

# Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93- 288) as amended

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## UNITED STATES CODE

### Title 42. THE PUBLIC HEALTH AND WELFARE

#### CHAPTER 68. DISASTER RELIEF

## Findings, Declarations And Definitions

### 5121. CONGRESSIONAL FINDINGS AND DECLARATIONS {Sec. 101}

- 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.

## 5122. DEFINITIONS {Sec. 102}

As used in this Act--

1. "Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement 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" 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. 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; 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.
7. "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.
8. 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.
9. "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), other private nonprofit facilities which provide essential services of a governmental nature to the general public, and facilities on Indian reservations as defined by the President.

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## **Title II--Disaster Preparedness And Mitigation Assistance**

### **5131. FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS {Sec. 201}**

**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 the date of enactment of this Act [enacted 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.

### **5132. DISASTER WARNINGS {Sec. 202}**

- 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 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.

### **5133. PREDISASTER HAZARD MITIGATION. {Sec. 203}**

- 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) (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).
- 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).
  - 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), 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.**--The amount of financial assistance made available to a State (including amounts made available to local governments of the State) under this section for a fiscal year--
  1. shall be not less than the lesser of--
    - A. \$500,000; or
    - B. the amount that is equal to 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;
  2. shall not exceed 15 percent of the total funds described in paragraph (1)(B); and
  3. shall be subject to the criteria specified in subsection (g).
- 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 support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance;
  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, 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
  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. Multihazard Advisory Maps.-

1. Definition of multihazard 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); and
    - iii. other public uses.

l. Report on Federal and State Administration.--Not later than 18 months after the date of the enactment of this section [enacted 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. Termination of Authority.--The authority provided by this section terminates September 30, 2008.

**5134. INTERAGENCY TASK FORCE. {Sec. 204}**

- 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 Director 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.

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## **Subchapter III--Major Disaster And Emergency Assistance Administration**

### **WAIVER OF ADMINISTRATIVE CONDITIONS {Sec. 301}**

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.

### **5143. COORDINATING OFFICERS {Sec. 302}**

- 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 the Act of January 5, 1905, as amended (33 Stat. 599) 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.

#### **5144. EMERGENCY SUPPORT TEAMS {Sec. 303}**

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.

#### **5147. REIMBURSEMENT OF FEDERAL AGENCIES {Sec. 304}**

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 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.

#### **5148. NONLIABILITY OF FEDERAL GOVERNMENT {Sec. 305}**

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.

#### **5149. PERFORMANCE OF SERVICES {Sec. 306}**

- 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.

#### **5150. USE OF LOCAL FIRMS AND INDIVIDUALS {Sec. 307}**

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. This section shall not be considered to restrict the use of Department of Defense resources in the provision of major disaster assistance under this Act. In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

#### **5151. NONDISCRIMINATION IN DISASTER ASSISTANCE {Sec. 308}**

- 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, 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.

#### **5152. USE AND COORDINATION OF RELIEF ORGANIZATIONS {Sec. 309}**

- 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.

### **§ 5153. PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE {Sec. 310}**

- 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 for the provision of low-income housing.
  2. Section 702 of the Housing Act of 1954 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.
  4. Section 306 of the Consolidated Farm and Rural Development Act.
  5. The Public Works and Economic Development Act of 1965.
  6. The Appalachian Regional Development Act of 1965.
  7. The Federal Water Pollution Control Act.
- 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 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

### **§ 5154. INSURANCE {Sec. 311}**

- a. Applicants for replacement of damaged facilities
  1. Compliance with certain regulations  
An applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure) or section 3149(c)(2) of the Public Works and Economic Development Act of 1965 ( 42 U.S.C. 3149(c)(2) ) 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 (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure), or section 3149(c)(2) of the Public Works and Economic Development Act of 1965 ( 42 U.S.C. 3149(c)(2) ) 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.

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 5 172 or 5189 of this title or section 3149(c)(2) of the Public Works and Economic Development Act of 1965 ( 42 U.S.C. 3149(c)(2) ) 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 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.

## **§ 5155. DUPLICATION OF BENEFITS {Sec. 312}**

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 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.

## **§ 5156. STANDARD OF REVIEW {Sec. 313}**

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.

## **§ 5157. PENALTIES {Sec. 314}**

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.

### **§ 5158. AVAILABILITY OF MATERIALS {Sec. 315}**

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.

### **§ 5159. PROTECTION OF ENVIRONMENT {Sec. 316}**

An action which is taken or assistance which is provided pursuant to section 5170a , 5170b , 5172 , 5173 , or 5192 of this title , including such assistance provided pursuant to the procedures provided for in section 5189 of this title , 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.

### **§ 5160. RECOVERY OF ASSISTANCE {Sec. 317}**

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.

## **§ 5161. AUDITS AND INVESTIGATIONS {Sec. 318}**

- 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.

## **§ 5162. ADVANCE OF NON-FEDERAL SHARE {Sec. 319}**

- 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.

**§ 5163. LIMITATION ON USE OF SLIDING SCALE {Sec. 320}**

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.

**§ 5164. RULES AND REGULATIONS {Sec. 321}**

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.

**165. MITIGATION PLANNING {Sec. 322}**

- a. Requirement of Mitigation Plan.-- As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e), 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 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 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.
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.

### **§ 5165a. MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES (Sec.323)**

- 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.

### **§ 5165b. MANAGEMENT COSTS {Sec. 324}**

- 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.

### **§ 5165c. PUBLIC NOTICE, COMMENT, AND CONSULTATION REQUIREMENTS. (Sec. 325)**

- 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.

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## **Subchapter IV--Major Disaster Assistance Programs**

### **§ 5170. PROCEDURE FOR DECLARATION {Sec. 401}**

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.

### **§ 5170a. GENERAL FEDERAL ASSISTANCE {Sec. 402}**

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 efforts;
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 and 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; and
4. assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

#### **§ 5170b. ESSENTIAL ASSISTANCE {Sec. 403}**

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, 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, 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; and
  - I. reduction of immediate threats to life, property, and public health and safety.
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 [ 42 U.S.C 5170 et seq. or 5191 et seq.], 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, 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 the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988 [enacted Nov. 23, 1988], 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.

**§ 5170c. HAZARD MITIGATION {Sec. 404}**

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 and shall be subject to approval by the President. Subject to section 5165 of this title, the total of contributions under this section for a major disaster shall not exceed 7.5 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

b. Property acquisition and relocation assistance.--

1. General authority. In providing hazard mitigation assistance under this section in connection with flooding, the Director 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); and

- B. on or after the date of enactment of this subsection [enacted Dec. 3, 1993], the applicant for the assistance enters into an agreement with the Director 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 Director 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 the date of enactment of this subsection [enacted Dec. 3, 1993].

c. Program Administration by States.-

1. In general.-- A State desiring to administer the hazard mitigation grant program 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). 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; 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.

### **§ 5171. FEDERAL FACILITIES {Sec. 405}**

- 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.

### **§ 5172. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES {Sec. 406}**

- 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 7(b) of the Small Business Act (15 U.S.C. 636(b)); 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, 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.
  - 2. Reduced federal share.-- The President shall promulgate regulations to reduce 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), 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. Areas with unstable soil.-- 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 because soil instability in the disaster area makes repair, restoration, reconstruction, or replacement infeasible, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), 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.
    - C. 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.
    - D. 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 Director 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 Director 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 Director 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 the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988 [enacted Nov. 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 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.

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. (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.

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.
3. Expert panel.-
- A. Establishment.-- Not later than 18 months after the date of the enactment of this paragraph [enacted Oct. 30, 2000], the President, acting through the Director 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.

## **§ 5173. DEBRIS REMOVAL {Sec. 407}**

- a. Authorization for use of Federal assistance and grants to State or local government

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. State or local government authorization; indemnification of Federal government

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.

## **§ 5174. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS {Sec. 408}**

- 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) 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 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.
      - 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, 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. 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.
      - iii. Collection of rental charges.-- After the end of the 18-month period referred to in clause (ii), 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.
    - C. Maximum amount of assistance.--The amount of assistance provided to a household under this paragraph shall not exceed \$5,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.
  - 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. Maximum amount of assistance.-- The amount of assistance provided to a household under this paragraph shall not exceed \$10,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.
    - C. 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 housing in insular areas outside the continental United States and in other remote locations in cases in which—
    - A. no alternative housing resources are available; and
    - 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; and
      - ii. 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; and
  - II. to obtain and maintain hazard and flood insurance on the housing unit.

e. Financial Assistance To Address Other Needs.-

- 1. Medical, dental, 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, 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), a Governor may request a grant from the President to provide financial assistance to individuals and households in the State under subsection (e).
  - 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).

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)--
    - 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) 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.

## **§ 5177. UNEMPLOYMENT ASSISTANCE {Sec. 410}**

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 the Internal Revenue Code of 1986 or 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.

### **§ 5179. Food coupons and distribution {Sec. 412}**

- 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 coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (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 coupon 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 Stamp Act [7 U.S.C. §§ 2011 et seq.] provisions unaffected.

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster.

### **§ 5180. Food commodities {Sec. 413}**

- 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.

**§ 5181. Relocation assistance {Sec. 414}**

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) 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.

**§ 5182. Legal services {Sec. 415}**

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.

**§ 5183. Crisis counseling assistance and training {Sec. 416}**

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.

**§ 5184. Community disaster loans {Sec. 417}**

- 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 25 per centum 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.

#### **§ 5185. Emergency communications {Sec. 418}**

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.

#### **§ 5186. Emergency public transportation {Sec. 419}**

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.

#### **§ 5187. Fire management assistance. {Sec. 420}**

- 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.
- d. Rules and Regulations.-- The President shall prescribe such rules and regulations as are necessary to carry out this section.

#### **§ 5188. Timber sale contracts {Sec. 421}**

- 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, 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.

## **§ 5189. Simplified procedures {Sec. 422}**

If the Federal estimate of the cost of--

1. repairing, restoring, reconstructing, or replacing under section 5172 of this title any damaged or destroyed public facility or private nonprofit facility,
2. emergency assistance under section 5170b or 5192 of this title, or
3. debris removed under section 5173 of this title , is less than \$35,000, 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 , as the case may be, on the basis of such Federal estimate. Such \$35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

## **§ 5189a. Appeals of assistance decisions {Sec. 423}**

### a. Right of appeal

Any decision regarding eligibility for, from, or amount of assistance under this title [42 U.S.C. 5170 et seq.] 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) 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.

## **§ 5189B. Date of eligibility; expenses incurred before date of disaster {Sec. 424}**

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.

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## **Subchapter IV-A--Emergency Assistance Programs**

### **§ 5191. PROCEDURE FOR DECLARATION {Sec. 501}**

#### 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 502 or section 503 [42 U.S.C. § 5192 or § 5193] 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).

*(Pub. L. 93-288, title V, § 501, as added Pub. L. 100-707, title I, § 107(a), Nov. 23, 1988, 102 Stat. 4706.)*

### **§ 5192. Federal emergency assistance {Sec. 502}**

#### 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;
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 407 [42 U.S.C. § 5173];
6. provide assistance in accordance with section 408 [42 U.S.C. § 5174]; and [(Pub.L. 106-390, § 206(b), October 30, 2000)]
7. assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

#### b. General

Whenever the Federal assistance provided under subsection (a) 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.

*(Pub. L. 93-288, title V, § 502, as added Pub. L. 100-707, title I, § 107(a), Nov. 23, 1988, 102 Stat. 4706.)*

### **§ 5193. Amount of assistance {Sec. 503}**

a. Federal share

The Federal share for assistance provided under this title [42 U.S.C. §§ 5191 et seq.] 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 [42 U.S.C. §§ 5191 et seq.] 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.

*(Pub. L. 93-288, title V, § 503, as added Pub. L. 100-707, title I, § 107(a), Nov. 23, 1988, 102 Stat. 4707.)*

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## **Subchapter VI--Emergency Preparedness**

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

The purpose of this title [42 U.S.C. 5195 et seq.] 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.

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

a. Definitions. For purposes of this title [42 U.S.C. 5195 et seq.] only:

1. Hazard.-- The term "hazard" means an emergency or disaster resulting from--
  1. a natural disaster; or
  2. 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).
2. Organizational equipment.-- The term "organizational equipment" means equipment determined by the Director 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.

3. Materials.-- The term "materials" includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.
  4. Facilities.-- The term "facilities", except as otherwise provided in this title [42 U.S.C. 5195 et seq.], includes buildings, shelters, utilities, and land.
  5. Director--The term "Director" means the Director of the Federal Emergency Management Agency.
  6. Neighboring countries--The term "neighboring countries" includes Canada and Mexico.
  7. United States and States.-- The terms " United States " and "States" includes the several States, the District of Columbia , and territories and possessions of the United States .
  8. State.-- The term "State" includes interstate emergency preparedness authorities established under section 5196(h) of this title.
- 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 [include] emergency preparedness activities conducted pursuant to this title [42 U.S.C. 5195 et seq.].

### **§603. Administration of title (42 U.S.C. 5195b).**

This title [42 U.S.C. 5195 et seq.] shall be carried out by the Director of the Federal Emergency Management Agency.

### **SUBTITLE A – POWERS AND DUTIES**

### **§611. Detailed functions or administration. (42 U.S.C. 5196).**

- a. In General.-- In order to carry out the policy described in section 5195 of this title , the Director shall have the authorities provided in this section.
- b. Federal Emergency Response Plans and Programs.-- The Director 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 Director 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 Director 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 Director 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 Director 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; and
  - 3. developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements.
- f. Training programs.--
  - 1. The Director 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 Director; and
    - C. provide instructors and training aids as necessary.
  - 2. The terms prescribed by the Director 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 Director 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 Director may publicly disseminate appropriate emergency preparedness information by all appropriate means.
- h. Emergency preparedness compacts.--
  - 1. The Director 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 Director 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 Director 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 section 255 of title 40 .
    3. The Director 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 Director 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 Director shall prescribe.
  - j. Financial contributions.--
    1. The Director may make financial contributions, on the basis of programs or projects approved by the Director, 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 Director 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. 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.
3. The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.
4. 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 Director 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 Director) 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.
5. The amounts authorized to be contributed by the Director 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 Director may reallocate such amounts to other States under the formula described in paragraph (4). 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.
6. 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 Director. The Director 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 Director, 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 Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director 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 Director necessary for the use of such facility for emergency preparedness purposes.
7. The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.
8. 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 Director under this 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 the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a -276a- 5 )), 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 Director 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 276c of title 40.

- k. Sale or disposal of certain materials and facilities.-- The Director may arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 ( 40 U.S.C. 471 et seq.). 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 Director 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 [42 U.S.C. 5195 et seq.], the Director may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 5196(h) of this title 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, pursuant to standards approved by the Director;
  - 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 Director may require;
  6. make available to duly authorized representatives of the Director 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. Terms and conditions -- The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.
  - d. Application of other provisions.-- In carrying out this section, the provisions of sections 5196(h) and 5197(h) of this title shall apply.
  - e. Allocation of funds.-- For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this title [42 U.S.C. 5195 et seq.], amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection 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 Director shall prescribe. The Director 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.
  - f. Submission of plan.-- If a State fails to submit a plan for approval as required by this section within 60 days after the Director notifies the States of the allocations under this section, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director, will best assure the adequate development of the emergency preparedness capability of the United States.
  - g. Annual reports.-- The Director shall report annually to the Congress all contributions made pursuant to this section.

**Sec. 614. Requirement for State matching funds for construction of emergency operating centers. (42 U.S.C. 5196c).**

Notwithstanding any other provision of this title [42 U.S.C. 5195 et seq.], funds appropriated to carry out this title [42 U.S.C. 5195 et seq.] may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this title [42 U.S.C. 5195 et seq.] for such purpose.

**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 [42 U.S.C. 5195 et seq.] 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 [42 U.S.C. 5195 et seq.] for emergency preparedness activities and measures related to hazards.

## **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 Director under this title [42 U.S.C. 5195 et seq.], the Director may exercise the administrative authorities provided under this section.

- b. Advisory personnel.--

The Director 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 Director considers to be necessary in carrying out the provisions of this title [42 U.S.C. 5195 et seq.].

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 Director.
- c. Services of other agency personnel and volunteers. The Director may
  2. 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;
  3. establish and use such regional and other offices as may be necessary; and
  4. use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.
- b. Gifts.-- Notwithstanding any other provision of law, the Director 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 [42 U.S.C. 5195 et seq.].
- c. Reimbursement.-- The Director 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 [42 U.S.C. 5195 et seq.] to the extent funds are available.
- d. Printing.-- The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44.
- e. Rules and regulations.-- The Director may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title [42 U.S.C. 5195 et seq.] and perform any of the powers and duties provided by this title [42 U.S.C. 5195 et seq.]. The Director may perform any of the powers and duties provided by this title [42 U.S.C. 5195 et seq.] through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate.
- f. Failure to expend contributions correctly.-- When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there

is a failure to expend funds in accordance with the regulations, terms, and conditions established under this subchapter for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this subchapter (or from funds otherwise available for the purposes of this subchapter for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

2. When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title [42 U.S.C. 5195 et seq.] for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this title [42 U.S.C. 5195 et seq.] (or from funds otherwise available for the purposes of this title [42 U.S.C. 5195 et seq.] for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.
3. Until so satisfied, the Director 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.
4. 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.

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

- a. Establishment. The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director 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 Director.
- c. National Security Positions.-- No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director 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 Director 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 Director 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 Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Director 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 Director 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 [42 U.S.C. 5195 et seq.], except the subjects of the United Kingdom and citizens of Canada specified in section 5197(b) of this title, 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.

### **§ 623. Use of existing facilities (42 U.S.C. 5197b).**

In performing duties under this title [42 U.S.C. 5195 et seq.], the Director--

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 Director, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title [42 U.S.C. 5195 et seq.].

#### **§ 624. Annual report to congress(42 U.S.C. 5197c)**

The Director 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 [42 U.S.C. 5195 et seq.], accompanied by such recommendations as the Director considers appropriate.

#### **§ 625. Applicability of subchapter. (42 U.S.C. 5197d).**

The provisions of this title [42 U.S.C. 5195 et seq.] shall be applicable to the United States , its States, Territories and possessions, and the District of Columbia , and their political subdivisions.

#### **§ 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 [42 U.S.C. 5195 et seq.].
- b. Transfer Authority.--Funds made available for the purposes of this title [42 U.S.C. 5195 et seq.] may be allocated or transferred for any of the purposes of this title [42 U.S.C. 5195 et seq.], 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 [42 U.S.C. 5195 et seq.]. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

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

Nothing in this title [42 U.S.C. 5195 et seq.] shall be construed to alter or modify the provisions of the Atomic Energy Act of 1954 ( 42 U.S.C. 2011 et seq.).

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

Nothing in this title [42 U.S.C. 5195 et seq.] shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.

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## **Subchapter VII--Miscellaneous**

### **§ 5201. Rules and regulations {Sec.701}**

- 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.

### **§ 5205. DISASTER GRANT CLOSEOUT PROCEDURES. [Sec. 705]**

- 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.

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.

## **Miscellaneous Statutory Provisions That Relate To The Stafford Act**

### **Prohibited flood disaster assistance (42 U.S.C. §5154a)**

- a. General prohibition.--Notwithstanding any other provision of law, no Federal 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. Definition.--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 the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); 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 [adding this section and amending section 4012a(a) of this title ] shall apply to disasters declared after the date of enactment of this Act [enacted Sept. 23, 1994].

*(Sept. 23, 1994, P.L. 103-325, Title V, Subtitle F, §582, 108 Stat. 2286.)*

### **Excess disaster payments on budgetary emergency requirements (42 U.S.C. §5203)**

Hereafter, beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ( 42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of \$320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 901(b)(2)(D) of title 2 , and such amounts shall hereafter be so designated.

*(Dec. 12, 1991, P.L. 102-229, Title I, Ch II, 105 Stat. 1711.)*

### **Definitions relating to insular areas disaster survival and recovery (42 U.S.C. §5204)**

As used in 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, 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 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ( 42 U.S.C. 5170 ); and
3. the term "Secretary" means the Secretary of the Interior.

*(Feb. 24, 1992, P.L. 102-247, Title II, §201, 106 Stat. 37.)*

### **Authorization of appropriations for insular areas disaster recovery (42 U.S.C. §5204a)**

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to--

1. (1) reconstruct essential public facilities damaged by disasters in the insular areas that occurred prior to the date of the enactment of this Act [enacted Feb. 24, 1992]; and
2. (2) enhance the survivability of essential public facilities in the event of disasters in the insular areas, except that with respect to the disaster declared by the President in the case of Hurricane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 5170b and 5172 of this title for such disaster. Such sums shall remain available until expended.

*(Feb. 24, 1992, P.L. 102-247, Title II, §202, 106 Stat. 37.)*

### **Technical assistance for insular areas disaster recovery (42 U.S.C. §5204b)**

- a. Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director 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 Director 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.

*(Feb. 24, 1992, P.L. 102-247, Title II, §203, 106 Stat. 37; Nov. 2, 1994, P.L. 103-437, §15(p), 108 Stat. 4594.)*

## **Limitation on amount of contributions for hazard mitigation; local match (42 U.S.C. §5204c)**

The total of contributions under the last sentence of section 5170c of this title for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 5170c , 5172 , 5173 , 5174 and 5178 of this title for any disaster: Provided, That the President shall require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 5172 of this title for any disaster.

*(Feb. 24, 1992, P.L. 102-247, Title II, §204, 106 Stat. 38)*

### **§ 5206. Buy American requirements.**

- a. Compliance With Buy American Act.--No funds authorized to be appropriated under this Act or any amendment made by this Act may be expended by an entity unless the entity, in expending the funds, complies with the Buy American Act (41 U.S.C. 10a et seq.).
- b. Debarment of Persons Convicted of Fraudulent Use of "Made in America" Labels.-
  1. In general.--If the Director 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 Director 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, United States Code.