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section.
- (2) OVERTIME - The guidelines for reimbursement for costs under paragraph (1) shall ensure that no State, tribal, or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).
- (3) NO EFFECT ON MUTUAL AID PACTS - Nothing in this subsection shall affect the ability of the President to reimburse labor force expenses provided pursuant to an authorized mutual aid pact.

**Sec. 404. Hazard Mitigation (42 U.S.C. 5170c)\*<sup>21</sup>**

- (a) IN GENERAL - The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 5165 of this title [Section 322] and shall be subject to approval by the President. Subject to section 5165 of this title [Section 322], the total of contributions under this section for a major disaster shall not exceed 15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

20. *Typographical error (two punctuation marks) in original.*

21. *Pub. L. 113-2, div. B, § 1104(c), Jan. 29, 2013, 127 Stat. 43, provides that, "The authority under the amendments made by this section [amending this section] shall apply to— (1) any major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after the date of enactment of this division [Jan. 29, 2013]; and (2) a major disaster or emergency declared under that Act before the date of enactment of this division for which the period for processing requests for assistance has not ended as of the date of enactment of this division."*

(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE -

- (1) GENERAL AUTHORITY - In providing hazard mitigation assistance under this section in connection with flooding, the Administrator of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).
- (2) TERMS AND CONDITIONS - An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if -
  - (A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a) of this section; and
  - (B) on or after December 3, 1993, the applicant for the assistance enters into an agreement with the Administrator that provides assurances that -
    - (i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;
    - (ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than--
      - (I) a public facility that is open on all sides and functionally related to a designated open space;
      - (II) a rest room; or
      - (III) a structure that the Administrator approves in writing before the commencement of the construction of the structure; and
    - (iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program--
      - (I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and
      - (II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.
- (3) STATUTORY CONSTRUCTION - Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before December 3, 1993.

(c) PROGRAM ADMINISTRATION BY STATES -

- (1) IN GENERAL - A State desiring to administer the hazard mitigation grant program
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- established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority to administer the program.
- (2) **CRITERIA** - The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this section as a pilot program. The criteria shall include, at a minimum -
- (A) the demonstrated ability of the State to manage the grant program under this section;
  - (B) there being in effect an approved mitigation plan under section 5165 of this title [Section 322]; and
  - (C) a demonstrated commitment to mitigation activities.
- (3) **APPROVAL** - The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).
- (4) **WITHDRAWAL OF APPROVAL** - If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.
- (5) **AUDITS** - The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.
- (d) **STREAMLINED PROCEDURES** -
- (1) **IN GENERAL** - For the purpose of providing assistance under this section, the President shall ensure that—
    - (A) adequate resources are devoted to ensure that applicable environmental reviews under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and historic preservation reviews under the National Historic Preservation Act [16 U.S.C. 470 et seq.] are completed on an expeditious basis; and
    - (B) the shortest existing applicable process under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and the National Historic Preservation Act [16 U.S.C. 470 et seq.] is utilized.
  - (2) **AUTHORITY FOR OTHER EXPEDITED PROCEDURES** - The President may utilize expedited procedures in addition to those required under paragraph (1) for the purpose of providing assistance under this section, such as procedures under the Prototype Programmatic Agreement of the Federal Emergency Management Agency, for the consideration of multiple structures as a group and for an
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analysis of the cost-effectiveness and fulfillment of cost-share requirements for proposed hazard mitigation measures.

- (e) **ADVANCE ASSISTANCE** - The President may provide not more than 25 percent of the amount of the estimated cost of hazard mitigation measures to a State grantee eligible for a grant under this section before eligible costs are incurred.

**Sec. 405. Federal Facilities (42 U.S.C. 5171)**

- (a) **REPAIR, RECONSTRUCTION, RESTORATION, OR REPLACEMENT OF UNITED STATES FACILITIES** - The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.
- (b) **AVAILABILITY OF FUNDS APPROPRIATED TO AGENCY FOR REPAIR, RECONSTRUCTION, RESTORATION, OR REPLACEMENT OF AGENCY FACILITIES** - In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.
- (c) **STEPS FOR MITIGATION OF HAZARDS** - In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

**Sec. 406. Repair, Restoration, and Replacement of Damaged Facilities (42 U.S.C. 5172)**

- (a) **CONTRIBUTIONS** -
  - (1) **IN GENERAL** -The President may make contributions -
    - (A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and
    - (B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.
  - (2) **ASSOCIATED EXPENSES** - For the purposes of this section, associated expenses shall include -
    - (A) the costs of mobilizing and employing the National Guard for performance of eligible work;
    - (B) the costs of using prison labor to perform eligible work, including

wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging; and

- (C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster.
- (3) CONDITIONS FOR ASSISTANCE TO PRIVATE NONPROFIT FACILITIES -
- (A) IN GENERAL - The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if -
    - (i) the facility provides critical services (as defined by the President) in the event of a major disaster; or
    - (ii) the owner or operator of the facility -
      - (I) has applied for a disaster loan under section 636(b) of title 15;<sup>22</sup> and
      - (II) (aa) has been determined to be ineligible for such a loan; or (bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.
  - (B) DEFINITION OF CRITICAL SERVICES - In this paragraph, the term “critical services” includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications, education, and emergency medical care.
- (4) NOTIFICATION TO CONGRESS - Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify—
- (A) the Committee on Environment and Public Works of the Senate;
  - (B) the Committee on Transportation and Infrastructure of the House of Representatives;
  - (C) the Committee on Appropriations of the Senate; and
  - (D) the Committee on Appropriations of the House of Representatives.
- (b) FEDERAL SHARE -
- (1) MINIMUM FEDERAL SHARE - Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

**Note: Paragraph (2) takes effect after FEMA has promulgated an implementing regulation.**

- (2) REDUCED FEDERAL SHARE - The President shall promulgate regulations to reduce

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22. Section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster -

- (A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and
  - (B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.
- (c) LARGE IN-LIEU CONTRIBUTIONS -
- (1) FOR PUBLIC FACILITIES -
    - (A) IN GENERAL - In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A) of this section, a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.
    - (B) USE OF FUNDS - Funds contributed to a State or local government under this paragraph may be used -
      - (i) to repair, restore, or expand other selected public facilities;
      - (ii) to construct new facilities; or
      - (iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.
    - (C) LIMITATIONS - Funds made available to a State or local government under this paragraph may not be used for -
      - (i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
      - (ii) any uninsured public facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).
  - (2) FOR PRIVATE NONPROFIT FACILITIES -
    - (A) IN GENERAL - In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection

- (a)(1)(B), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.
- (B) USE OF FUNDS - Funds contributed to a person under this paragraph may be used -
- (i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;
  - (ii) to construct new private nonprofit facilities to be owned or operated by the person; or
  - (iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.
- (C) LIMITATIONS - Funds made available to a person under this paragraph may not be used for -
- (i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
  - (ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).
- (d) FLOOD INSURANCE -
- (1) REDUCTION OF FEDERAL ASSISTANCE - If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).
  - (2) AMOUNT OF REDUCTION - The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of -
    - (A) the value of such facility on the date of the flood damage or destruction, or
    - (B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.
  - (3) EXCEPTION - Paragraphs (1) and (2) shall not apply to a private nonprofit
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facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

- (4) **DISSEMINATION OF INFORMATION** - The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

**Note:** The following version of subsection (e) remains in effect until the cost estimation procedures established under paragraph (3) of the revised version of subsection 406(e) – see next subsection – take effect.

(e) **NET ELIGIBLE COST** –

- (1) **GENERAL RULE** – For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.
- (2) **SPECIAL RULE** – In any case in which the facility being repaired, restored, reconstructed, or replaced, under this section was under construction on the dated of the major disaster, the cost of repairing, restoring, reconstruction, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner's responsibility and not the contractor's responsibility.

**Note:** The following version of subsection 406(e)(1) and (2) becomes effective when the procedures established by paragraph (3) of this subsection take effect. Subsection 406(e)(4) is currently in effect.

(e) **ELIGIBLE COST** -

(1) **DETERMINATION** -

- (A) **IN GENERAL** - For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility--
- (i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and
- (ii) in conformity with codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred.



- (B) COST ESTIMATION PROCEDURES -
  - (i) IN GENERAL - Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.
  - (ii) APPLICABILITY - The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 5189 of this title [Section 422].
- (2) MODIFICATION OF ELIGIBLE COST -
  - (A) ACTUAL COST GREATER THAN CEILING PERCENTAGE OF ESTIMATED COST - In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).
  - (B) ACTUAL COST LESS THAN ESTIMATED COST -
    - (i) GREATER THAN OR EQUAL TO FLOOR PERCENTAGE OF ESTIMATED COST - In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.
    - (ii) LESS THAN FLOOR PERCENTAGE OF ESTIMATED COST - In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.
  - (C) NO EFFECT ON APPEALS PROCESS - Nothing in this paragraph affects any right of appeal under section 5189a of this title [Section 423].
- (3) EXPERT PANEL -
  - (A) ESTABLISHMENT - Not later than 18 months after October 30, 2000, the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

- (B) DUTIES - The expert panel shall develop recommendations concerning -
    - (i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and
    - (ii) the ceiling and floor percentages referred to in paragraph (2).
  - (C) REGULATIONS - Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish -
    - (i) cost estimation procedures described in subparagraph (B)(i); and
    - (ii) the ceiling and floor percentages referred to in paragraph (2).
  - (D) REVIEW BY PRESIDENT - Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.
  - (E) REPORT TO CONGRESS - Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.
- (4) SPECIAL RULE - In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

**Sec. 407. Debris Removal (42 U.S.C. 5173)**

- (a) PRESIDENTIAL AUTHORITY - The President, whenever he determines it to be in the public interest, is authorized -
  - (1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and
  - (2) to make grants to any State or local government or owner or operator of a private non-profit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.
- (b) AUTHORIZATION BY STATE OR LOCAL GOVERNMENT; INDEMNIFICATION AGREEMENT - No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the

Federal Government against any claim arising from such removal.

- (c) **RULES RELATING TO LARGE LOTS** - The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.
- (d) **FEDERAL SHARE** - The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.
- (e) **EXPEDITED PAYMENTS** -
  - (1) **GRANT ASSISTANCE** – In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President’s initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).
  - (2) **DATE OF PAYMENT** – Not later than 60 days after the date of the estimate described in paragraph (1) and not later than 90 days after the date on which the State or local government or owner or operator of a private nonprofit facility applies for assistance under this section, an initial payment described in paragraph (1) shall be paid.

**Sec. 408.** Federal Assistance to Individuals and Households (42 U.S.C. 5174)\*

- (a) **IN GENERAL** -
  - (1) **PROVISION OF ASSISTANCE** - In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.
  - (2) **RELATIONSHIP TO OTHER ASSISTANCE** - Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) of this section solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.
- (b) **HOUSING ASSISTANCE** -
  - (1) **ELIGIBILITY** - The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, as a result of damage caused by a major disaster.

- (2) DETERMINATION OF APPROPRIATE TYPES OF ASSISTANCE -
  - (A) IN GENERAL - The President shall determine appropriate types of housing assistance to be provided under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.
  - (B) MULTIPLE TYPES OF ASSISTANCE - One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.
- (c) TYPES OF HOUSING ASSISTANCE -
  - (1) TEMPORARY HOUSING -
    - (A) FINANCIAL ASSISTANCE -
      - (i) IN GENERAL - The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. Such assistance may include the payment of the cost of utilities, excluding telephone service.
      - (ii) AMOUNT - The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hookups, security deposits, or unit installation not provided directly by the President.
    - (B) DIRECT ASSISTANCE -
      - (i) IN GENERAL - The President may provide temporary housing units, acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).
      - (ii) LEASE AND REPAIR OF RENTAL UNITS FOR TEMPORARY HOUSING -
        - (I) IN GENERAL - The President, to the extent the President determines it would be a cost-effective alternative to other temporary housing options, may -
          - (aa) enter into lease agreements with owners of multifamily rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under this section; and
          - (bb) make repairs or improvements to properties under such lease agreements, to the extent necessary to serve as safe and adequate temporary housing.
        - (II) IMPROVEMENTS OR REPAIRS - Under the terms of any lease agreement

for property entered into under this subsection, the value of the improvements or repairs -

(aa) shall be deducted from the value of the lease agreement; and

(bb) may not exceed the value of the lease agreement.

(iii) PERIOD OF ASSISTANCE - The President may not provide direct assistance under clause (i) with respect to a major disaster after the end of the 18-month period beginning on the date of the declaration of the major disaster by the President, except that the President may extend that period if the President determines that due to extraordinary circumstances an extension would be in the public interest.

(iv) COLLECTION OF RENTAL CHARGES - After the end of the 18-month period referred to in clause (iii), the President may charge fair market rent for each temporary housing unit provided.

(2) REPAIRS -

(A) IN GENERAL - The President may provide financial assistance for -

(i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and

(ii) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure.

(B) RELATIONSHIP TO OTHER ASSISTANCE - A recipient of assistance provided under this paragraph shall not be required to show that the assistance can be met through other means, except insurance proceeds.

(3) REPLACEMENT -

(A) IN GENERAL - The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.

(B) APPLICABILITY OF FLOOD INSURANCE REQUIREMENT - With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.

(4) PERMANENT HOUSING CONSTRUCTION - The President may provide financial assistance or direct assistance to individuals or households to construct permanent or semi-permanent housing in insular areas outside the continental United States and in other locations in cases in which -

(A) no alternative housing resources are available; and

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- (B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective.
- (d) TERMS AND CONDITIONS RELATING TO HOUSING ASSISTANCE -
  - (1) SITES -
    - (A) IN GENERAL - Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that -
      - (i) is complete with utilities;
      - (ii) meets the physical accessibility requirements for individuals with disabilities; and
      - (iii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.
    - (B) SITES PROVIDED BY THE PRESIDENT - A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.
  - (2) DISPOSAL OF UNITS -
    - (A) SALE TO OCCUPANTS -
      - (i) IN GENERAL - Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.
      - (ii) SALE PRICE - A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.
      - (iii) DEPOSIT OF PROCEEDS - Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.
      - (iv) HAZARD AND FLOOD INSURANCE - A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.
      - (v) USE OF GSA SERVICES - The President may use the services of the General Services Administration to accomplish a sale under clause (i).
    - (B) OTHER METHODS OF DISPOSAL - If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims -
      - (i) may be sold to any person; or
      - (ii) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary

organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees -

- (I) to comply with the nondiscrimination provisions of section 5151 of this title [Section 308]; and
- (II) to obtain and maintain hazard and flood insurance on the housing unit.

(e) FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS -

- (1) MEDICAL, DENTAL, CHILD CARE, AND FUNERAL EXPENSES - The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, child care, and funeral expenses.
- (2) PERSONAL PROPERTY, TRANSPORTATION, AND OTHER EXPENSES - The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

(f) STATE ROLE -

(1) FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS -

- (A) GRANT TO STATE - Subject to subsection (g) of this section, a Governor may request a grant from the President to provide financial assistance to individuals and households in the State under subsection (e) of this section.
- (B) ADMINISTRATIVE COSTS - A State that receives a grant under subparagraph (A) may expend not more than 5 percent of the amount of the grant for the administrative costs of providing financial assistance to individuals and households in the State under subsection (e) of this section.

- (2) ACCESS TO RECORDS - In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, including by providing to the States access to the electronic records of individuals and households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households.

(g) COST SHARING -

- (1) FEDERAL SHARE - Except as provided in paragraph (2), the Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.

- (2) FINANCIAL ASSISTANCE TO ADDRESS OTHER NEEDS - In the case of financial assistance provided under subsection (e) of this section -
  - (A) the Federal share shall be 75 percent; and
  - (B) the non-Federal share shall be paid from funds made available by the State.
- (h) MAXIMUM AMOUNT OF ASSISTANCE -
  - (1) IN GENERAL - No individual or household shall receive financial assistance greater than \$25,000 under this section with respect to a single major disaster.
  - (2) ADJUSTMENT OF LIMIT - The limit established under paragraph (1) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.
- (i) VERIFICATION MEASURES - In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to -
  - (1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;
  - (2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;
  - (3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;
  - (4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and
  - (5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.
- (j) RULES AND REGULATIONS - The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

**Sec. 410. Unemployment Assistance (42 U.S.C. 5177)**

- (a) BENEFIT ASSISTANCE - The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title



26)<sup>23</sup> or a waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) REEMPLOYMENT ASSISTANCE

- (1) STATE ASSISTANCE - A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.
- (2) FEDERAL ASSISTANCE - The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.

Emergency Grants to Assist Low-Income Migrant and Seasonal Farmworkers  
(42 U.S.C. 5177a)<sup>24</sup>

- (a) IN GENERAL - The Secretary of Agriculture may make grants to public agencies or private organizations with tax exempt status under section 501(c)(3) of title 26, that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.
- (b) "LOW-INCOME MIGRANT OR SEASONAL FARMWORKER" DEFINED - For the purposes of this section, the term "low-income migrant or seasonal farmworker" means an individual -
  - (1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;
  - (2) who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and
  - (3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

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23. *The Internal Revenue Code of 1986.*

24. *This section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.*

- (c) AUTHORIZATION OF APPROPRIATIONS - There are authorized to be appropriated such sums as may be necessary to carry out this section.

**Sec. 412. Benefits and Distribution (42 U.S.C. 5179)**

- (a) PERSONS ELIGIBLE; TERMS AND CONDITIONS - Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies benefit allotments to such households pursuant to the provisions of the Food and Nutrition Act of 2008 of 1964<sup>25</sup> (P.L. 91-671; 84 Stat. 2048) [7 U.S.C. 2011 et seq.] and to make surplus commodities available pursuant to the provisions of this Act.
- (b) DURATION OF ASSISTANCE; FACTORS CONSIDERED - The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such benefit allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.
- (c) FOOD AND NUTRITION ACT PROVISIONS UNAFFECTED - Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food and Nutrition Act of 2008 of 1964<sup>26</sup> [7 U.S.C. 2011 et seq.] except as they relate to the availability of supplemental nutrition assistance program benefits in an area affected by a major disaster.

**Sec. 413. Food Commodities (42 U.S.C. 5180)**

- (a) EMERGENCY MASS FEEDING - The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.
- (b) FUNDS FOR PURCHASE OF FOOD COMMODITIES - The Secretary of Agriculture shall utilize funds appropriated under section 612c of title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

**Sec. 414. Relocation Assistance (42 U.S.C. 5181)**

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) [42 U.S.C. 4601 et seq.] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

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25. *Typographical error in original.*

26. *Typographical error in original.*

**Sec. 415. Legal Services (42 U.S.C. 5182)**

Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this Act, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

**Sec. 416. Crisis Counseling Assistance and Training (42 U.S.C. 5183)**

The President is authorized to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

**Sec. 417. Community Disaster Loans (42 U.S.C. 5184)**

- (a) *IN GENERAL* - The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.
- (b) *AMOUNT* - The amount of any such loan shall be based on need, shall not exceed -
  - (1) 25 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000; or
  - (2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000.
- (c) *REPAYMENT* -
  - (1) *CANCELLATION* - Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.
  - (2) *CONDITION ON CONTINUING ELIGIBILITY* - A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.
- (d) *EFFECT ON OTHER ASSISTANCE* - Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

**Sec. 418.** Emergency Communications (42 U.S.C. 5185)

The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

**Sec. 419.** Emergency Public Transportation (42 U.S.C. 5186)

The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

**Sec. 420.** Fire Management Assistance (42 U.S.C. 5187)

- (a) **IN GENERAL** - The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.
- (b) **COORDINATION WITH STATE AND TRIBAL DEPARTMENTS OF FORESTRY** - In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.
- (c) **ESSENTIAL ASSISTANCE** - In providing assistance under this section, the President may use the authority provided under section 5170b of this title [Section 403].
- (d) **RULES AND REGULATIONS** - The President shall prescribe such rules and regulations as are necessary to carry out this section.

**Sec. 421.** Timber Sale Contracts (42 U.S.C. 5188)

- (a) **COST-SHARING ARRANGEMENT** - Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than \$ 1,000 for sales under one million board feet, (2) of more than \$1 per thousand board feet for sales of one to three million board feet, or (3) of more than \$3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.
- (b) **CANCELLATION OF AUTHORITY** - If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

- (c) PUBLIC NOTICE OF SALE - The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of title 16<sup>27</sup> in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.
- (d) STATE GRANTS FOR REMOVAL OF DAMAGED TIMBER; REIMBURSEMENT OF EXPENSES LIMITED TO SALVAGE VALUE OF REMOVED TIMBER - The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

**Sec. 422. Simplified Procedure (42 U.S.C. 5189)\***

- (a) IN GENERAL - If the Federal estimate of the cost of -
- (1) Repairing, restoring, reconstructing, or replacing under section 5172 of this title [Section 406] any damaged or destroyed public facility or private nonprofit facility,
  - (2) emergency assistance under section 5170b or 5192 of this title [Section 403 or 502], or
  - (3) debris removed under section 5173 of this title [Section 407],
- is less than \$35,000 (or, if the Administrator has established a threshold under subsection (b), the amount established under subsection (b)), the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 5170b, 5172, 5173, or 5192 of this title [Section 403, 406, 407, or 502], as the case may be, on the basis of such Federal estimate. Such \$35,000 amount or, if applicable, the amount established under subsection (b), shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.
- (b) THRESHOLD -
- (1) REPORT - Not later than 1 year after January 29, 2013, the President, acting through the Administrator of the Federal Emergency Management Agency (in this section referred to as the "Administrator"), shall -
    - (A) complete an analysis to determine whether an increase in the threshold or eligibility under subsection (a) is appropriate, which shall include

*27. Section 476 of title 16 was repealed by Pub. L. 94-588, § 13, Oct. 22, 1976, 90 Stat. 2958.*

consideration of cost-effectiveness, speed of recovery, capacity of grantees, past performance, and accountability measures; and

- (B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the analysis conducted under subparagraph (A).
- (2) AMOUNT - After the Administrator submits the report required under paragraph (1), the President shall direct the Administrator to -
    - (A) immediately establish a threshold for eligibility under this section in an appropriate count, without regard to chapter 5 of title 5; and
    - (B) adjust the threshold annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.
  - (3) REVIEW - Not later than 3 years after the date on which the Administrator establishes a threshold under paragraph (2), and every 3 years thereafter, the President, acting through the Administrator, shall review the threshold for eligibility under this section.

**Sec. 423. Appeals of Assistance Decisions (42 U.S.C. 5189a)\***

- (a) RIGHT OF APPEAL - Any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.
- (b) PERIOD FOR DECISION - A decision regarding an appeal under subsection (a) of this section shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.
- (c) RULES - The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

*The Sandy Recovery Improvement Act of 2013 enacted a “Dispute Resolution Pilot Program” set out as a note under section 423 (42 U.S.C. 5189a). For the full text of this note, see page 79.*

**Sec. 424. Date of Eligibility; Expenses Incurred Before Date of Disaster (42 U.S.C. 5189b)**

Eligibility for Federal assistance under this title shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that reasonable expenses which are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this Act.

**Sec. 425. Transportation Assistance to Individuals and Households (42 U.S.C. 5189c)**

The President may provide transportation assistance to relocate individuals displaced

from their predisaster primary residences as a result of an incident declared under this Act or otherwise transported from their predisaster primary residences under section 5170b(a)(3) or 5192 of this title [Sections 403(a)(3) or 502], to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

**Sec. 426.** Case Management Services (42 U.S.C. 5189d)

The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.

**Sec. 427.** Essential Service Providers (42 U.S.C. 5189e)\*<sup>28</sup>

- (a) DEFINITION - In this section, the term “essential service provider” means an entity that -
- (1) provides -
    - (A) telecommunications service;
    - (B) electrical power;
    - (C) natural gas;
    - (D) water and sewer services; or
    - (E) any other essential service, as determined by the President;
  - (2) is -
    - (A) a municipal entity;
    - (B) a nonprofit entity; or
    - (C) a private, for profit entity; and
  - (3) is contributing to efforts to respond to an emergency or major disaster.
- (b) AUTHORIZATION FOR ACCESSIBILITY - Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not -
- (1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or
  - (2) impede the restoration or repair of the services described in subsection (a)(1).

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28. Formerly labeled § 425, as added Pub. L. 109-347, title VI, § 607, Oct. 13, 2006, 120 Stat. 1941; renumbered § 427, Pub. L. 113-2, div. B, § 1102(1), Jan. 29, 2013, 127 Stat. 39. This was the only change to this section made by the Sandy Recovery Improvement Act of 2013.

- (c) IMPLEMENTATION - In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulation, and policies.

**Sec. 428. Public Assistance Program Alternative Procedures (42 U.S.C. 5189f)\***

- (a) APPROVAL OF PROJECTS - The President, acting through the Administrator of the Federal Emergency Management Agency, may approve projects under the alternative procedures adopted under this section for any major disaster or emergency declared on or after January 29, 2013. The Administrator may also apply the alternate procedures adopted under this section to a major disaster or emergency declared before enactment of this Act for which construction has not begun as of the date of enactment of this Act.<sup>29</sup>
- (b) ADOPTION - The Administrator, in coordination with States, tribal and local governments, and owners or operators of private nonprofit facilities, may adopt alternative procedures to administer assistance provided under sections 5170b(a)(3)(A), 5172, 5173, and 5192(a)(5) of this title [Sections 403(a)(3)(A), 406, 407, and 502(a)(5)].
- (c) GOALS OF PROCEDURES - The alternative procedures adopted under subsection (a) shall further the goals of -
- (1) reducing the costs to the Federal Government of providing such assistance;
  - (2) increasing flexibility in the administration of such assistance;
  - (3) expediting the provision of such assistance to a State, tribal or local government, or owner or operator of a private nonprofit facility; and
  - (4) providing financial incentives and disincentives for a State, tribal or local government, or owner or operator of a private nonprofit facility for the timely and cost-effective completion of projects with such assistance.
- (d) PARTICIPATION - Participation in the alternative procedures adopted under this section shall be at the election of a State, tribal or local government, or owner or operator of a private nonprofit facility consistent with procedures determined by the Administrator.
- (e) MINIMUM PROCEDURES - The alternative procedures adopted under this section shall include the following:
- (1) For repair, restoration, and replacement of damaged facilities under section 5172 of this title [Section 406] -
    - (A) making grants on the basis of fixed estimates, if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible for any actual costs that exceed the estimate;
    - (B) providing an option for a State, tribal or local government, or owner

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29. This probably means the date of enactment of Pub. L. 113-2, enacted and approved on Jan. 29, 2013.



or operator of a private nonprofit facility to elect to receive an in-lieu contribution, without reduction, on the basis of estimates of -

- (i) the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State, tribal or local government or owner or operator of a private nonprofit facility; and
  - (ii) management expenses;
- (C) consolidating, to the extent determined appropriate by the Administrator, the facilities of a State, tribal, or local government, or owner or operator of a private nonprofit facility as a single project based upon the estimates adopted under the procedures;
- (D) if the actual costs of a project completed under the procedures are less than the estimated costs thereof, the Administrator may permit a grantee or subgrantee to use all or part of the excess funds for -
- (i) cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster; and
  - (ii) other activities to improve future Public Assistance operations or planning;
- (E) in determining eligible costs under section 5172 of this title [Section 406], the Administrator shall make available, at an applicant's request and where the Administrator or the certified cost estimate prepared by the applicant's professionally licensed engineers has estimated an eligible Federal share for a project of at least \$5,000,000, an independent expert panel to validate the estimated eligible cost consistent with applicable regulations and policies implementing this section; and
- (F) in determining eligible costs under section 5172 of this title [Section 406], the Administrator shall, at the applicant's request, consider properly conducted and certified cost estimates prepared by professionally licensed engineers (mutually agreed upon by the Administrator and the applicant), to the extent that such estimates comply with applicable regulations, policy, and guidance.
- (2) For debris removal under sections 5170b(a)(3)(A), 5173, and 5192(a)(5) of this title [Sections 403(a)(3)(A), 407, and 502(a)(5)] -
- (A) making grants on the basis of fixed estimates to provide financial incentives and disincentives for the timely or cost-effective completion if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible to pay for any actual costs that exceed the estimate;
  - (B) using a sliding scale for determining the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal;

- (C) allowing use of program income from recycled debris without offset to the grant amount;
- (D) reimbursing base and overtime wages for employees and extra hires of a State, tribal or local government, or owner or operator of a private nonprofit facility performing or administering debris and wreckage removal;
- (E) providing incentives to a State or tribal government to have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster; and
- (F) if the actual costs of projects under subparagraph (A) are less than the estimated costs of the project, the Administrator may permit a grantee or subgrantee to use all or part of the excess funds for -
  - (i) debris management planning;
  - (ii) acquisition of debris management equipment for current or future use; and
  - (iii) other activities to improve future debris removal operations, as determined by the Administrator.
- (f) WAIVER AUTHORITY - Until such time as the Administrator promulgates regulations to implement this section, the Administrator may -
  - (1) waive notice and comment rulemaking, if the Administrator determines the waiver is necessary to expeditiously implement this section; and
  - (2) carry out the alternative procedures under this section as a pilot program.
- (g) OVERTIME PAYMENTS - The guidelines for reimbursement for costs under subsection (e)(2)(D) shall ensure that no State or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).
- (h) REPORT -
  - (1) IN GENERAL - Not earlier than 3 years, and not later than 5 years, after January 29, 2013, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the alternative procedures for the repair, restoration, and replacement of damaged facilities under section 5172 of this title [Section 406] authorized under this section.
  - (2) CONTENTS - The report shall contain an assessment of the effectiveness of the alternative procedures, including -
    - (A) whether the alternative procedures helped to improve the general speed of disaster recovery;
    - (B) the accuracy of the estimates relied upon;

- (C) whether the financial incentives and disincentives were effective;
- (D) whether the alternative procedures were cost effective;
- (E) whether the independent expert panel described in subsection (e)(1)(E) was effective; and
- (F) recommendations for whether the alternative procedures should be continued and any recommendations for changes to the alternative procedures.

**Sec. 429. Unified Federal Review (42 U.S.C. 5189g)\***

- (a) *IN GENERAL* - Not later than 18 months after January 29, 2013, and in consultation with the Council on Environmental Quality and the Advisory Council on Historic Preservation, the President shall establish an expedited and unified interagency review process to ensure compliance with environmental and historic requirements under Federal law relating to disaster recovery projects, in order to expedite the recovery process, consistent with applicable law.
- (b) *CONTENTS* - The review process established under this section shall include mechanisms to expeditiously address delays that may occur during the recovery from a major disaster and be updated, as appropriate, consistent with applicable law.

## Title V – Emergency Assistance Programs

**Sec. 501.** Procedure for Declaration (42 U.S.C. 5191)\*

- (a) **REQUEST AND DECLARATION** - All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.
- (b) **CERTAIN EMERGENCIES INVOLVING FEDERAL PRIMARY RESPONSIBILITY** - The President may exercise any authority vested in him by section 5192 of this title or section 5193 of this title [Sections 502 or 503] with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a) of this section.
- (c) **INDIAN TRIBAL GOVERNMENT REQUESTS** -
  - (1) **IN GENERAL** - The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that an emergency exists consistent with the requirements of subsection (a).
  - (2) **REFERENCES** - In implementing assistance authorized by the President under this subchapter in response to a request of the Chief Executive of an affected Indian tribal government for an emergency declaration, any reference in this subchapter or subchapter III (except sections 5153 and 5165d of this title [Sections 310 and 326]) to a State or the Governor of a State is deemed to refer to an affected Indian tribal government or the Chief Executive of an affected Indian tribal government, as appropriate.
  - (3) **SAVINGS PROVISION** - Nothing in this subsection shall prohibit an Indian tribal government from receiving assistance under this subchapter through a declaration made by the President at the request of a State under subsection (a) if the President does not make a declaration under this subsection for the same incident.

**Sec. 502.** Federal Emergency Assistance (42 U.S.C. 5192)

- (a) SPECIFIED - In any emergency, the President may -
- (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations;
  - (2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;
  - (3) provide technical and advisory assistance to affected State and local governments for -
    - (A) the performance of essential community services;
    - (B) issuance of warnings of risks or hazards;
    - (C) public health and safety information, including dissemination of such information;
    - (D) provision of health and safety measures; and
    - (E) management, control, and reduction of immediate threats to public health and safety;
  - (4) provide emergency assistance through Federal agencies;
  - (5) remove debris in accordance with the terms and conditions of section 5173 of this title [Section 407];
  - (6) provide assistance in accordance with section 5174 of this title [Section 408];
  - (7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and
  - (8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President -
    - (A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and
    - (B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.

- (b) **GENERAL** - Whenever the Federal assistance provided under subsection (a) of this section with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations.
- (c) **GUIDELINES** - The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests are likely to be approved.

**Sec. 503. Amount of Assistance (42 U.S.C. 5193)**

- (a) **FEDERAL SHARE** - The Federal share for assistance provided under this title shall be equal to not less than 75 percent of the eligible costs.
- (b) **LIMIT ON AMOUNT OF ASSISTANCE** –
  - (1) **IN GENERAL** - Except as provided in paragraph (2), total assistance provided under this title for a single emergency shall not exceed \$5,000,000.
  - (2) **ADDITIONAL ASSISTANCE** - The limitation described in paragraph (1) may be exceeded when the President determines that -
    - (A) continued emergency assistance is immediately required;
    - (B) there is a continuing and immediate risk to lives, property, public health or safety; and
    - (C) necessary assistance will not otherwise be provided on a timely basis.
  - (3) **REPORT** - Whenever the limitation described in paragraph (1) is exceeded, the President shall report to the Congress on the nature and extent of emergency assistance requirements and shall propose additional legislation if necessary.

## Title VI – Emergency Preparedness

### **Sec. 601.** Declaration of policy (42 U.S.C. 5195)

The purpose of this title is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards.

### **Sec. 602.** Definitions (42 U.S.C. 5195a)

(a) DEFINITIONS - For purposes of this title only:

- (1) HAZARD - The term “hazard” means an emergency or disaster resulting from—
  - (A) a natural disaster; or
  - (B) an accidental or man-caused event.
- (2) NATURAL DISASTER - The term “natural disaster” means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.
- (3) EMERGENCY PREPAREDNESS - The term “emergency preparedness” means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:
  - (A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).
  - (B) Measures to be undertaken during a hazard (including the enforcement

of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

- (C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).
- (4) ORGANIZATIONAL EQUIPMENT - The term “organizational equipment” means equipment determined by the Administrator to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.
- (5) MATERIALS - The term “materials” includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.
- (6) FACILITIES - The term “facilities”, except as otherwise provided in this title, includes buildings, shelters, utilities, and land.
- (7) ADMINISTRATOR - The term “Administrator” means the Administrator of the Federal Emergency Management Agency.
- (8) NEIGHBORING COUNTRIES - The term “neighboring countries” includes Canada and Mexico.
- (9) UNITED STATES AND STATES - The terms “United States “ and “States” includes<sup>30</sup> the several States, the District of Columbia , and territories and possessions of the United States.
- (10) STATE - The term “State” includes interstate emergency preparedness authorities established under section 5196(h) of this title [Section 611(h)].
- (b) CROSS REFERENCE - The terms “national defense” and “defense”, as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), includes<sup>31</sup> emergency preparedness activities conducted pursuant to this title.

**Sec. 603.** Administration of Title (42 U.S.C. 5195b)

This title shall be carried out by the Administrator of the Federal Emergency Management Agency.

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30. *Typographical error in original; should probably be “include.”*

31. *Typographical error in original; should probably be “include.”*



Critical Infrastructures Protection (42 U.S.C. 5195c)<sup>32</sup>

- (a) SHORT TITLE - This section may be cited as the “Critical Infrastructures Protection Act of 2001”.
- (b) FINDINGS - Congress makes the following findings:
  - (1) The information revolution has transformed the conduct of business and the operations of government as well as the infrastructure relied upon for the defense and national security of the United States.
  - (2) Private business, government, and the national security apparatus increasingly depend on an interdependent network of critical physical and information infrastructures, including telecommunications, energy, financial services, water, and transportation sectors.
  - (3) A continuous national effort is required to ensure the reliable provision of cyber and physical infrastructure services critical to maintaining the national defense, continuity of government, economic prosperity, and quality of life in the United States.
  - (4) This national effort requires extensive modeling and analytic capabilities for purposes of evaluating appropriate mechanisms to ensure the stability of these complex and interdependent systems, and to underpin policy recommendations, so as to achieve the continuous viability and adequate protection of the critical infrastructure of the Nation.
- (c) POLICY OF THE UNITED STATES - It is the policy of the United States -
  - (1) that any physical or virtual disruption of the operation of the critical infrastructure of the United States be rare, brief, geographically limited in effect, manageable, and minimally detrimental to the economy, human and government services, and national security of the United States;
  - (2) that actions necessary to achieve the policy stated in paragraph (1) be carried out in a public-private partnership involving corporate and non-governmental organizations; and
  - (3) to have in place a comprehensive and effective program to ensure the continuity of essential Federal Government functions under all circumstances.
- (d) ESTABLISHMENT OF NATIONAL COMPETENCE FOR CRITICAL INFRASTRUCTURE PROTECTION
  - (1) SUPPORT OF CRITICAL INFRASTRUCTURE PROTECTION AND CONTINUITY BY NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER - There shall be established the National Infrastructure Simulation and Analysis Center (NISAC) to serve as a source of national competence to address critical infrastructure protection and continuity through support for activities related to counterterrorism, threat assessment, and risk mitigation.

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32. This section was enacted as the *Critical Infrastructures Protection Act of 2001* and also as part of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* or *USA PATRIOT Act*, and not as part of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* which comprises this chapter.

- (2) PARTICULAR SUPPORT - The support provided under paragraph (1) shall include the following:
- (A) Modeling, simulation, and analysis of the systems comprising critical infrastructures, including cyber infrastructure, telecommunications infrastructure, and physical infrastructure, in order to enhance understanding of the large-scale complexity of such systems and to facilitate modification of such systems to mitigate the threats to such systems and to critical infrastructure generally.
  - (B) Acquisition from State and local governments and the private sector of data necessary to create and maintain models of such systems and of critical infrastructures generally.
  - (C) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide education and training to policymakers on matters relating to -
    - (i) the analysis conducted under that subparagraph;
    - (ii) the implications of unintended or unintentional disturbances to critical infrastructures; and
    - (iii) responses to incidents or crises involving critical infrastructures, including the continuity of government and private sector activities through and after such incidents or crises.
  - (D) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide recommendations to policymakers, and to departments and agencies of the Federal Government and private sector persons and entities upon request, regarding means of enhancing the stability of, and preserving, critical infrastructures.
- (3) RECIPIENT OF CERTAIN SUPPORT - Modeling, simulation, and analysis provided under this subsection shall be provided, in particular, to relevant Federal, State, and local entities responsible for critical infrastructure protection and policy.
- (e) CRITICAL INFRASTRUCTURE DEFINED - In this section, the term “critical infrastructure” means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.
- (f) AUTHORIZATION OF APPROPRIATIONS - There is hereby authorized for the Department of Defense for fiscal year 2002, \$20,000,000 for the Defense Threat Reduction Agency for activities of the National Infrastructure Simulation and Analysis Center under this section in that fiscal year.

## SUBTITLE A – POWERS AND DUTIES

### **Sec. 611.** Detailed Functions of Administration (42 U.S.C. 5196)

- (a) **IN GENERAL** - In order to carry out the policy described in section 5195 of this title [Section 601], the Administrator shall have the authorities provided in this section.
- (b) **FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS** - The Administrator may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Administrator may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.
- (c) **DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES** - With the approval of the President, the Administrator may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.
- (d) **COMMUNICATIONS AND WARNINGS** - The Administrator may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.
- (e) **EMERGENCY PREPAREDNESS MEASURES** - The Administrator may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including -
  - (1) research and studies as to the best methods of treating the effects of hazards;
  - (2) developing shelter designs and materials for protective covering or construction;
  - (3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements; and
  - (4) plans that take into account the needs of individuals with pets and service animals prior to, during, and following a major disaster or emergency.
- (f) **TRAINING PROGRAMS** -
  - (1) The Administrator may -
    - (A) conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;
    - (B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5 and the

Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Administrator; and

- (C) provide instructors and training aids as necessary.
- (2) The terms prescribed by the Administrator for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.
- (3) The Administrator may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.
- (g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION - The Administrator may publicly disseminate appropriate emergency preparedness information by all appropriate means.
- (h) EMERGENCY PREPAREDNESS COMPACTS -
  - (1) The Administrator shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by -
    - (A) identifying and cataloging existing emergency preparedness compacts for acts of terrorism, disasters, and emergencies at the State and local levels of government;
    - (B) disseminating to State and local governments examples of best practices in the development of emergency preparedness compacts and models of existing emergency preparedness compacts, including agreements involving interstate jurisdictions; and
    - (C) completing an inventory of Federal response capabilities for acts of terrorism, disasters, and emergencies, making such inventory available to appropriate Federal, State, and local government officials, and ensuring that such inventory is as current and accurate as practicable.
  - (2) The Administrator may -
    - (A) assist and encourage the States to negotiate and enter into interstate emergency preparedness compacts;
    - (B) review the terms and conditions of such proposed compacts in order to assist, to the extent feasible, in obtaining uniformity between such compacts and consistency with Federal emergency response plans and programs;
    - (C) assist and coordinate the activities under such compacts; and
    - (D) aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid

for emergency preparedness purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

- (3) A copy of each interstate emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress is deemed to be granted to each such compact upon the expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.
  - (4) Nothing in this subsection shall be construed as preventing Congress from disapproving, or withdrawing at any time its consent to, any interstate emergency preparedness compact.
- (i) MATERIALS AND FACILITIES -
- (1) The Administrator may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.
  - (2) Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this title before the approval of title by the Attorney General as required by sections 3111 and 3112 of title 40 .
  - (3) The Administrator may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.
  - (4) The Administrator may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the Administrator shall prescribe.
- (j) FINANCIAL CONTRIBUTIONS -
- (1) The Administrator may make financial contributions, on the basis of programs or projects approved by the Administrator, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Administrator shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.
  - (2) The Administrator may make financial contributions, on the basis of programs or projects approved by the Administrator, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.
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- (3) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.
- (4) The amounts authorized to be contributed by the Administrator to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.
- (5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Administrator for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Administrator) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.
- (6) The amounts authorized to be contributed by the Administrator to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Administrator may reallocate such amounts to other States under the formula described in paragraph (4).<sup>33</sup> The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.
- (7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Administrator. The Administrator shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the Administrator, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the Administrator may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Administrator determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Administrator necessary for the use of such facility for emergency preparedness purposes.
- (8) The Administrator shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.
- (9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Administrator under this

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33. This was redesignated paragraph (5) by Pub. L. 109-308, § 3(2), Oct. 6, 2006, 120 Stat. 1725.

subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40, and every such employee shall receive compensation at a rate not less than one and 1/2 times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Administrator shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40.

- (k) **SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES** - The Administrator may arrange for the sale or disposal of materials and facilities found by the Administrator to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 4710, and 4711) of subtitle I of title 41. Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

**Sec. 612. Mutual Aid Pacts Between States and Neighboring Countries**  
(42 U.S.C. 5196a)

The Administrator shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

**Sec. 613. Contributions for Personnel and Administrative Expenses**  
(42 U.S.C. 5196b)

- (a) **GENERAL AUTHORITY** - To further assist in carrying out the purposes of this title, the Administrator may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 5196(h) of this title [Section 611(h)]) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.
- (b) **PLAN REQUIREMENTS** - A plan submitted under this section shall -
- (1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them and be administered or supervised by a single State agency;

- (2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;
  - (3) provide for the development of State and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by the Administrator;
  - (4) provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;
  - (5) provide that the State shall make such reports in such form and content as the Administrator may require;
  - (6) make available to duly authorized representatives of the Administrator and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section; and
  - (7) include a plan for providing information to the public in a coordinated manner.
- (c) CATASTROPHIC INCIDENT ANNEX -
- (1) CONSISTENCY - A catastrophic incident annex submitted under subsection (b)(3) shall be -
    - (A) modeled after the catastrophic incident annex of the National Response Plan; and
    - (B) consistent with the national preparedness goal established under section 743 of title 6,<sup>34</sup> the National Incident Management System, the National Response Plan, and other related plans and strategies.
  - (2) CONSULTATION - In developing a catastrophic incident annex submitted under subsection (b)(3), a State shall consult with and seek appropriate comments from local governments, emergency response providers, locally governed multijurisdictional councils of government, and regional planning commissions.
- (d) TERMS AND CONDITIONS - The Administrator shall establish such other terms and conditions as the Administrator considers necessary and proper to carry out this section.
- (e) APPLICATION OF OTHER PROVISIONS - In carrying out this section, the provisions of section<sup>35</sup> 5196(h) and 5197(h) of this title [Sections 611(h) and 621(h)] shall apply.
- (f) ALLOCATION OF FUNDS - For each fiscal year concerned, the Administrator shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection

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34. Section 643 of the Post-Katrina Emergency Management Reform Act of 2006.

35. Typographical error in original; should probably be "sections."



shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Administrator shall prescribe. The Administrator may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

- (g) **STANDARDS FOR STATE AND LOCAL EMERGENCY PREPAREDNESS OPERATIONAL PLANS** - In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the Administrator shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.
- (h) **SUBMISSION OF PLAN** - If a State fails to submit a plan for approval as required by this section within 60 days after the Administrator notifies the States of the allocations under this section, the Administrator may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Administrator, will best assure the adequate development of the emergency preparedness capability of the United States.
- (h) **ANNUAL REPORTS** - The Administrator shall report annually to the Congress all contributions made pursuant to this section.<sup>36</sup>

**Sec. 614. Grants for Construction of Emergency Operations Centers**  
(42 U.S.C. 5196c)

- (a) **GRANTS** - The Administrator of the Federal Emergency Management Agency may make grants to States under this subchapter for equipping, upgrading, and constructing State and local emergency operations centers.
- (b) **FEDERAL SHARE** - Notwithstanding any other provision of this subchapter, the Federal share of the cost of an activity carried out using amounts from grants made under this section shall not exceed 75 percent.

**Sec. 615. Use of Funds to Prepare for and Respond to Hazards**  
(42 U.S.C. 5196d)

Funds made available to the States under this title may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of emergency preparedness personnel, materials, and facilities supported in whole or in part through contributions under this title for emergency preparedness activities and measures related to hazards.

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36. *Typographical error in original; two sections "(h)" have been enacted.*

**Radiological Emergency Preparedness Fund (42 U.S.C. 5196e)<sup>37</sup>**

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], as amended, and Executive Order 12657, for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Administrator of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

**Sec. 616. Disaster Related Information Services (42 U.S.C. 5196f)**

- (a) IN GENERAL - Consistent with section 5151(a) of this title [Section 308(a)], the Administrator of Federal<sup>38</sup> Emergency Management Agency shall -
- (1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;
  - (2) ensure that information made available to individuals affected by a major disaster or emergency is made available in formats that can be understood by -
    - (A) population groups identified under paragraph (1); and
    - (B) individuals with disabilities or other special needs; and
  - (3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.
- (b) GROUP SIZE - For purposes of subsection (a), the Administrator of Federal<sup>39</sup> Emergency Management Agency shall define the size of a population group.

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37. This section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

38. Typographical error in original; "the" should probably appear before "Federal."

39. Typographical error in original; "the" should probably appear before "Federal."

## SUBTITLE B – GENERAL PROVISIONS

### **Sec. 621.** Administrative Authority (42 U.S.C. 5197)

- (a) IN GENERAL - For the purpose of carrying out the powers and duties assigned to the Administrator under this title, the Administrator may exercise the administrative authorities provided under this section.
- (b) ADVISORY PERSONNEL -
  - (1) The Administrator may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the Administrator considers to be necessary in carrying out the provisions of this title.
  - (2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, plus authorized subsistence and travel, as determined by the Administrator.
- (c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS - The Administrator may -
  - (1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;
  - (2) establish and use such regional and other offices as may be necessary; and
  - (3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.
- (d) GIFTS - Notwithstanding any other provision of law, the Administrator may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.
- (e) REIMBURSEMENT - The Administrator may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.
- (f) PRINTING - The Administrator may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Administrator considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44.
- (g) RULES AND REGULATIONS - The Administrator may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The Administrator may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the Administrator may designate.

- (h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY -
- (1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the Administrator finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the Administrator may notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Administrator is satisfied that there will no longer be any such failure.
  - (2) Until so satisfied, the Administrator shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.
  - (3) As used in this subsection, the term “person” means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

**Sec. 622.** Security Regulations (42 U.S.C. 5197a)

- (a) ESTABLISHMENT - The Administrator shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Administrator considers necessary.
- (b) LIMITATION ON EMPLOYEE ACCESS TO INFORMATION - No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Administrator.
- (c) NATIONAL SECURITY POSITIONS - No employee of the Federal Emergency Management Agency shall occupy any position determined by the Administrator to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Administrator of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of

critical importance is of questionable loyalty or reliability for security purposes, or if the Administrator of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Administrator of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Administrator of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Administrator of the Federal Emergency Management Agency for action.

- (d) **EMPLOYEE OATHS** - Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 5197(b) of this title [Section 621(b)], shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

“I \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

“And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of \_\_\_\_\_ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence.”

After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18.

**Sec. 623. Use of Existing Facilities (42 U.S.C. 5197b)**

In performing duties under this title, the Administrator -

- (1) shall cooperate with the various departments and agencies of the Federal Government;
- (2) shall use, to the maximum extent, the existing facilities and resources of the

Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

- (3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Administrator, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

**Sec. 624.** Annual Report to Congress (42 U.S.C. 5197c)

The Administrator shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the Administrator considers appropriate.

**Sec. 625.** Applicability of Subchapter (42 U.S.C. 5197d)

The provisions of this title shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

**Sec. 626.** Authorization of Appropriation and Transfers of Funds  
(42 U.S.C. 5197e)

- (a) AUTHORIZATION OF APPROPRIATIONS - There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.
- (b) TRANSFER AUTHORITY - Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Director of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

**Sec. 627.** Relation to Atomic Energy Act of 1954 (42 U.S.C. 5197f)

Nothing in this title shall be construed to alter or modify the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

**Sec. 628.** Federal Bureau of Investigation (42 U.S.C. 5197g)

Nothing in this title shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.

## Title VII – Miscellaneous

### Sec. 701. Rules and Regulations (42 U.S.C. 5201)

(a) RULES AND REGULATIONS

- (1) The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.
- (2) Deadline for payment of assistance - Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State shall be completed within 60 days after the date of approval of such assistance.

- (b) In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.

### Insular Areas Disaster Survival and Recovery; Definitions (42 U.S.C. 5204)<sup>40</sup>

As used in sections 5204 to 5204c of this title -

- (1) the term “insular area” means any of the following: American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands,<sup>41</sup> and the Virgin Islands;
- (2) the term “disaster” means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 5170 of this title [Section 401]; and
- (3) the term “Secretary” means the Secretary of the Interior.

*Note: The note preceding 48 U.S.C. § 1681 terminated the Trust Territory of the Pacific Islands. This note effectively removes the Federated States of Micronesia and the Marshall Islands from the definition of “insular area”.*

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40. This section was enacted as part of the Omnibus Insular Areas Act of 1992.

41. The Trust Territory of the Pacific Islands has been terminated. See note preceding 48 U.S.C. 1681.

Technical Assistance for Insular Areas (42 U.S.C. 5204b)<sup>42</sup>

- (a) Upon the declaration by the President of a disaster in an insular area, the President, acting through the Administrator of the Federal Emergency Management Agency, shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort.
- (b) One year following the declaration by the President of a disaster in an insular area, the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources a report on the status of the recovery effort, including an audit of Federal funds expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

**Sec. 705. Disaster Grant Closeout Procedures (42 U.S.C. 5205)**

- (a) STATUTE OF LIMITATIONS -
  - (1) IN GENERAL - Except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this Act shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency.
  - (2) FRAUD EXCEPTION - The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.
- (b) REBUTTAL OF PRESUMPTION OF RECORD MAINTENANCE -
  - (1) IN GENERAL - In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.
  - (2) AFFIRMATIVE EVIDENCE - The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.

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42. This section was enacted as part of the Omnibus Insular Areas Act of 1992.



- (3) **INABILITY TO PRODUCE DOCUMENTATION** - The inability of the Federal, State, or local government to produce source documentation supporting expenditure reports later than 3 years after the date of transmission of the final expenditure report shall not constitute evidence to rebut the presumption described in paragraph (1).
- (4) **RIGHT OF ACCESS** - The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3-year retention period referred to in paragraph (3), but shall last as long as the records are maintained.
- (c) **BINDING NATURE OF GRANT REQUIREMENTS** - A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this Act if -
  - (1) the payment was authorized by an approved agreement specifying the costs;
  - (2) the costs were reasonable; and
  - (3) the purpose of the grant was accomplished.

**Buy American (42 U.S.C. 5206)<sup>43</sup>**

- (a) **COMPLIANCE WITH CHAPTER 83 OF TITLE 41** - No funds authorized to be appropriated under this Act or any amendment made by this Act<sup>44</sup> may be expended by an entity unless the entity, in expending the funds, complies with chapter 83 of title 41.
- (b) **DEBARMENT OF PERSONS CONVICTED OF FRAUDULENT USE OF “MADE IN AMERICA” LABELS** -
  - (1) **IN GENERAL** - If the Administrator of the Federal Emergency Management Agency determines that a person has been convicted of intentionally affixing a label bearing a “Made in America” inscription to any product sold in or shipped to the United States that is not made in America, the Administrator shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).
  - (2) **DEFINITION OF DEBAR** - In this subsection, the term “debar” has the meaning given the term in section 2393(c) of title 10.

**Sec. 706. Firearms Policies (42 U.S.C. 5207)**

- (a) **PROHIBITION ON CONFISCATION OF FIREARMS** - No officer or employee of the United States (including any member of the uniformed services), or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer, employee, or other person, while acting in support of relief from a major disaster or emergency, may -

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43. This section was enacted as part of the Disaster Mitigation Act of 2000.

44. “This Act” refers to the Disaster Mitigation Act of 2000, Pub. L. No. 106-390.

- (1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is not prohibited under Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;
  - (2) require registration of any firearm for which registration is not required by Federal, State, or local law;
  - (3) prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Federal, State, or local law; or
  - (4) prohibit the carrying of firearms by any person otherwise authorized to carry firearms under Federal, State, or local law, solely because such person is operating under the direction, control, or supervision of a Federal agency in support of relief from the major disaster or emergency.
- (b) **LIMITATION** - Nothing in this section shall be construed to prohibit any person in subsection (a) from requiring the temporary surrender of a firearm as a condition for entry into any mode of transportation used for rescue or evacuation during a major disaster or emergency, provided that such temporarily surrendered firearm is returned at the completion of such rescue or evacuation.
- (c) **PRIVATE RIGHTS OF ACTION** -
- (1) **IN GENERAL** - Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.
  - (2) **REMEDIES** - In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the United States district court in the district in which that individual resides or in which such firearm may be found.
  - (3) **ATTORNEY FEES** - In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

## DISPUTE RESOLUTION PILOT PROGRAM

Statutory note, sec. 423. Appeals of Assistance Decisions (42. U.S.C. 5189a)

Pub. L. 113-2, div. B, § 1105, Jan. 29, 2013, 127 Stat. 43, provides that:

- (a) DEFINITIONS - In this section, the following definitions apply:
- (1) ADMINISTRATOR - The term “Administrator” means the Administrator of the Federal Emergency Management Agency.
  - (2) ELIGIBLE ASSISTANCE - The term “eligible assistance” means assistance -
    - (A) under section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173);
    - (B) for which the legitimate amount in dispute is not less than \$1,000,000, which sum the Administrator shall adjust annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor;
    - (C) for which the applicant has a non-Federal share; and
    - (D) for which the applicant has received a decision on a first appeal.
- (b) PROCEDURES -
- (1) IN GENERAL - Not later than 180 days after the date of enactment of this section [Jan. 29, 2013], and in order to facilitate an efficient recovery from major disasters, the Administrator shall establish procedures under which an applicant may request the use of alternative dispute resolution, including arbitration by an independent review panel, to resolve disputes relating to eligible assistance.
  - (2) BINDING EFFECT - A decision by an independent review panel under this section shall be binding upon the parties to the dispute.
  - (3) CONSIDERATIONS - The procedures established under this section shall -
    - (A) allow a party of a dispute relating to eligible assistance to request an independent review panel for the review;
    - (B) require a party requesting an independent review panel as described in subparagraph (A) to agree to forgo rights to any further appeal of the dispute relating to any eligible assistance;
    - (C) require that the sponsor of an independent review panel for any alternative dispute resolution under this section be -
      - (i) an individual or entity unaffiliated with the dispute (which may include a Federal agency, an administrative law judge, or a reemployed annuitant who was an employee of the Federal Government) selected by the Administrator; and

- (ii) responsible for identifying and maintaining an adequate number of independent experts qualified to review and resolve disputes under this section;
  - (D) require an independent review panel to -
    - (i) resolve any remaining disputed issue in accordance with all applicable laws, regulations, and Agency interpretations of those laws through its published policies and guidance;
    - (ii) consider only evidence contained in the administrative record, as it existed at the time at which the Agency made its initial decision;
    - (iii) only set aside a decision of the Agency found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; and
    - (iv) in the case of a finding of material fact adverse to the claimant made on first appeal, only set aside or reverse such finding if the finding is clearly erroneous;
  - (E) require an independent review panel to expeditiously issue a written decision for any alternative dispute resolution under this section; and
  - (F) direct that if an independent review panel for any alternative dispute resolution under this section determines that the basis upon which a party submits a request for alternative dispute resolution is frivolous, the independent review panel shall direct the party to pay the reasonable costs to the Federal Emergency Management Agency relating to the review by the independent review panel. Any funds received by the Federal Emergency Management Agency under the authority of this section shall be deposited to the credit of the appropriation or appropriations available for the eligible assistance in dispute on the date on which the funds are received.
- (c) SUNSET - A request for review by an independent review panel under this section may not be made after December 31, 2015.
- (d) REPORT -
- (1) IN GENERAL - Not later than 270 days after the termination of authority under this section under subsection (c), the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report analyzing the effectiveness of the program under this section.
  - (2) CONTENT - The report submitted under paragraph (1) shall include -
    - (A) a determination of the availability of data required to complete the report;
-

- (B) an assessment of the effectiveness of the program under this section, including an assessment of whether the program expedited or delayed the disaster recovery process;
- (C) an assessment of whether the program increased or decreased costs to administer section 403, 406, or 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170b, 5172, 5173];
- (D) an assessment of the procedures and safeguards that the independent review panels established to ensure objectivity and accuracy, and the extent to which they followed those procedures and safeguards;
- (E) a recommendation as to whether any aspect of the program under this section should be made a permanent authority; and
- (F) recommendations for any modifications to the authority of the administration of the authority under the section in order to improve the disaster recovery process.

The Office of Chief Counsel maintains this booklet. Please submit any comments or inquiries about this e-publication to [FEMA-OCC@fema.dhs.gov](mailto:FEMA-OCC@fema.dhs.gov).