

# Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and Related Authorities

FEMA 592, June 2007



**FEMA**



**Robert T. Stafford Disaster Relief and Emergency Assistance Act,  
Public Law 93-288, as amended, 42 U.S.C. 5121-5207,  
and Related Authorities**

**UNITED STATES CODE  
TITLE 42. THE PUBLIC HEALTH AND WELFARE  
CHAPTER 68. DISASTER RELIEF**

**Table of Contents**

<b>Title I -- Findings, Declarations and Definitions.....</b>	<b>1</b>
Sec. 101. Congressional Findings and Declarations (42 U.S.C. 5121) .....	1
Sec. 102. Definitions (42 U.S.C. 5122)* .....	2
<b>Title II -- Disaster Preparedness and Mitigation Assistance .....</b>	<b>3</b>
Sec. 201. Federal and State Disaster Preparedness Programs (42 U.S.C. 5131) .....	3
Sec. 202. Disaster Warnings (42 U.S.C. 5132).....	4
Sec. 203. Predisaster Hazard Mitigation (42 U.S.C. 5133) .....	5
Sec. 204. Interagency Task Force (42 U.S.C. 5134).....	10
<b>Title III -- Major Disaster and Emergency Assistance Administration.....</b>	<b>10</b>
Sec. 301. Waiver of Administrative Conditions (42 U.S.C. 5141).....	10
Sec. 302. Coordinating Officers (42 U.S.C. 5143)* .....	10
Sec. 303. Emergency Support and Response Teams (42 U.S.C. 5144)*.....	11
Sec. 304. Reimbursement of Federal Agencies (42 U.S.C. 5147).....	12
Sec. 305. Nonliability of Federal Government (42 U.S.C. 5148).....	12
Sec. 306. Performance of Services (42 U.S.C. 5149).....	13
Sec. 307. Use of Local Firms and Individuals (42 U.S.C. 5150)*.....	13
Sec. 308. Nondiscrimination in Disaster Assistance (42 U.S.C. 5151)* .....	14
Sec. 309. Use and Coordination of Relief Organizations (42 U.S.C. 5152).....	15

Sec. 310. Priority to Certain Applications for Public Facility and Public Housing Assistance (42 U.S.C. 5153).....	15
Sec. 311. Insurance (42 U.S.C. 5154).....	16
Prohibited Flood Disaster Assistance (42 U.S.C. 5154a).....	17
Sec. 312. Duplication of Benefits (42 U.S.C. 5155).....	18
Sec. 313. Standard of Review (42 U.S.C. 5156).....	19
Sec. 314. Penalties (42 U.S.C. 5157).....	19
Sec. 315. Availability of Materials (42 U.S.C. 5158).....	20
Sec. 316. Protection of Environment (42 U.S.C. 5159).....	20
Sec. 317. Recovery of Assistance (42 U.S.C. 5160).....	20
Sec. 318. Audits and Investigations (42 U.S.C. 5161) .....	21
Sec. 319. Advance of Non-Federal Share (42 U.S.C. 5162) .....	21
Sec. 320. Limitation on Use of Sliding Scale (42 U.S.C. 5163).....	22
Sec. 321. Rules and Regulations (42 U.S.C. 5164) .....	22
Sec. 322. Mitigation Planning (42 U.S.C. 5165) .....	22
Sec. 323. Standards for Public and Private Structures (42 U.S.C. 5165a).....	23
Sec. 324. Management Costs (42 U.S.C. 5165b).....	24
Sec. 325. Public Notice, Comment, and Consultation Requirements (42 U.S.C. 5165c) .....	24
Sec. 326. Designation of Small State and Rural Advocate (42 U.S.C. 5165d)* .....	25
<b>Title IV -- Major Disaster Assistance Programs.....</b>	<b>26</b>
Sec. 401. Procedure for Declaration (42 U.S.C. 5170).....	26
Sec. 402. General Federal Assistance (42 U.S.C. 5170a)* .....	26
Sec. 403. Essential Assistance (42 U.S.C. 5170b)* .....	27
Sec. 404. Hazard Mitigation (42 U.S.C. 5170c)* .....	29

Sec. 405. Federal Facilities (42 U.S.C. 5171).....	31
Sec. 406. Repair, Restoration, and Replacement of Damaged Facilities (42 U.S.C. 5172)* .....	31
Sec. 407. Debris Removal (42 U.S.C. 5173)* .....	39
Sec. 408. Federal Assistance to Individuals and Households (42 U.S.C. 5174)* .....	40
Sec. 410. Unemployment Assistance (42 U.S.C. 5177) .....	45
Sec. 412. Food Coupons and Distribution (42 U.S.C. 5179).....	46
Sec. 413. Food Commodities (42 U.S.C. 5180).....	46
Sec. 414. Relocation Assistance (42 U.S.C. 5181).....	46
Sec. 415. Legal Services (42 U.S.C. 5182).....	47
Sec. 416. Crisis Counseling Assistance and Training (42 U.S.C. 5183) .....	47
Sec. 417. Community Disaster Loans (42 U.S.C. 5184)* .....	47
Sec. 418. Emergency Communications (42 U.S.C. 5185).....	48
Sec. 419. Emergency Public Transportation (42 U.S.C. 5186) .....	48
Sec. 420. Fire Management Assistance (42 U.S.C. 5187).....	48
Sec. 421. Timber Sale Contracts (42 U.S.C. 5188) .....	48
Sec. 422. Simplified Procedures (42 U.S.C. 5189).....	49
Sec. 423. Appeals of Assistance Decisions (42 U.S.C. 5189a) .....	50
Sec. 424. Date of Eligibility; Expenses Incurred Before Date of Disaster (42 U.S.C. 5189b) .....	50
Sec. 425. Transportation Assistance to Individuals and Households (42 U.S.C. 5189c)* ....	50
Sec. 426. Case Management Services (42 U.S.C. 5189d)* .....	50
Sec. 427. Essential Service Providers (42 U.S.C. 5189e)*.....	50

<b>Title V -- Emergency Assistance Programs .....</b>	<b>51</b>
Sec. 501. Procedure for Declaration (42 U.S.C. 5191).....	51
Sec. 502. Federal Emergency Assistance (42 U.S.C. 5192)* .....	52
Sec. 503. Amount of Assistance (42 U.S.C. 5193).....	53
<b>Title VI -- Emergency Preparedness .....</b>	<b>54</b>
Sec. 601. Declaration of Policy (42 U.S.C. 5195) .....	54
Sec. 602. Definitions (42 U.S.C. 5195a).....	54
Sec. 603. Administration of Title (42 U.S.C. 5195b) .....	56
<i>SUBTITLE A – POWERS AND DUTIES.....</i>	<i>56</i>
Sec. 611. Detailed Functions or Administration (42 U.S.C. 5196)* .....	56
Sec. 612. Mutual Aid Pacts Between States and Neighboring Countries (42 U.S.C. 5196a) .....	61
Sec. 613. Contributions for Personnel and Administrative Expenses (42 U.S.C. 5196b)* ...	61
Sec. 614. Requirement for State Matching Funds for Construction of Emergency Operating Centers (42 U.S.C. 5196c) .....	63
Sec. 615. Use of Funds to Prepare for and Respond to Hazards (42 U.S.C. 5196d) .....	63
Sec. 616. Disaster Related Information Services (42 U.S.C. 5196f)* .....	63
<i>SUBTITLE B – GENERAL PROVISIONS .....</i>	<i>64</i>
Sec. 621. Administrative Authority (42 U.S.C. 5197).....	64
Sec. 622. Security Regulations (42 U.S.C. 5197a).....	65
Sec. 623. Use of Existing Facilities (42 U.S.C. 5197b).....	67
Sec. 624. Annual Report to Congress (42 U.S.C. 5197c).....	67
Sec. 625. Applicability of Subchapter (42 U.S.C. 5197d).....	67
Sec. 626. Authorization of Appropriation and Transfers of Funds (42 U.S.C. 5197e) .....	67

Sec. 627. Relation to Atomic Energy Act of 1954 (42 U.S.C. 5197f).....68

Sec. 628. Federal Bureau of Investigation (42 U.S.C. 5197g).....68

**Title VII – Miscellaneous.....68**

Sec. 701. Rules and Regulations (42 U.S.C. 5201) .....68

Sec. 705. Disaster Grant Closeout Procedures (42 U.S.C. 5205) .....68

Sec. 706. Firearms Policies (42 U.S.C. 5207)\* .....69

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*\* This section of the Stafford Act has been amended by either the Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295, 120 Stat.1355 (2006), signed on October 4, 2006, the Pets Evacuation and Transportation Standards Act of 2006, Pub. L. No 109-308, 120 Stat. 1725 (2006), signed on October 6, 2006, or the Security and Accountability for Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat. 1884 (2006), signed on October 13, 2006. The changes are effective for emergencies or major disasters declared on or after October 4, 6, or 13, 2006. For events before those dates, please consult an earlier version of the Stafford Act.*

**MISCELLANEOUS STATUTORY PROVISIONS THAT RELATE TO THE STAFFORD ACT.....71**

Excess Disaster Assistance Payments as Budgetary Emergency Requirements (42 U.S.C. 5203).....71

Insular Areas Disaster Survival and Recovery; Definitions (42 U.S.C. 5204).....71

Authorization of Appropriations for Insular Areas (Disaster Recovery) (42 U.S.C. 5204a).....71

Technical Assistance for Insular Areas (Disaster Recovery) (42 U.S.C. 5204b).....72

Hazard Mitigation for Insular Areas (Limitation on Amount of Contributions, Local Match) (42 U.S.C. 5204c).....72

Buy American (Requirements) (42 U.S.C. 5206).....73

**U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28, 121 Stat. 112 (2007), Signed on May 25, 2007.....74**

Sec. 4501. (100% Federal Share for Katrina, Wilma, Dennis, and Rita) .....74

Sec. 4502. (Allowing Community Disaster Loans To Be Canceled) .....74

Sec. 4503. (Paying Utility Costs for 2005 Hurricanes Extended to 24 Months) .....75

**Department of Homeland Security Appropriations Act, 2007, Pub. L. No. 109-295, 120 Stat. 1355 (2006), Signed on October 4, 2006 [Includes Post-Katrina Emergency Reform Act (PKEMRA)] .....75**

Sec. 508. (Notifying Congressional Committees before Announcement of Grants FY 2007) .....75

Sec. 536. (Accounting for Needs of Individuals with Household Pets and Service Animals).....75

**Title VI – National Emergency Management.....76**

Sec. 601. Short Title (6 U.S.C. 701 note) .....76

Sec. 612. (References to Director of FEMA Considered to Refer to Administrator of FEMA) (6 U.S.C. 313 note and 6 U.S.C. 311 note).....76



Sec. 640a. Disclosure of Certain Information to Law Enforcement Agencies (6 U.S.C. 727) .....	76
Sec. 653. Federal Preparedness (Prescribed Mission Assignments) (6 U.S.C. 753) .....	76
<i>SUBTITLE E – STAFFORD ACT AMENDMENTS</i> .....	77
Sec. 682. National Disaster Recovery Strategy (6 U.S.C. 771).....	77
Sec. 683. National Disaster Housing Strategy (6 U.S.C. 772).....	78
Sec. 689. Individuals with Disabilities (6 U.S.C. 773).....	79
Sec. 689b. Reunification (Child Locator Center) (6 U.S.C. 774).....	80
Sec. 689c. National Emergency Family Registry and Locator System (6 U.S.C. 775) .....	81
Sec. 689i. Individuals and Households Pilot Program (6 U.S.C. 776) .....	82
Sec. 689j. Public Assistance Pilot Program (6 U.S.C. 777).....	84
Sec. 689k. Disposal of Unused Temporary Housing Units .....	85
<i>SUBTITLE F – PREVENTION OF FRAUD, WASTE, AND ABUSE</i> .....	86
Sec. 691. Advance Contracting (6 U.S.C. 791) .....	86
Sec. 692. Limitations on Tiering of Subcontractors (6 U.S.C. 792).....	87
Sec. 693. Oversight and Accountability of Federal Disaster Expenditures (6 U.S.C. 793) .....	87
Sec. 695. Limitation on Length of Certain Noncompetitive Contracts (6 U.S.C. 794) .....	89
Sec. 696. Fraud, Waste, and Abuse Controls (6 U.S.C. 795) .....	89
Sec. 697. Registry of Disaster Response Contractors (6 U.S.C. 796) .....	90
Sec. 698. Fraud Prevention Training Program (6 U.S.C. 797) .....	91

**Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, Pub. L. No. 109-234, 120 Stat. 418 (2006), Signed on June 15, 2006.....91**

Sec. 2401. (Paying Utility Costs for 2005 Hurricanes) .....91

Sec. 2403 (Alternative Housing Pilot Programs).....91

<b>HOMELAND SECURITY ACT OF 2002, as amended, 6 U.S.C. 311-321j</b> .....	<b>93</b>
<b>Title V--National Emergency Management</b> .....	<b>93</b>
Sec. 501. Definitions (6 U.S.C. 311) .....	93
Sec. 502. Definition (6 U.S.C. 312).....	94
Sec. 503. Federal Emergency Management Agency (6 U.S.C. 313).....	94
Sec. 504. Authorities and Responsibilities (6 U.S.C. 314).....	96
Sec. 505. Functions Transferred (U.S.C. 315).....	99
Sec. 506. Preserving the Federal Emergency Management Agency (6 U.S.C. 316).....	99
Sec. 507. Regional Offices (6 U.S.C. 317).....	100
Sec. 508. National Advisory Council (6 U.S.C. 318).....	103
Sec. 509. National Integration Center (6 U.S.C. 319) .....	104
Sec. 510. Credentialing and Typing (6 U.S.C. 320).....	106
Sec. 511. The National Infrastructure Simulation and Analysis Center (6 U.S.C. 321).....	106
Sec. 512. Evacuation Plans and Exercises (6 U.S.C. 321a).....	107
Sec. 513. Disability Coordinator (6 U.S.C. 321b) .....	108
Sec. 514. Department and Agency Officials (6 U.S.C. 321c) .....	109
Sec. 515. National Operations Center (6 U.S.C. 321d) .....	110
Sec. 516. Chief Medical Officer (6 U.S.C. 321e).....	110
Sec. 517. Nuclear Incident Response (6 U.S.C. 321f).....	111
Sec. 518. Conduct of Certain Public Health-related Activities (6 U.S.C. 321g).....	111
Sec. 519. Use of National Private Sector Networks in Emergency Response (6 U.S.C. 321h).....	111

Sec. 520. Use of Commercially Available Technology, Goods and Services  
(6 U.S.C. 321i).....112

Sec. 521. Procurement of Security Countermeasures for Strategic National  
Stockpile (6 U.S.C. 321j).....112

# **Title I -- Findings, Declarations and Definitions**

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

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

## **Sec. 102. Definitions (42 U.S.C. 5122)\***

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) “Individual with a Disability”- The term “individual with a disability” means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).
- (7) 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.
- (8) “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.

(9) “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.

(10) Private nonprofit facility -

- (A) In General - The term “private nonprofit facility” means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.
- (B) Additional Facilities – In addition to the facilities described in subparagraph (A), the term “private nonprofit facility” includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.

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

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

(a) Utilization of services of other agencies - The President is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies and includes -

- (1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;
- (2) training and exercises;
- (3) postdisaster critiques and evaluations;
- (4) annual review of programs;

- (5) coordination of Federal, State, and local preparedness programs;
  - (6) application of science and technology;
  - (7) research.
- (b) Technical assistance for the development of plans and programs - The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damages or destroyed public and private facilities.
- (c) Grants to States for development of plans and programs - Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State \$250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from May 22, 1974. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall
- (1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and
  - (2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.
- (d) Grants for improvement, maintenance, and updating of State plans - The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards; except that no such grant shall exceed \$50,000 per annum to any State.

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

- (a) Readiness of Federal agencies to issue warnings to state and local officials - The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.
- (b) Technical assistance to State and local governments for effective warnings - The President shall direct appropriate Federal agencies to provide technical assistance



to State and local governments to insure that timely and effective disaster warning is provided.

- (c) Warnings to governmental authorities and public endangered by disaster - The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 5196(c) of this title or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.
- (d) Agreements with commercial communications systems for use of facilities - The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

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

- (a) Definition of Small Impoverished Community - In this section, the term “small impoverished community” means a community of 3,000 or fewer individuals that is economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.
- (b) Establishment of Program - The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.
- (c) Approval by President - If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the President, using amounts in the National Predisaster Mitigation Fund established under subsection (i) (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 reduce damages from future natural disasters;

(3) the degree of commitment by the State or local government to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance;

(4) the extent to which the hazard mitigation measures to be carried out using the technical and financial assistance contribute to the mitigation goals and priorities established by the State;

(5) the extent to which the technical and financial assistance is consistent with other assistance provided under this Act;

(6) the extent to which prioritized, cost-effective mitigation activities that produce meaningful and definable outcomes are clearly identified;

(7) if the State or local government has submitted a mitigation plan under section 5165 of this title, 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 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.

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

- (a) In General - The President shall establish a Federal interagency task force for the purpose of coordinating the implementation of predisaster hazard mitigation programs administered by the Federal Government.
- (b) Chairperson - The 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.

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

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

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

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

- (a) Appointment of Federal coordinating officer - Immediately upon his declaration of a major disaster or emergency, the President shall appoint a Federal coordinating officer to operate in the affected area.

- (b) Functions of Federal coordinating officer - In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall
- (1) make an initial appraisal of the types of relief most urgently needed;
  - (2) establish such field offices as he deems necessary and as are authorized by the President;
  - (3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under 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.
- (d) Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.

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

- (a) Emergency Support Teams – The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

(b) Emergency Response Teams-

- (1) Establishment - In carrying out subsection (a), the President, acting through the Director of the Federal Emergency Management Agency, shall establish-
  - (A) at a minimum 3 national response teams; and
  - (B) sufficient regional response teams, including Regional Office strike teams under section 507 of the Homeland Security Act of 2002; and
  - (C) other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.
- (2) Target Capability Level - The Director shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.
- (3) Personnel - The President, acting through the Director, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.
- (4) Readiness Reporting - The Director shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.

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

Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this Act shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

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

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



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

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

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

- (a) Contracts or Agreements With Private Entities-
  - (1) In General - In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.
  - (2) Construction - This section shall not be considered to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.
  - (3) Specific Geographic Area - In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

(b) Implementation-

- (1) Contracts not to entities in area - Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster shall be justified in writing in the contract file.
  - (2) Transition - Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in any area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.
  - (3) Formation of Requirements – The head of a Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section.
- (c) Prior Contracts - Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.

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

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

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

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

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

- (a) Priority - In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:
  - (1) The United States Housing Act of 1937 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.

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

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

## **Prohibited Flood Disaster Assistance (42 U.S.C. 5154a)**

- (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 42 U.S.C. 4012a(a)] shall apply to disasters declared after September 23, 1994.

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

- (a) General prohibition - The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.
- (b) Special rules -
- (1) Limitation - This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.
  - (2) Procedures - The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.
  - (3) Effect of partial benefits - Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.
- (c) Recovery of duplicative benefits - A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose

- (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.

### **Sec. 313. Standard of Review (42 U.S.C. 5156)**

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

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

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

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

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

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

An action which is taken or assistance which is provided pursuant to section 5170a , 5170b, 5172, 5173, or 5192 of this title, 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.

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

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



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

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

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

- (a) In general - The President may lend or advance to an eligible applicant or a State the portion of assistance for which the State is responsible under the cost-sharing provisions of this Act in any case in which--
  - (1) the State is unable to assume its financial responsibility under such cost-sharing provisions—
    - (A) with respect to concurrent, multiple major disasters in a jurisdiction, or
    - (B) after incurring extraordinary costs as a result of a particular disaster; and
  - (2) the damages caused by such disasters or disaster are so overwhelming and severe that it is not possible for the applicant or the State to assume immediately their financial responsibility under this Act.
- (b) Terms of loans and advances -
  - (1) In general - Any loan or advance under this section shall be repaid to the United States.
  - (2) Interest - Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

- (c) Regulations - The President shall issue regulations describing the terms and conditions under which any loan or advance authorized by this section may be made.

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

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

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

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

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

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

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

(a) In General - As a condition of receipt of a disaster loan or grant under this Act -

- (1) the recipient shall carry out any repair or construction to be financed with the loan or grant in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards; and
- (2) the President may require safe land use and construction practices, after adequate consultation with appropriate State and local government officials.

(b) Evidence of Compliance - A recipient of a disaster loan or grant under this Act shall provide such evidence of compliance with this section as the President may require by regulation.

*Note: Section 324 becomes effective when FEMA has promulgated a management cost rate regulation. Until then subsection 406(f) of the Stafford Act is used to establish management cost rates.*

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

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

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

- (a) Public Notice and Comment Concerning New or Modified Policies -
  - (1) In general - The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that -
    - (A) governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this Act; and
    - (B) could result in a significant reduction of assistance under the program.
  - (2) Application - Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.
- (b) Consultation Concerning Interim Policies -
  - (1) In general - Before adopting any interim policy under the public assistance program to address specific conditions that relate to a major disaster or emergency that has been declared under this Act, the President, to the maximum extent practicable, shall solicit the views and recommendations of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely -

- (A) to result in a significant reduction of assistance to applicants for the assistance with respect to the major disaster or emergency; or
- (B) to change the terms of a written agreement to which the Federal Government is a party concerning the declaration of the major disaster or emergency.

(2) No legal right of action - Nothing in this subsection confers a legal right of action on any party.

(c) Public Access - The President shall promote public access to policies governing the implementation of the public assistance program.

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

(a) In General - The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

(b) Responsibilities - The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this Act.

(c) Duties - The Small State and Rural Advocate shall

- (1) participate in the disaster declaration process under section 401 and the emergency declaration process under section 501, to ensure that the needs of rural communities are being addressed;
- (2) assist small population States in the preparation of requests for major disasters or emergency declarations; and
- (3) conduct such other activities as the Director of the Federal Emergency Management Agency considers appropriate.

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

### **Sec. 401. Procedure for Declaration (42 U.S.C. 5170)**

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.

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

In any major disaster, the President may -

- (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance response and recovery efforts, including precautionary evacuations;
- (2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments, including precautionary evacuations and recovery;
- (3) provide technical and advisory assistance to affected State and local governments for -
  - (A) the performance of essential community services;
  - (B) issuance of warnings of risks and hazards;
  - (C) public health and safety information, including dissemination of such information;
  - (D) provision of health and safety measures;
  - (E) management, control, and reduction of immediate threats to public health and safety; and
  - (F) recovery activities, including disaster impact assessments and planning;

- (4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and
- (5) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President
  - (A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and
  - (B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.

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

- (a) In general - Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:
  - (1) Federal resources, generally - Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act.
  - (2) Medicine, durable medical equipment, food, and other consumables - Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, durable medical equipment, food, and other consumable supplies, and other services and assistance to disaster victims.
  - (3) Work and services to save lives and protect property - Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including -
    - (A) debris removal;
    - (B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, durable medical equipment, and other essential needs, including movement of supplies or persons;
    - (C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;
    - (D) provision of temporary facilities for schools and other essential community services;
    - (E) demolition of unsafe structures which endanger the public;
    - (F) warning of further risks and hazards;

- (G) dissemination of public information and assistance regarding health and safety measures;
  - (H) provision of technical advice to State and local governments on disaster management and control;
  - (I) reduction of immediate threats to life, property, and public health and safety; and
  - (J) provision of rescue, care, shelter, and essential needs -
    - (i) to individuals with household pets and service animals; and
    - (ii) to such pets and animals.
- (4) Contributions - Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.
- (b) Federal share - The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.
- (c) Utilization of DOD resources -
- (1) General rule - During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.
  - (2) Rules applicable to debris removal - Any removal of debris and wreckage carried out under this subsection shall be subject to section 5173(b) of this title, 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.

**Sec. 404. Hazard Mitigation (42 U.S.C. 5170c)\***

(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 15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

(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 December 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 December 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.

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

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

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

- (a) Contributions -
- (1) In general -The President may make contributions -
- (A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and
- (B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

(2) Associated expenses - For the purposes of this section, associated expenses shall include -

- (A) the costs of mobilizing and employing the National Guard for performance of eligible work;
- (B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging; and
- (C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster.

(3) Conditions for assistance to private nonprofit facilities -

- (A) In general - The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if -
  - (i) the facility provides critical services (as defined by the President) in the event of a major disaster; or
  - (ii) the owner or operator of the facility -
    - (I) has applied for a disaster loan under section 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, education, and emergency medical care.

(4) Notification to Congress - Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify

- (A) the Committee on Environment and Public Works of the Senate;
- (B) the Committee on Transportation and Infrastructure of the House of Representatives;
- (C) the Committee on Appropriations of the Senate; and
- (D) the Committee on Appropriations of the House of Representatives.

(b) Federal Share -

(1) Minimum federal share - Except as provided in paragraph (2), the Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section.

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

(2) Reduced federal share - The President shall promulgate regulations to reduce 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 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Use of funds - Funds contributed to a State or local government under this paragraph may be used -

- (i) to repair, restore, or expand other selected public facilities;
- (ii) to construct new facilities; or
- (iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

(C) Limitations - Funds made available to a State or local government under this paragraph may not be used for -

- (i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
- (ii) any uninsured public facility located in a special flood hazard area identified by the 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 November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

- (2) Amount of reduction - The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of -
  - (A) the value of such facility on the date of the flood damage or destruction, or
  - (B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.
- (3) Exception - Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.
- (4) Dissemination of information - The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

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

(e) Net Eligible Cost –

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

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

( e ) Eligible Cost -

(1) Determination -

- (A) In general - For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility--
  - (i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and
  - (ii) in conformity with codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred.
- (B) Cost estimation procedures -
  - (i) In general - Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.
  - (ii) Applicability - The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 5189 of this title.

(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 October 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

***Note: The following Subsection 406(f) will be repealed when the regulation to implement section 324 has been promulgated.***

- (f) Associated Expenses – For purposes of this section, associated expenses include the following –
  - (1) Necessary costs – Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:
    - (A) For an applicant whose net eligible costs equal \$100,000, 3 percent of such net eligible costs.
    - (B) For an applicant whose net eligible cost equal \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such net eligible costs in excess of \$100,000.
    - (C) For an applicant whose net eligible costs equal \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such net eligible costs in excess or \$1,000,000.
    - (D) For an applicant whose net eligible costs equal \$5,000,000 or more, \$61,000 plus 1/2 percent of such eligible costs in excess of \$5,000,000.
  - (2) Extraordinary Costs – Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expense of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under section 403, 404, 406, 407, 502, and 503 in such State in connection with the major disaster as follows.
    - (A) If such total amount is less than \$100,000, 3 percent of such total amount.
    - (B) If such total amount is \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such total amount in excess of \$100,000.
    - (C) If such total amount is \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such total amount in excess of \$1,000,000.
    - (D) If such total amount is \$5,000,000 or more, \$61,000 plus 1/2 per cent of such total amount in excess of \$5,000,000.
  - (3) Costs of National Guard – The costs of mobilizing and employing the National Guard for performance of eligible work.

- (4) Costs of Prison Labor – 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.
- (5) Other Labor Costs – Base and overtime wages for an applicant’s employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.

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

- (a) Presidential Authority - The President, whenever he determines it to be in the public interest, is authorized -
  - (1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and
  - (2) to make grants to any State or local government or owner or operator of a private non-profit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.
- (b) Authorization by State or local government; indemnification agreement - No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.
- (c) Rules relating to large lots - The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.
- (d) Federal share - The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.
- (e) Expedited Payments -
  - (1) Grant Assistance – In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President’s initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).
  - (2) Date of Payment – Not later than 60 days after the date of the estimate described in paragraph (1) and not later than 90 days after the date on which

the State or local government or owner or operator of a private nonprofit facility applies for assistance under this section, an initial payment described in paragraph (1) shall be paid.

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

(a) In General -

- (1) Provision of assistance - In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.
- (2) Relationship to other assistance - Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.

(b) Housing Assistance -

- (1) Eligibility - The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, as a result of damage caused by a major disaster.
- (2) Determination of appropriate types of assistance -
  - (A) In general - The President shall determine appropriate types of housing assistance to be provided under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.
  - (B) Multiple types of assistance - One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.

(c) Types of Housing Assistance -

(1) Temporary housing -

(A) Financial assistance -

- (i) In general - The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. Such assistance may include the payment of the cost of utilities, excluding telephone service.
- (ii) Amount - The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hookups, security deposits, or unit installation not provided directly by the President.

(B) Direct assistance -

- (i) In general - The President may provide temporary housing units, acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).
- (ii) 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.

(3) Replacement -

- (A) In general - The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.
- (B) Applicability of flood insurance requirement - With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.

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

- (A) no alternative housing resources are available; and
- (B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective.

(d) Terms and Conditions Relating to Housing Assistance -

(1) Sites -

- (A) In general - Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that -
  - (i) is complete with utilities;
  - (ii) meets the physical accessibility requirements for individuals with disabilities; and
  - (iii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.
- (B) Sites provided by the President - A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.

(2) Disposal of units -

- (A) Sale to occupants -
  - (i) In general - Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.
  - (ii) Sale price - A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.

- (iii) Deposit of proceeds - Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.
  - (iv) Hazard and flood insurance - A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.
  - (v) Use of GSA services - The President may use the services of the General Services Administration to accomplish a sale under clause (i).
- (B) Other methods of disposal - If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims -
- (i) may be sold to any person; or
  - (ii) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees -
    - (a) to comply with the nondiscrimination provisions of section 5151 of this title; and
    - (b) 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) Verification Measures - In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to



- (1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;
  - (2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;
  - (3) collect any duplicative payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;
  - (4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and
  - (5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.
- (j) Rules and Regulations - The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

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

- (a) Benefit assistance - The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or a waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.
- (b) Reemployment assistance
- (1) State assistance - A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

- (2) Federal assistance - The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.

### **Sec. 412. Food Coupons and Distribution (42 U.S.C. 5179)**

- (a) Persons eligible; terms and conditions - Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies 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 provisions unaffected - Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, 7 U.S.C. 2011 *et seq.*, except as they relate to the availability of food stamps in an area affected by a major disaster.

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

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

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

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, 42 U.S.C. 4601 *et seq.*, shall be denied such

eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

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

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

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

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

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

- (a) In General - The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.
- (b) Amount - The amount of any such loan shall be based on need, shall not exceed
  - (1) 25 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000; or
  - (2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed \$5,000,000.
- (c) Repayment -
  - (1) Cancellation - Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(2) Condition on continuing eligibility - A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.

(d) Effect on Other Assistance - Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

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

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

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

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

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

- (a) In General - The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.
- (b) Coordination with State and Tribal Departments of Forestry - In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.
- (c) Essential Assistance - In providing assistance under this section, the President may use the authority provided under section 5170b of this title.
- (d) Rules and Regulations - The President shall prescribe such rules and regulations as are necessary to carry out this section.

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

- (a) Cost-sharing arrangement - Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major

physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than \$ 1,000 for sales under one million board feet, (2) of more than \$1 per thousand board feet for sales of one to three million board feet, or (3) of more than \$3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

- (b) Cancellation of authority - If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.
- (c) Public notice of sale - The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.
- (d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber - The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

## **Sec. 422. Simplified Procedures (42 U.S.C. 5189)**

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.

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

- (a) Right of appeal - Any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.
- (b) Period for decision - A decision regarding an appeal under subsection (a) 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.

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

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

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

The President may provide transportation assistance to relocate individuals displaced from their predisaster primary residences as a result of an incident declared under this Act or otherwise transported from their predisaster primary residences under section 403(a)(3) or 502, to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

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

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

**Sec. 427. Essential Service Providers (42 U.S.C. 5189e)\***

- (a) Definition - In this section, the term ‘essential service provider’ means an entity that
  - (1) provides -
    - (A) telecommunications service;

- (B) electrical power;
- (C) natural gas;
- (D) water and sewer services; or
- (E) any other essential service, as determined by the President;

(2) is -

- (A) a municipal entity;
- (B) a nonprofit entity; or
- (C) a private, for profit entity; and

(3) is contributing to efforts to respond to an emergency or major disaster.

(b) Authorization for accessibility - Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not -

- (1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or
- (2) impede the restoration or repair of the services described in subsection (a)(1).

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

## **Title V -- Emergency Assistance Programs**

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

- (a) Request and declaration - All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.
- (b) Certain emergencies involving Federal primary responsibility - The President may exercise any authority vested in him by section 502 or section 503 with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency

involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a).

**Sec. 502. Federal emergency assistance (42 U.S.C. 5192)\***

(a) Specified - In any emergency, the President may -

- (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations;
- (2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;
- (3) provide technical and advisory assistance to affected State and local governments for -
  - (A) the performance of essential community services;
  - (B) issuance of warnings of risks or hazards;
  - (C) public health and safety information, including dissemination of such information;
  - (D) provision of health and safety measures; and
  - (E) management, control, and reduction of immediate threats to public health and safety;
- (4) provide emergency assistance through Federal agencies;
- (5) remove debris in accordance with the terms and conditions of section 407;
- (6) provide assistance in accordance with section 408;
- (7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and
- (8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President -



- (A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and
  - (B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.
- (b) General - Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe, including precautionary evacuations.
- (c) Guidelines - The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests are likely to be approved.

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

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

# **Title VI -- Emergency Preparedness**

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

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

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

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

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

- shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).
- (B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).
  - (C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).
- (4) Organizational equipment - The term “organizational equipment” means equipment determined by the 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.
  - (5) Materials - The term “materials” includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.
  - (6) Facilities - The term “facilities”, except as otherwise provided in this title, includes buildings, shelters, utilities, and land.
  - (7) Director - The term “Director” means the Director of the Federal Emergency Management Agency.
  - (8) Neighboring countries - The term “neighboring countries” includes Canada and Mexico.
  - (9) United States and States - The terms “United States “ and “States” includes the several States, the District of Columbia , and territories and possessions of the United States .
  - (10) State - The term “State” includes interstate emergency preparedness authorities established under section 5196(h) of this title.
- (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.

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

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

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

## **Sec. 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;
  - (3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements; and
  - (4) plans that take into account the needs of individuals with pets and service animals prior to, during, and following a major disaster or emergency.

(f) Training programs -

(1) The 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) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.
- (3) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.
- (4) The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.
- (5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the 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.
- (6) 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.
- (7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the 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.

- (8) The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.
- (9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the 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, 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, including a catastrophic incident annex, 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) Catastrophic Incident Annex -

(1) Consistency - A catastrophic incident annex submitted under subsection (b)(3) shall be -

(A) modeled after the catastrophic incident annex of the National Response Plan; and

(B) consistent with the national preparedness goal established under section 643 of the Post-Katrina Emergency Management Reform Act of 2006, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(2) Consultation - In developing a catastrophic incident annex submitted under subsection (b)(3), a State shall consult with and seek appropriate comments from local governments, emergency response providers, locally governed multijurisdictional councils of government, and regional planning commissions.

(d) Terms and conditions - The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.

(e) Application of other provisions - In carrying out this section, the provisions of sections 5196(h) and 5197(h) of this title shall apply.

(f) 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, 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.

(g) Standards for State and Local Emergency Preparedness Operational Plans - In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the Director shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(h) Submission of plan - If a State fails to submit a plan for approval as required by this section within 60 days after the 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.

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

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

- (a) In General - Consistent with section 308(a), the Director of the Federal Emergency Management Agency shall -
  - (1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;
  - (2) ensure that information made available to individuals affected by a major disaster or emergency is made available in formats that can be understood by -
    - (A) population groups identified under paragraph (1); and
    - (B) individuals with disabilities or other special needs; and
  - (3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.
- (b) Group Size - For purposes of subsection (a), the Director of the Federal Emergency Management Agency shall define the size of a population group.

## **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, 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.
  - (1) 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 -
  - (1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;
  - (2) establish and use such regional and other offices as may be necessary; and
  - (3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.
- (d) Gifts - Notwithstanding any other provision of law, the 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.
- (e) 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 to the extent funds are available.
- (f) 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.
- (g) 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 and perform any of the powers and duties provided by this title. The Director may perform any of the powers and duties provided by this title through or with the aid

of such officials of the Federal Emergency Management Agency as the Director may designate.

- (h) 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.
  - (1) 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 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 (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.
  - (2) 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.
  - (3) As used in this subsection, the term “person” means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

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

- (a) Establishment - The 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, 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:
- (e) "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."

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

In performing duties under this title, 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.

**Sec. 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, accompanied by such recommendations as the Director considers appropriate.

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

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

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

- (a) Authorization of appropriations - There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.
- (b) Transfer Authority - Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Director of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or

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

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

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

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

# **Title VII -- Miscellaneous**

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

### (a) Rules and regulations

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

(2) Deadline for payment of assistance - Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State shall be completed within 60 days after the date of approval of such assistance.

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

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

### (a) Statute of Limitations -



- (1) In general - Except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this Act shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency.
- (2) Fraud exception - The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.

(b) Rebuttal of Presumption of Record Maintenance -

- (1) In general - In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.
- (2) Affirmative evidence - The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.
- (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.

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

- (a) Prohibition on Confiscation of Firearms - No officer or employee of the United States (including any member of the uniformed services), or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer,

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

# MISCELLANEOUS STATUTORY PROVISIONS THAT RELATE TO THE STAFFORD ACT

## **Excess Disaster Assistance Payments as 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.

## **Insular Areas Disaster Survival and Recovery; Definitions (42 U.S.C. 5204)**

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

(1) the term "insular area" means any of the following: American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, 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.

*Note: See the note preceding 48 U.S.C. § 1681 terminating the Trust Territory of the Pacific Islands which effectively removes the Federated States of Micronesia and the Marshall Islands from the definition of "insular area".*

## **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) reconstruct essential public facilities damaged by disasters in the insular areas that occurred prior to February 24, 1992; and

(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.

**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.

*Note: The following provision is superseded by Section 404 of the Stafford Act.*

**Hazard Mitigation for Insular Areas (Limitation on Amount of Contributions, 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.

## **Buy American (Requirements) (42 U.S.C. 5206)**

(a) Compliance With Buy American Act - No funds authorized to be appropriated under this Act [Disaster Mitigation Act of 2000, Pub. L. No.106-390] or any amendment made by this Act [Disaster Mitigation Act of 2000, Pub. L. No.106-390] 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.

**U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28, 121 Stat. 112 (2007), Signed on May 25, 2007.**

**Sec. 4501.**

(a) IN GENERAL – Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including any direct Federal assistance, provided for the States of Louisiana, Mississippi, Florida, Alabama, and Texas in connection with Hurricanes Katrina, Wilma, Dennis, and Rita under sections 403, 406, 407, and 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173, and 5174) shall be 100 percent of the eligible costs under such sections.

(b) APPLICABILITY –

- (1) IN GENERAL – The Federal share provided by subsection (a) shall apply to disaster assistance applied for before the date of enactment of this Act.
- (2) LIMITATION – In the case of disaster assistance provided under sections 403, 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Federal share provided by subsection (a) shall be limited to assistance provided for projects for which a “request for public assistance form” has been submitted.

**Sec. 4502.**

(a) COMMUNITY DISASTER LOAN ACT –

- (1) IN GENERAL – Section 2(a) of the Community Disaster Loan Act of 2005 (Public Law 109-88) is amended by striking “*Provided further*, That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled:”.
- (2) EFFECTIVE DATE – The amendment made by paragraph (1) shall be effective on the date of enactment of the Community Disaster Loan Act of 2005 (Public Law 109-88).

(b) EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT –

- (1) IN GENERAL – Chapter 4 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234) is amended under Federal Emergency Management Agency, “Disaster Assistance Direct Loan Program Account” by striking “*Provided further*, That notwithstanding section 417(c)(1) of such Act, such loans may not be canceled:”.
- (2) EFFECTIVE DATE – The amendment made by paragraph (1) shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234).

**Sec. 4503.**

(a) IN GENERAL – Section 2401 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234) is amended by striking “12 months” and inserting “24 months”.

*Note: Section 2401 is set forth below.*

(b) EFFECTIVE DATE – The amendment made by this section shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234).

**Department of Homeland Security Appropriations Act, 2007, Pub. L. No. 109-295, 120 Stat. 1355 (2006), Signed on October 4, 2006.**

*[Includes Post-Katrina Emergency Management Reform Act (PKEMRA)]*

**Sec. 508.**

None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of \$1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: *Provided*, That no notification shall involve funds that are not available for obligation: *Provided further*, That the Office of Grants and Training shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement terrorism prevention grants; or high-threat, high-density urban areas grants.

**Sec. 536.**

The Department of Homeland Security shall, in approving standards for State and local emergency preparedness operational plans under section 613(b)(3) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5196b(b)(3)), account for the needs of individuals with household pets and service animals before, during, and following a major disaster or emergency: *Provided*, That Federal agencies may provide assistance as described in section 403(a) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5170b(a)) to carry out plans described in the previous proviso.

## **TITLE VI – NATIONAL EMERGENCY MANAGEMENT**

### **Sec. 601. Short Title (6 U.S.C. 701 note)**

This title may be cited as the ‘Post-Katrina Emergency Management Reform Act of 2006’.

### **Sec. 612. (6 U.S.C. 313 note and 6 U.S.C. 311 note)**

(c) References- Any reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.

(f) Interim Actions-

- (1) IN GENERAL- During the period beginning on the date of enactment of this Act and ending on March 31, 2007, the Secretary, the Under Secretary for Preparedness, and the Director of the Federal Emergency Management Agency shall take such actions as are necessary to provide for the orderly implementation of any amendment under this subtitle that takes effect on March 31, 2007.
- (2) REFERENCES- Any reference to the Administrator of the Federal Emergency Management Agency in this title or an amendment by this title shall be considered to refer and apply to the Director of the Federal Emergency Management Agency until March 31, 2007.

### **Sec. 640a. Disclosure of Certain Information to Law Enforcement Agencies (6 U.S.C. 727)**

In the event of circumstances requiring an evacuation, sheltering, or mass relocation, the Administrator may disclose information in any individual assistance database of the Agency in accordance with section 552a(b) of title 5, United States Code (commonly referred to as the “Privacy Act”), to any law enforcement agency of the Federal Government or a State, local, or tribal government in order to identify illegal conduct or address public safety or security issues, including compliance with sex offender notification laws.

### **Sec. 653. Federal Preparedness (6 U.S.C. 753)**

(c) Mission Assignments – To expedite the provision of assistance under the National Response Plan, the President shall ensure that the Administrator, in coordination with Federal agencies with responsibilities under the National Response Plan, develops prescribed mission assignments, including logistics, communications, mass care, health services, and public safety.



## Subtitle E – Stafford Act Amendments

### Sec. 682. National Disaster Recovery Strategy (6 U.S.C. 771)

(a) In General – The Administrator, in coordination with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Transportation, the Administrator of the Small Business Administration, the Assistant Secretary for Indian Affairs of the Department of the Interior, and the heads of other appropriate Federal agencies, State, local, and tribal government officials (including through the National Advisory Council), and representatives of appropriate nongovernmental organizations shall develop, coordinate, and maintain a National Disaster Recovery Strategy to serve as a guide to recovery efforts after major disasters and emergencies.

(b) Contents – The National Disaster Recovery Strategy shall –

- (1) outline the most efficient and cost-effective Federal programs that will meet the recovery needs of States, local and tribal governments, and individuals and households affected by a major disaster;
- (2) clearly define the role, programs, authorities, and responsibilities of each Federal agency that may be of assistance in providing assistance in the recovery from a major disaster;
- (3) promote the use of the most appropriate and cost-effective building materials (based on the hazards present in an area) in any area affected by a major disaster, with the goal of encouraging the construction of disaster-resistant buildings; and
- (4) describe in detail the programs that may be offered by the agencies described in paragraph (2), including –
  - (A) discussing funding issues;
  - (B) detailing how responsibilities under the National Disaster Recovery Strategy will be shared; and
  - (C) addressing other matters concerning the cooperative effort to provide recovery assistance.

(c) Report –

- (1) IN GENERAL – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Recovery Strategy and any additional authorities necessary to implement any portion of the National Disaster Recovery Strategy.
- (2) UPDATE – The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1) –
  - (A) on the same date that any change is made to the National Disaster Recovery Strategy; and

- (B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

**Sec. 683. National Disaster Housing Strategy (6 U.S.C. 772)**

(a) In General – The Administrator, in coordination with representatives of the Federal agencies, governments, and organizations listed in subsection (b)(2) of this section, the National Advisory Council, the National Council on Disability, and other entities at the Administrator’s discretion, shall develop, coordinate, and maintain a National Disaster Housing Strategy.

(b) Contents – The National Disaster Housing Strategy shall –

- (1) outline the most efficient and cost effective Federal programs that will best meet the short-term and long-term housing needs of individuals and households affected by a major disaster;
- (2) clearly define the role, programs, authorities, and responsibilities of each entity in providing housing assistance in the event of a major disaster, including –
  - (A) the Agency;
  - (B) the Department of Housing and Urban Development;
  - (C) the Department of Agriculture;
  - (D) the Department of Veterans Affairs;
  - (E) the Department of Health and Human Services;
  - (F) the Bureau of Indian Affairs;
  - (G) any other Federal agency that may provide housing assistance in the event of a major disaster;
  - (H) the American Red Cross; and
  - (I) State, local, and tribal governments;
- (3) describe in detail the programs that may be offered by the entities described in paragraph (2), including –
  - (A) outlining any funding issues;
  - (B) detailing how responsibilities under the National Disaster Housing Strategy will be shared; and
  - (C) addressing other matters concerning the cooperative effort to provide housing assistance during a major disaster;
- (4) consider methods through which housing assistance can be provided to individuals and households where employment and other resources for living are available;
- (5) describe programs directed to meet the needs of special needs and low-income populations and ensure that a sufficient number of housing units are provided for individuals with disabilities;
- (6) describe plans for operation of clusters of housing provided to individuals and households, including access to public services, site management, security, and site density;

- (7) describe plans for promoting the repair or rehabilitation of existing rental housing, including through lease agreements or other means, in order to improve the provision of housing to individuals and households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and
  - (8) describe any additional authorities necessary to carry out any portion of the strategy.
- (c) Guidance – The Administrator should develop and make publicly available guidance on –
- (1) types of housing assistance available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to individuals and households affected by an emergency or major disaster;
  - (2) eligibility for such assistance (including, where appropriate, the continuation of such assistance); and
  - (3) application procedures for such assistance.
- (d) Report –
- (1) IN GENERAL – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Housing Strategy, including programs directed to meeting the needs of special needs populations.
  - (2) UPDATED REPORT – The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1) –
    - (A) on the same date that any change is made to the National Disaster Housing Strategy; and
    - (B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

**Sec. 689. Individuals with Disabilities (6 U.S.C. 773)**

- (a) Guidelines – Not later than 90 days after the date of enactment of this Act, and in coordination with the National Advisory Council, the National Council on Disability, the Interagency Coordinating Council on Preparedness and Individuals With Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), and the Disability Coordinator (established under section 513 of the Homeland Security Act of 2002, as added by this Act), the Administrator shall develop guidelines to accommodate individuals with disabilities, which shall include guidelines for –
- (1) the accessibility of, and communications and programs in, shelters, recovery centers, and other facilities; and
  - (2) devices used in connection with disaster operations, including first aid stations, mass feeding areas, portable payphone stations, portable toilets, and temporary housing.

**Sec. 689b. Reunification (6 U.S.C. 774)**

(a) Definitions – In this section:

- (1) Child Locator Center – The term “Child Locator Center” means the National Emergency Child Locator Center established under subsection (b).
- (2) Declared Event – The term “declared event” means a major disaster or emergency.
- (3) Displaced Adult – The term “displaced adult” means an individual 21 years of age or older who is displaced from the habitual residence of that individual as a result of a declared event.
- (4) Displaced Child – The term “displaced child” means an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of a declared event.

(b) National Emergency Child Locator Center –

- (1) In general – Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the Attorney General of the United States, shall establish within the National Center for Missing and Exploited Children the National Emergency Child Locator Center. In establishing the National Emergency Child Locator Center, the Administrator shall establish procedures to make all relevant information available to the National Emergency Child Locator Center in a timely manner to facilitate the expeditious identification and reunification of children with their families.
- (2) Purposes – The purposes of the Child Locator Center are to
  - (A) enable individuals to provide to the Child Locator Center the name of and other identifying information about a displaced child or a displaced adult who may have information about the location of a displaced child;
  - (B) enable individuals to receive information about other sources of information about displaced children and displaced adults; and
  - (C) assist law enforcement in locating displaced children.
- (3) Responsibilities and Duties – The responsibilities and duties of the Child Locator Center are to –
  - (A) establish a toll-free telephone number to receive reports of displaced children and information about displaced adults that may assist in locating displaced children;
  - (B) create a website to provide information about displaced children;
  - (C) deploy its staff to the location of a declared event to gather information about displaced children;
  - (D) assist in the reunification of displaced children with their families;
  - (E) provide information to the public about additional resources for disaster assistance;

- (F) work in partnership with Federal, State, and local law enforcement agencies;
- (G) provide technical assistance in locating displaced children;
- (H) share information on displaced children and displaced adults with governmental agencies and nongovernmental organizations providing disaster assistance;
- (I) use its resources to gather information about displaced children;
- (J) refer reports of displaced adults to
  - (i) an entity designated by the Attorney General to provide technical assistance in locating displaced adults; and
  - (ii) the National Emergency Family Registry and Locator System as defined under section 689c(a);
- (K) enter into cooperative agreements with Federal and State agencies and other organizations such as the American Red Cross as necessary to implement the mission of the Child Locator Center; and
- (L) develop an emergency response plan to prepare for the activation of the Child Locator Center.

(c) Conforming Amendments – Section 403(1) of the Missing Children’s Assistance Act (42 U.S.C. 5772(1)) is amended –

- (1) in subparagraph (A), by striking “or” at the end;
- (2) in subparagraph (B), by adding “or” after the semicolon; and
- (3) by inserting after subparagraph (B) the following:  
 “(C) the individual is an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).”.

(d) Report – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Transportation and Infrastructure and the Committee on the Judiciary of the House of Representatives a report describing in detail the status of the Child Locator Center, including funding issues and any difficulties or issues in establishing the Center or completing the cooperative agreements described in subsection (b)(3)(K).

**Sec. 689c. National Emergency Family Registry and Locator System (6 U.S.C. 775)**

- (a) Definitions – In this section –
- (1) the term “displaced individual” means an individual displaced by an emergency or major disaster; and
  - (2) the term “National Emergency Family Registry and Locator System” means the National Emergency Family Registry and Locator System established under subsection (b).

(b) Establishment – Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a National Emergency Family Registry and Locator System to help reunify families separated after an emergency or major disaster.

(c) Operation of System – The National Emergency Family Registry and Locator System shall –

- (1) allow a displaced adult (including medical patients) to voluntarily register (and allow an adult that is the parent or guardian of a displaced child to register such child), by submitting personal information to be entered into a database (such as the name, current location of residence, and any other relevant information that could be used by others seeking to locate that individual);
- (2) ensure that information submitted under paragraph (1) is accessible to those individuals named by a displaced individual and to those law enforcement officials;
- (3) be accessible through the Internet and through a toll-free number, to receive reports of displaced individuals; and
- (4) include a means of referring displaced children to the National Emergency Child Locator Center established under section 689b.

(d) Publication of Information – Not later than 210 days after the date of enactment of this Act, the Administrator shall establish a mechanism to inform the public about the National Emergency Family Registry and Locator System and its potential usefulness for assisting to reunite displaced individuals with their families.

(e) Coordination – Not later than 90 days after the date of enactment of this Act, the Administrator shall enter a memorandum of understanding with the Department of Justice, the National Center for Missing and Exploited Children, the Department of Health and Human Services, and the American Red Cross and other relevant private organizations that will enhance the sharing of information to facilitate reuniting displaced individuals (including medical patients) with families.

(f) Report – Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the status of the National Emergency Family Registry and Locator System, including any difficulties or issues in establishing the System, including funding issues.

**Sec. 689i. Individuals and Households Pilot Program (6 U.S.C. 776)**

(a) Pilot Program –

- (1) In general – The President, acting through the Administrator, in coordination with State, local, and tribal governments, shall establish and conduct a pilot program. The pilot program shall be designed to make better use of existing rental housing, located in areas covered by a major disaster declaration, in

order to provide timely and cost-effective temporary housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) where alternative housing options are less available or cost-effective.

(2) Administration –

(A) In General – For the purposes of the pilot program under this section, the Administrator may –

- (i) enter into lease agreements with owners of multi-family rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174);
- (ii) make improvements to properties under such lease agreements;
- (iii) use the pilot program where the program is cost effective in that the cost to the Government for the lease agreements is in proportion to the savings to the Government by not providing alternative housing; and
- (iv) limit repairs to those required to ensure that the housing units shall meet Federal housing quality standards.

(B) Improvements to leased properties – Under the terms of any lease agreement for a property described under subparagraph (A)(ii), the value of the contribution of the Agency to such improvements –

- (i) shall be deducted from the value of the lease agreement; and
- (ii) may not exceed the value of the lease agreement.

(3) Consultation – In administering the pilot program under this section, the Administrator may consult with State, local, and tribal governments.

(4) Report –

(A) In General – Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program.

(B) Contents – The Administrator shall include in the report –

- (i) an assessment of the effectiveness of the pilot program under this section, including an assessment of cost-savings to the Federal Government and any benefits to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) under the pilot program;
- (ii) findings and conclusions of the Administrator with respect to the pilot program;
- (iii) an assessment of additional authorities needed to aid the Agency in its mission of providing disaster housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), either under the pilot program under this section or other potential housing programs; and

(iv) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(b) Pilot Program Project Approval – The Administrator shall not approve a project under the pilot program after December 31, 2008.

**Sec. 689j. Public Assistance Pilot Program (6 U.S.C. 777)**

(a) Pilot Program –

(1) In General – The President, acting through the Administrator, and in coordination with State and local governments, shall establish and conduct a pilot program to –

(A) reduce the costs of the Federal Government of providing assistance to States and local governments under sections 403(a)(3)(A), 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1570b(a)(3), 5172, 5172);

(B) increase flexibility in the administration of sections 403(a)(3)(A), 406, and 407 of that Act; and

(C) expedite the provision of assistance to States and local governments provided under sections 403(a)(3)(A), 406, and 407 of that Act.

(2) Participation – Only States and local governments that elect to participate in the pilot program may participate in the pilot program for a particular project.

(3) Innovative Administration –

(A) In General – For purposes of the pilot program, the Administrator shall establish new procedures to administer assistance provided under the sections referred to in paragraph (1).

(B) New Procedures – The new procedures established under subparagraph (A) may include 1 or more of the following:

(i) Notwithstanding section 406(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1571(c)(1)(A)), providing an option for a State or local government to elect to receive an in-lieu contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State or local government and of management expenses.

(ii) Making grants on the basis of estimates agreed to by the local government (or where no local government is involved, by the State government) and the Administrator to provide financial incentives and disincentives for the local government (or where no local government is involved, for the State government) for the timely or cost effective completion of projects under section 403(a)(3)(A), 406, and 407 of that Act.

(iii) Increasing the Federal share for removal of debris and wreckage for States and local governments that have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris



and wreckage removal contractors before the date of declaration of the major disaster.

(iv) Using a sliding scale for the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal.

(v) Using a financial incentive to recycle debris.

(vi) Reimbursing base wages for employees and extra hires of a State or local government involved in or administering debris and wreckage removal.

- (4) Waiver – The Administrator may waive such regulations or rules applicable to the provisions of assistance under the sections referred to in paragraph (1) as the Administrator determines are necessary to carry out the pilot program under this section.

(b) Report –

- (1) In General – Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program under this section.

- (2) Contents – The report submitted under paragraph (1) shall include –

(A) An assessment by the Administrator of any administrative or financial benefits of the pilot program;

(B) An assessment by the Administrator of the effect, including any savings in time and cost, of the pilot program;

(C) Any identified legal or other obstacles to increasing the amount of debris recycled after a major disaster;

(D) Any other findings and conclusions of the Administrator with respect to the pilot program; and

(E) Any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(c) Deadline for Initiation of Implementation – The Administrator shall initiate implementation of the pilot program under this section not later than 90 days after the date of enactment of the Act.

(d) Pilot Program Project Duration – The Administrator may not approve a project under the pilot program under this section after December 31, 2008.

**Sec. 689k. Disposal of Unused Temporary Housing Units**

(a) In General – Notwithstanding section 408(d)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)(B)), if the Administrator authorizes the disposal of an unused temporary housing unit that is owned by the Agency on the date of enactment of this Act and is not used to house individuals or households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) after that date, such unit shall be

disposed of under subchapter III of chapter 5 of subtitle I of title 40, United States Code.

(b) Tribal Governments – Housing units described in subsection (a) shall be disposed of in coordination with the Department of the Interior or other appropriate agencies in order to transfer such units to tribal governments if appropriate.

### **Subtitle F – Prevention of Fraud, Waste, and Abuse**

#### **Sec. 691. Advance Contracting (6 U.S.C. 791)**

(a) Initial Report –

(1) IN GENERAL – Not later than 180 days after the date of enactment of this Act, the Administrator shall submit a report under paragraph (2) identifying –

(A) recurring disaster response requirements, including specific goods and services, for which the Agency is capable of contracting for in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;

(B) recurring disaster response requirements, including specific goods and services, for which the Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner; and

(C) a contracting strategy that maximizes the use of advance contracts to the extent practical and cost-effective.

(2) SUBMISSION –The report under paragraph (1) shall be submitted to the appropriate committees of Congress.

(b) Entering Into Contracts –

(1) IN GENERAL – Not later than 1 year after the date of enactment of this Act, the Administrator shall enter into 1 or more contracts for each type of goods or services identified under subsection (a)(1)(A), and in accordance with the contracting strategy identified in subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(A) previously awarded may be maintained in fulfilling this requirement.

(2) CONSIDERED FACTORS – Before entering into any contract under this subsection, the Administrator shall consider section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by this Act.

(3) PRENEGOTIATED FEDERAL CONTRACTS FOR GOODS AND SERVICES – The Administrator, in coordination with State and local governments and other Federal agencies, shall establish a process to ensure that Federal prenegotiated contracts for goods and services are coordinated with State and local governments, as appropriate.

(4) PRENEGOTIATED STATE AND LOCAL CONTRACTS FOR GOODS AND SERVICES – The Administrator shall encourage State and local

governments to establish prenegotiated contracts with vendors for goods and services in advance of natural disasters and acts of terrorism or other man-made disasters.

(c) Maintenance of Contracts – After the date described under subsection (b), the Administrator shall have the responsibility to maintain contracts for appropriate levels of goods and services in accordance with subsection (a)(1)(C).

(d) Report on Contracts Not Using Competitive Procedures – At the end of each fiscal quarter, beginning with the first fiscal quarter occurring at least 90 days after the date of enactment of this Act, the Administrator shall submit a report on each disaster assistance contract entered into by the Agency by other than competitive procedures to the appropriate committees of Congress.

### **Sec. 692. Limitations on Tiering of Subcontractors (6 U.S.C. 792)**

(a) Regulations – The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) Specific Requirement – At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract or the cost of any individual task or delivery order (not including overhead and profit), unless the Secretary determines that such requirement is not feasible or practicable.

(c) Covered Contracts – This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

### **Sec. 693. Oversight and Accountability of Federal Disaster Expenditures (6 U.S.C. 793)**

(a) Authority of Administrator to Designate Funds for Oversight Activities – The Administrator may designate up to 1 percent of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency for performing oversight of activities carried out under the Agency reimbursable mission assignment process. Such funds shall remain available until expended.

(b) Use of Funds –

(1) TYPES OF OVERSIGHT ACTIVITIES – Oversight funds may be used for the following types of oversight activities related to Agency mission assignments:

- (A) Monitoring, tracking, and auditing expenditures of funds.
- (B) Ensuring that sufficient management and internal control mechanisms are available so that Agency funds are spent appropriately and in accordance with all applicable laws and regulations.
- (C) Reviewing selected contracts and other activities.
- (D) Investigating allegations of fraud involving Agency funds.
- (E) Conducting and participating in fraud prevention activities with other Federal, State, and local government personnel and contractors.
- (2) PLANS AND REPORTS – Oversight funds may be used to issue the plans required under subsection (e) and the reports required under subsection (f).

(c) Restriction on Use of Funds – Oversight funds may not be used to finance existing agency oversight responsibilities related to direct agency appropriations used for disaster response, relief, and recovery activities.

(d) Methods of Oversight Activities –

- (1) IN GENERAL – Oversight activities may be carried out by an agency under this section either directly or by contract. Such activities may include evaluations and financial and performance audits.
- (2) COORDINATION OF OVERSIGHT ACTIVITIES – To the extent practicable, evaluations and audits under this section shall be performed by the inspector general of the agency.

(e) Development of Oversight Plans –

- (1) IN GENERAL – If an agency receives oversight funds for a fiscal year, the head of the agency shall prepare a plan describing the oversight activities for disaster response, relief, and recovery anticipated to be undertaken during the subsequent fiscal year.
- (2) SELECTION OF OVERSIGHT ACTIVITIES – In preparing the plan, the head of the agency shall select oversight activities based upon a risk assessment of those areas that present the greatest risk of fraud, waste, and abuse.
- (3) SCHEDULE – The plan shall include a schedule for conducting oversight activities, including anticipated dates of completion.

(f) Federal Disaster Assistance Accountability Reports – A Federal agency receiving oversight funds under this section shall submit annually to the Administrator and the appropriate committees of Congress a consolidated report regarding the use of such funds, including information summarizing oversight activities and the results achieved.

(g) Definition – In this section, the term ‘oversight funds’ means funds referred to in subsection (a) that are designated for use in performing oversight activities.

**Sec. 695. Limitation on Length of Certain Noncompetitive Contracts (6 U.S.C. 794)**

(a) Regulations – The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary –

- (1) to meet the urgent and compelling requirements of the work to be performed under the contract; and
- (2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) Specific Contract Period – The regulations promulgated under subsection (a) shall require the contract period to not to exceed 150 days, unless the Secretary determines that exceptional circumstances apply.

(c) Covered Contracts – This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

**Sec. 696. Fraud, Waste, and Abuse Controls (6 U.S.C. 795)**

(a) In General – The Administrator shall ensure that –

- (1) all programs within the Agency administering Federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse;
- (2) application databases used by the Agency to collect information on eligible recipients must record disbursements;
- (3) such tracking is designed to highlight and identify ineligible applications; and
- (4) the databases used to collect information from applications for such assistance must be integrated with disbursement and payment records.

(b) Audits and Reviews Required – The Administrator shall ensure that any database or similar application processing system for Federal disaster relief assistance programs administered by the Agency undergoes a review by the Inspector General of the Agency to determine the existence and implementation of such internal controls required under this section and the amendments made by this section.

**Sec. 697. Registry of Disaster Response Contractors (6 U.S.C. 796)**

(a) Definitions – In this section –

- (1) the term ‘registry’ means the registry created under subsection (b); and
- (2) the terms ‘small business concern’, ‘small business concern owned and controlled by socially and economically disadvantaged individuals’, ‘small business concern owned and controlled by women’, and ‘small business concern owned and controlled by service-disabled veterans’ have the meanings given those terms under the Small Business Act (15 U.S.C. 631 et seq.).

(b) Registry –

- (1) **IN GENERAL** – The Administrator shall establish and maintain a registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities.
- (2) **CONTENTS** – The registry shall include, for each business concern –
  - (A) the name of the business concern;
  - (B) the location of the business concern;
  - (C) the area served by the business concern;
  - (D) the type of good or service provided by the business concern;
  - (E) the bonding level of the business concern ;
  - (F) whether the business concern is –
    - (i) a small business concern;
    - (ii) a small business concern owned and controlled by socially and economically disadvantaged individuals;
    - (iii) a small business concern owned and controlled by women; or
    - (iv) a small business concern owned and controlled by service-disabled veterans.
- (3) **SOURCE OF INFORMATION** –
  - (A) **SUBMISSION** – Information maintained in the registry shall be submitted on a voluntary basis and be kept current by the submitting business concerns.
  - (B) **ATTESTATION** – Each business concern submitting information to the registry shall submit –
    - (i) an attestation that the information is true; and
    - (ii) documentation supporting such attestation.
  - (C) **VERIFICATION** – The Administrator shall verify that the documentation submitted by each business concern supports the information submitted by that business concern.
- (4) **AVAILABILITY OF REGISTRY** – The registry shall be made generally available on the Internet site of the Agency.
- (5) **CONSULTATION OF REGISTRY** – As part of the acquisition planning for contracting for debris removal, distribution of supplies in a disaster, reconstruction, and other disaster or emergency relief activities, a Federal agency shall consult the registry.

**Sec. 698 Fraud Prevention Training Program (6 U.S.C. 797)**

The Administrator shall develop and implement a program to provide training on the prevention of waste, fraud, and abuse of Federal disaster relief assistance relating to the response to or recovery from natural disasters and acts of terrorism or other man-made disasters and ways to identify such potential waste, fraud, and abuse.

**Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, Pub. L. No. 109-234, 120 Stat. 418 (2006), Signed on June 15, 2006.**

**Sec. 2401.**

The Federal Emergency Management Agency may provide funds to a State or local government or, as necessary, assume an existing agreement from such unit of government, to pay for utility costs resulting from the provision of temporary housing units to evacuees from Hurricane Katrina and other hurricanes of the 2005 season if the State or local government has previously arranged to pay for such utilities on behalf of the evacuees for the term of any leases, not to exceed 12 months, contracted by or prior to February 7, 2006: *Provided*, That the Federal share of the costs eligible to be paid shall be 100 percent.

*Note: Section 2401 has been extended from a period of 12 months to a period of 24 months by section 4503 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (signed on May 25, 2007), set forth above.*

**Sec. 2403.**

Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Individual Assistance Program the costs sufficient for alternative housing pilot programs in the areas hardest hit by Hurricane Katrina and other hurricanes of the 2005 season.





# THE HOMELAND SECURITY ACT OF 2002

## 6 U.S.C. 311-321j

*(As amended by the Department of Homeland Security Appropriations Act, 2007,  
Pub. L. No. 109-295)*

### TITLE V

#### (National Emergency Management)

##### Sec. 501. Definitions (6 U.S.C. 311)

In this title—

- (1) the term 'Administrator' means the Administrator of the Agency;
- (2) the term 'Agency' means the Federal Emergency Management Agency;
- (3) the term 'catastrophic incident' means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;
- (4) the term 'Federal coordinating officer' means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);
- (5) the term 'interoperable' has the meaning given the term 'interoperable communications' under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));
- (6) the term 'National Incident Management System' means a system to enable effective, efficient, and collaborative incident management;
- (7) the term 'National Response Plan' means the National Response Plan or any successor plan prepared under section 502(a)(6);
- (8) the term 'Regional Administrator' means a Regional Administrator appointed under section 507;
- (9) the term 'Regional Office' means a Regional Office established under section 507;

(10) the term 'surge capacity' means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and

(11) the term 'tribal government' means the government of any entity described in section 2(10)(B).

## **Sec. 502. Definition (6 U.S.C. 312)**

In this subchapter, the term “Nuclear Incident Response Team” means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

## **Sec. 503. Federal Emergency Management Agency (6 U.S.C. 313)**

(a) In General— There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

(b) Mission—

(1) PRIMARY MISSION— The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

(2) SPECIFIC ACTIVITIES— In support of the primary mission of the Agency, the Administrator shall—

(A) lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(B) partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency

management that can effectively and efficiently utilize the full measure of the Nation's resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other man-made disaster;

(D) integrate the Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

(E) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

(G) provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster; and

(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

(c) Administrator—

(1) IN GENERAL— The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS— The Administrator shall be appointed from among individuals who have—

(A) a demonstrated ability in and knowledge of emergency management and homeland security; and

(B) not less than 5 years of executive leadership and management experience in the public or private sector.

(3) REPORTING— The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT—

(A) IN GENERAL— The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

(B) ADVICE AND RECOMMENDATIONS—

(i) IN GENERAL— In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

(ii) ADVICE ON REQUEST— The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

(iii) RECOMMENDATIONS TO CONGRESS— After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

(5) CABINET STATUS—

(A) IN GENERAL— The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

(B) RETENTION OF AUTHORITY— Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.

## **Sec. 504. Authority and Responsibilities (6 U.S.C. 314)**

(a) In General — The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this subchapter)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this subchapter) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources, including requiring deployment of the Strategic National Stockpile, in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan;

(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act;

(9) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

(A) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards;

- (10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;
- (11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;
- (12) supervising grant programs administered by the Agency;
- (13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;
- (14) coordinating with the National Advisory Council established under section 508;
- (15) preparing and implementing the plans and programs of the Federal Government for—
  - (A) continuity of operations;
  - (B) continuity of government; and
  - (C) continuity of plans;
- (16) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;
- (17) maintaining and operating within the Agency the National Response Coordination Center or its successor;
- (18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;
- (19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and carrying out all functions and authorities of the Administrator under the national preparedness System;
- (20) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 505; and
- (21) otherwise carrying out the mission of the Agency as described in section 503(b).

(b) All-Hazards Approach— In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy that

builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.

### **Sec. 505. Functions Transferred (6 U.S.C. 315)**

(a) In General— Except as provided in subsection (b), there are transferred to the Agency the following:

(1) All functions of the Federal Emergency Management Agency, including existing responsibilities for emergency alert systems and continuity of operations and continuity of government plans and programs as constituted on June 1, 2006, including all of its personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Preparedness relating thereto.

(b) Exceptions— The following within the Preparedness Directorate shall not be transferred:

(1) The Office of Infrastructure Protection.

(2) The National Communications System.

(3) The National Cybersecurity Division.

(4) The Office of the Chief Medical Officer.

(5) The functions, personnel, assets, components, authorities, and liabilities of each component described under paragraphs (1) through (4).

### **Sec. 506. Preserving the Federal Emergency Management Agency (6 U.S.C. 316)**

(a) Distinct Entity— The Agency shall be maintained as a distinct entity within the Department.

(b) Reorganization— Section 872 shall not apply to the Agency, including any function or organizational unit of the Agency.

(c) Prohibition on Changes to Missions—

(1) IN GENERAL— The Secretary may not substantially or significantly reduce the authorities, responsibilities, or functions of the Agency or the capability of the Agency to perform those missions, authorities, responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006.

(2) CERTAIN TRANSFERS PROHIBITED— No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the capability of the Agency to perform its missions.

(d) Reprogramming and Transfer of Funds— In reprogramming or transferring funds, the Secretary shall comply with any applicable provisions of any Act making appropriations for the Department for fiscal year 2007, or any succeeding fiscal year, relating to the reprogramming or transfer of funds.

**Sec. 507. Regional Offices (6 U.S.C. 317)**

(a) In General— There are in the Agency 10 regional offices, as identified by the Administrator.

(b) Management of Regional Offices—

(1) REGIONAL ADMINISTRATOR— Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Administrator and be in the Senior Executive Service.

(2) QUALIFICATIONS—

(A) IN GENERAL— Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

(B) CONSIDERATIONS— In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

(c) Responsibilities—

(1) IN GENERAL— The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations,



multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

(2) RESPONSIBILITIES— The responsibilities of a Regional Administrator include—

(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);

(B) assisting in the development of regional capabilities needed for a national catastrophic response system;

(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

(F) fostering the development of mutual aid and other cooperative agreements;

(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

(H) maintaining and operating a Regional Response Coordination Center or its successor; and

(I) performing such other duties relating to such responsibilities as the Administrator may require.

(3) TRAINING AND EXERCISE REQUIREMENTS—

(A) TRAINING— The Administrator shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National Response Plan, and such other subjects as determined by the Administrator.

(B) EXERCISES— The Administrator shall require each Regional Administrator to participate as appropriate in regional and national exercises.

(d) Area Offices—

(1) IN GENERAL— There is an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

(2) ALASKA— The Administrator shall establish an Area Office in Alaska, as a component in the appropriate Regional Office.

(e) Regional Advisory Council—

(1) ESTABLISHMENT— Each Regional Administrator shall establish a Regional Advisory Council.

(2) NOMINATIONS— A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

(3) RESPONSIBILITIES— Each Regional Advisory Council shall—

(A) advise the Regional Administrator on emergency management issues specific to that region;

(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

(C) advise the Regional Administrator of any weaknesses or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council is aware.

(f) Regional Office Strike Teams—

(1) IN GENERAL— In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) that shall consist of

(A) a designated Federal coordinating officer;

(B) personnel trained in incident management;

(C) public affairs, response and recovery, and communications support personnel;

(D) a defense coordinating officer;

(E) liaisons to other Federal agencies;

(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

(2) OTHER DUTIES— The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be consistent with the emergency preparedness activities of the agency that employs such individual.

(3) LOCATION OF MEMBERS— The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

(4) COORDINATION— Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and nongovernmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

(5) PREPAREDNESS— Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(6) AUTHORITIES— If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.

### **Sec. 508. National Advisory Council (6 U.S.C. 318)**

(a) Establishment— Not later than 60 days after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Secretary shall establish an advisory body under section 871(a) to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

(b) Responsibilities— The National Advisory Council shall advise the Administrator on all aspects of emergency management. The National Advisory Council shall incorporate State, local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(c) Membership—

(1) IN GENERAL— The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate

(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

(B) health scientists, emergency and inpatient medical providers, and public health professionals;

(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

(D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;

(E) elected State, local, and tribal government executives;

(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

(G) representatives of individuals with disabilities and other populations with special needs; and

(H) such other individuals as the Administrator determines to be appropriate.

(2) **COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION**— In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

(3) **EX OFFICIO MEMBERS**— The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

(4) **TERMS OF OFFICE**—

(A) **IN GENERAL**— Except as provided in subparagraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

(B) **INITIAL APPOINTMENTS**— Of the members initially appointed to the National Advisory Council

(i) one-third shall be appointed for a term of 1 year; and

(ii) one-third shall be appointed for a term of 2 years.

(d) **Applicability of Federal Advisory Committee Act**—

(1) **IN GENERAL**— Notwithstanding section 871(a) and subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

(2) **TERMINATION**— Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

## **Sec. 509. National Integration Center (6 U.S.C. 319)**

(a) **In General**— There is established in the Agency a National Integration Center.

(b) Responsibilities—

(1) IN GENERAL— The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan.

(2) SPECIFIC RESPONSIBILITIES— The National Integration Center shall periodically review, and revise as appropriate, the National Incident Management System and the National Response Plan, including—

(A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;

(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and

(C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

(c) Incident Management—

(1) IN GENERAL—

(A) NATIONAL RESPONSE PLAN— The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

(B) ADMINISTRATOR— The chain of the command specified in the National Response Plan shall

(i) provide for a role for the Administrator consistent with the role of the Administrator as the principal emergency management advisor to the President, the Homeland Security Council, and the Secretary under section 503(c)(4) and the responsibility of the Administrator under the Post-Katrina Emergency Management Reform Act of 2006, and the amendments made by that Act, relating to natural disasters, acts of terrorism, and other man-made disasters; and

(ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

(2) PRINCIPAL FEDERAL OFFICIAL— The Principal Federal Official (or the successor thereto) shall not—

(A) direct or replace the incident command structure established at the incident; or

(B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials.

## **Sec. 510. Credentialing and Typing (6 U.S.C. 320)**

The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including credentialing of personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

## **Sec. 511. The National Infrastructure Simulation and Analysis Center (6 U.S.C. 321)**

(a) Definition— In this section, the term 'National Infrastructure Simulation and Analysis Center' means the National Infrastructure Simulation and Analysis Center established under section 1016(d) of the USA PATRIOT Act (42 U.S.C. 5195c(d)).

(b) Authority—

(1) IN GENERAL— There is in the Department the National Infrastructure Simulation and Analysis Center which shall serve as a source of national expertise to address critical infrastructure protection and continuity through support for activities related to

- (A) counterterrorism, threat assessment, and risk mitigation; and
- (B) a natural disaster, act of terrorism, or other man-made disaster.

(2) INFRASTRUCTURE MODELING—

(A) PARTICULAR SUPPORT— The support provided under paragraph (1) shall include modeling, simulation, and analysis of the systems and assets comprising critical infrastructure, in order to enhance preparedness, protection, response, recovery, and mitigation activities.

(B) RELATIONSHIP WITH OTHER AGENCIES— Each Federal agency and department with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive, shall establish a formal relationship, including an agreement regarding information sharing, between the elements of such agency or department and the National Infrastructure Simulation and Analysis Center, through the Department.

(C) PURPOSE—

(i) IN GENERAL— The purpose of the relationship under subparagraph (B) shall be to permit each Federal agency and department described in subparagraph (B) to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center (particularly vulnerability and consequence analysis), consistent with its work load capacity and priorities, for real-time response to reported and projected natural disasters, acts of terrorism, and other man-made disasters.

(ii) RECIPIENT OF CERTAIN SUPPORT— Modeling, simulation, and analysis provided under this subsection shall be provided to relevant Federal agencies and departments, including Federal agencies and departments with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive.

## **Sec. 512. Evacuation Plans and Exercises (6 U.S.C. 321a)**

(a) In General— Notwithstanding any other provision of law, and subject to subsection (d), grants made to States or local or tribal governments by the Department through the State Homeland Security Grant Program or the Urban Area Security Initiative may be used to—

(1) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster;

(2) prepare for the execution of such plans, including the development of evacuation routes and the purchase and stockpiling of necessary supplies and shelters; and

(3) conduct exercises of such plans.

(b) Plan Development— In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

(1) establish incident command and decision making processes;

(2) ensure that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;

(3) identify primary and alternative evacuation routes and methods to increase evacuation capabilities along such routes such as conversion of two-way traffic to one-way evacuation routes;

(4) identify evacuation transportation modes and capabilities, including the use of mass and public transit capabilities, and coordinating and integrating evacuation plans for all populations including for those individuals located in hospitals, nursing homes, and other institutional living facilities;

(5) develop procedures for informing the public of evacuation plans before and during an evacuation, including individuals--

(A) with disabilities or other special needs;

(B) with limited English proficiency; or

(C) who might otherwise have difficulty in obtaining such information; and

(6) identify shelter locations and capabilities.

(c) Assistance—

(1) IN GENERAL— The Administrator may establish any guidelines, standards, or requirements determined appropriate to administer this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

(2) REQUESTED ASSISTANCE— The Administrator shall make assistance available upon request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs to establish, maintain, and exercise mass evacuation plans that are coordinated and integrated into the plans developed by that State, local, or tribal government under this section.

(d) Multipurpose Funds— Nothing in this section may be construed to preclude a State, local, or tribal government from using grant funds in a manner that enhances preparedness for a natural or man-made disaster unrelated to an act of terrorism, if such use assists such government in building capabilities for terrorism preparedness.

### **Sec. 513. Disability Coordinator (6 U.S.C. 321b)**

(a) In General— After consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, established under Executive Order No. 13347 (6 U.S.C. 312 note), the Administrator shall appoint a Disability Coordinator. The Disability Coordinator shall report directly to the Administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief.

(b) Responsibilities The Disability Coordinator shall be responsible for—

(1) providing guidance and coordination on matters related to individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), other agencies of the Federal Government, and State, local, and tribal government authorities regarding the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities in



emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(4) ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities;

(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuations, and disaster relief;

(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

(8) ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation;

(9) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;

(10) ensuring that meeting the needs of individuals with disabilities are included in the components of the national preparedness system established under section 644 of the Post-Katrina Emergency Management Reform Act of 2006; and

(11) any other duties as assigned by the Administrator.

#### **Sec. 514. Department and Agency Officials (6 U.S.C. 321c)**

(a) Deputy Administrators— The President may appoint, by and with the advice and consent of the Senate, not more than 4 Deputy Administrators to assist the Administrator in carrying out this title.

(b) Cybersecurity and Communications— There is in the Department an Assistant Secretary for Cybersecurity and Communications.

(c) United States Fire Administration— The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

## **Sec. 515. National Operations Center (6 U.S.C. 321d)**

(a) Definition— In this section, the term `situational awareness' means information gathered from a variety of sources that, when communicated to emergency managers and decision makers, can form the basis for incident management decision making.

(b) Establishment— The National Operations Center is the principal operations center for the Department and shall—

(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster; and

(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

## **Sec. 516. Chief Medical Officer (6 U.S.C. 321e)**

(a) In General— There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Qualifications— The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

(c) Responsibilities— The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—

(1) serving as the principal advisor to the Secretary and the Administrator on medical and public health issues;

(2) coordinating the biodefense activities of the Department;

(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

(5) serving as the Department's primary point of contact for State, local, and tribal governments, the medical community, and others within and outside the Department, with respect to medical and public health matters;

(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield; and

(7) performing such other duties relating to such responsibilities as the Secretary may require.

### **Sec. 517. Nuclear incident response (6 U.S.C. 321f)**

#### **(a) In general**

At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

#### **(b) Rule of construction**

Nothing in this subchapter shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this subchapter) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

### **Sec. 518. Conduct of certain public health-related activities (6 U.S.C. 321g)**

#### **(a) In general**

With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

#### **(b) Evaluation of progress**

In carrying out subsection (a) of this section, the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

### **Sec. 519. Use of national private sector networks in emergency response (6 U.S.C. 321h)**

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

**Sec. 520. Use of commercially available technology, goods, and services (6 U.S.C. 321i)**

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department’s information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

**Sec. 521. Procurement of security countermeasures for Strategic National Stockpile (6 U.S.C. 321j)**

**(a) Authorization of appropriations**

For the procurement of security countermeasures under section 247d–6b (c) of title 42 (referred to in this section as the “security countermeasures program”), there is authorized to be appropriated up to \$5,593,000,000 for the fiscal years 2004 through 2013. Of the amounts appropriated under the preceding sentence, not to exceed \$3,418,000,000 may be obligated during the fiscal years 2004 through 2008, of which not to exceed \$890,000,000 may be obligated during fiscal year 2004.

**(b) Special reserve fund**

For purposes of the security countermeasures program, the term “special reserve fund” means the “Biodefense Countermeasures” appropriations account or any other appropriation made under subsection (a) of this section.

**(c) Availability**

Amounts appropriated under subsection (a) of this section become available for a procurement under the security countermeasures program only upon the approval by the President of such availability for the procurement in accordance with paragraph (6)(B) of such program.

**(d) Related authorizations of appropriations**

**(1) Threat assessment capabilities**

For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006, for the hiring of professional personnel within the Directorate for Information Analysis and Infrastructure Protection, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment

(including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 403–4 of title 50.

**(2) Intelligence sharing infrastructure**

For the purpose of carrying out the acquisition and deployment of secure facilities (including information technology and physical infrastructure, whether mobile and temporary, or permanent) sufficient to permit the Secretary to receive, not later than 180 days after July 21, 2004, all classified information and products to which the Under Secretary for Information Analysis and Infrastructure Protection is entitled under part A of subchapter II of this chapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.