

**Robert T. Stafford Disaster Relief and Emergency Assistance Act,
as amended by Public Law 106-390, October 30, 2000**

UNITED STATES CODE
Title 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 68. DISASTER RELIEF
FINDINGS, DECLARATIONS AND DEFINITIONS
[As amended by Pub. L. 103-181, Pub. L. 103-337, and Pub. L. 106-390]

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘Robert T. Stafford Disaster Relief and Emergency Assistance Act’.

(Pub. L. 106-390, § 301, October 30, 2000)

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

(a) The Congress hereby finds and declares that--

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from ~~such~~ disasters by--

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations; and

(6) providing Federal assistance programs for both public and private losses sustained in disasters [.]

(Pub. L. 93-288, title I, § 101, May 22, 1974, 88 Stat. 143; Nov. 23, 1988, Pub. L. 100-707, title I, § 103(a), 102 Stat. 4689.)

DELEGATION OF FUNCTIONS

Functions of the President under the Disaster Relief Acts of 1970 and 1974, with certain exceptions, were delegated to the Director of the Federal Emergency Management Agency, see sections 4-201 and 4-203 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 2251 of title 50 Appendix, War and National Defense.

REFERENCES TO DISASTER RELIEF ACT OF 1974

Section 102(b) of title I of Pub. L. 100-707 provided that: "Whenever any reference is made in any law (other than this Act [see Tables for classification]), regulation, document, rule, record, or other paper of the United States to a section or provision of the Disaster Relief Act of 1974 [former short title of Pub. L. 93-288], such reference shall be deemed to be a reference to such section or provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [Pub. L. 93-288, see Short title note above].

§ 5122. DEFINITIONS

{Sec. 102}

As used in this chapter--

(1) EMERGENCY. "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. "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) Local government.--The term 'local government' means—

(A) a county, municipality, city, town, township, public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization; and

(C) a rural community, unincorporated town or village, or other public entity, for which an application for assistance is made by a State or political subdivision of a State.

(7) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(8) **PUBLIC FACILITY.** "Public facility" means the following facilities owned by a State or local government:

(A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.

(B) Any non-Federal-aid street, road, or highway.

(C) Any other public building, structure, or system, including those used for

educational, recreational, or cultural purposes.

(D) Any park.

(9) PRIVATE NONPROFIT FACILITY. "Private nonprofit facility" means private nonprofit educational, utility, **irrigation**, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled), other private nonprofit facilities which provide essential services of a governmental nature to the general public, and facilities on Indian reservations as defined by the President.

(Pub. L. 93-288, title I, § 102, May 22, 1974, 88 Stat. 144; Pub. L. 100-707, title I, § 103(b)-(d), (f), Nov. 23, 1988, 102 Stat. 4689, 4690.) (As amended Feb. 24, 1992, Pub. L. 102-247, title II, § 205, 106 Stat. 38.)

(Pub. L. 106-390, § 302, October 30, 2000)

TITLE II--DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

§ 5131. FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

{Sec. 201}

(a) Utilization of services of other agencies.

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

- (1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;
- (2) training and exercises;
- (3) postdisaster critiques and evaluations;
- (4) annual review of programs;
- (5) coordination of Federal, State, and local preparedness programs;
- (6) application of science and technology;
- (7) research.

(b) Technical assistance for the development of plans and programs

The President shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damages or destroyed public and private facilities.

(c) Grants to States for development of plans and programs

Upon application by a State, the President is authorized to make grants, not to exceed in the aggregate to such State \$250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from the date of enactment of this Act [enacted May 22, 1974]. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall--

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

(d) Grants for improvement, maintenance, and updating of State plans

The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards; except that no such grant shall exceed \$50,000 per annum to any State.

(Pub. L. 93-288, title II, § 201, May 22, 1974, 88 Stat. 145; Pub. L. 100-707, title I, § 104, Nov. 23, 1988, 102 Stat. 4690.)

§ 5132. DISASTER WARNINGS

{Sec. 202}

(a) Readiness of Federal agencies to issue warnings to state and local officials

The President shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) Technical assistance to State and local governments for effective warnings

The President shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) Warnings to governmental authorities and public endangered by disaster

The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to ~~section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App 2281(c))~~, section 611(c) of this Act, or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters. **[§ 3412(b), Pub. L. 103-337, Oct. 5, 1994] [Reference to § 611(c) is incorrect; probably should be § 611(d). Technical correction needed]**

(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.

(Pub. L. 93-288, title II, § 202, May 22, 1974, 88 Stat. 145.)

SEC. 203. PREDISASTER HAZARD MITIGATION.

(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 5 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 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 of 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 322, the extent to which the activities identified under paragraph (6) are consistent with the mitigation plan;**
- (8) the opportunity to fund activities that maximize net benefits to society;**
- (9) the extent to which assistance will fund mitigation activities in small impoverished communities; and**
- (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, governments, and appropriate Federal agencies, the President shall develop multihazard advisory maps for areas, in not fewer than 5 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, the maximum extent practicable, the most cost-effective and efficient technology available.

(4) Use of maps.—

(A) Advisory nature.--The multihazard advisory maps shall be considered to be advisory and shall not require the development of any new policy by, or impose any new policy on, any government or private entity.

(B) Availability of maps.--The multihazard advisory maps shall be made available to the appropriate State and local governments for the purposes of—

- (i) informing the general public about the risks of natural hazards in the areas described in paragraph (2);**
- (ii) supporting the activities described in subsection (e); and**
- (iii) other public uses.**

(l) Report on Federal and State Administration.--Not later than 18 months after the date of enactment of this section, 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 December 31, 2003.

(Pub.L. 106-390, § 102, October 30, 2000)

SEC. 204. INTERAGENCY TASK FORCE.

(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 of—

- (1) relevant Federal agencies;**
- (2) State and local government organizations (including Indian tribes); and**
- (3) the American Red Cross.**

(Pub.L. 106-390, § 103, October 30, 2000)

**SUBCHAPTER III--MAJOR DISASTER AND
EMERGENCY ASSISTANCE ADMINISTRATION**

§ 5141. WAIVER OF ADMINISTRATIVE CONDITIONS {Sec. 301}

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

(Pub. L. 93-288, title III, § 301, as added Pub. L. 100-707, title I, § 105(a)(2), Nov. 23, 1988, 102 Stat. 4691.)

§ 5143. COORDINATING OFFICERS {Sec. 302}

(a) Appointment of Federal coordinating officer

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

(b) Functions of Federal coordinating officer

In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall--

- (1) make an initial appraisal of the types of relief most urgently needed;
- (2) establish such field offices as he deems necessary and as are authorized by the President;
- (3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599) [36 U.S.C. §§ 1 et seq.]; 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.

(Pub. L. 93-288, title III, § 302, formerly § 303, May 22, 1974, 88 Stat. 147; renumbered § 302 and amended Pub. L. 100-707, title I, § 105(b), Nov. 23, 1988, 102 Stat. 4691.)

§ 5144. EMERGENCY SUPPORT TEAMS {Sec. 303}

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

(Pub. L. 93-288, title III, § 303, formerly § 304, May 22, 1974, 88 Stat. 147; renumbered § 303 and amended Pub. L. 100-707, title I, § 105(c), Nov. 23, 1988, 102 Stat. 4691.)

§§ 5145, 5146. REPEALED. Pub. L. 100-707, title I, § 105(d), Nov. 23, 1988, 102 Stat. 4691

Section 5145, Pub. L. 93-288, title III, § 305, May 22, 1974, 88 Stat. 148, related to authority of President to provide assistance in an emergency.

Section 5146, Pub. L. 93-288, title III, § 306, May 22, 1974, 88 Stat. 148, related to cooperation of Federal agencies in rendering disaster assistance.

§ 5147. REIMBURSEMENT OF FEDERAL AGENCIES {Sec. 304}

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

(Pub. L. 93-288, title III, § 304, formerly § 307, May 22, 1974, 88 Stat. 149; renumbered

§ 304 and amended Pub. L. 100-707, title I, § 105(d), Nov. 23, 1988, 102 Stat. 4691.)

§ 5148. NONLIABILITY OF FEDERAL GOVERNMENT {Sec. 305}

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

(Pub. L. 93-288, title III, § 305, formerly § 308, May 22, 1974, 88 Stat. 149; renumbered § 305 and amended Pub. L. 100-707, title I, § 105(d), Nov. 23, 1988, 102 Stat. 4691.)

§ 5149. PERFORMANCE OF SERVICES {Sec. 306}

(a) Utilization of services or facilities of State and local governments

In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) Appointment of temporary personnel, experts, and consultants; acquisition, rental, or hire of equipment, services, materials and supplies

In performing any services under this Act, and 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, United States Code, governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title [5 U.S.C. § 3109], without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title [5 U.S.C. §§ 5101 et seq. and 5331 et seq.] 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,

(Pub. L. 93-288, title III, § 306, formerly § 309, May 22, 1974, 88 Stat. 149; renumbered § 306 and amended Pub. L. 100-707, title I, § 105(d), Nov. 23, 1988, 102 Stat. 4691.)

§ 5150. USE OF LOCAL FIRMS AND INDIVIDUALS

{Sec. 307}

In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency. This section shall not be considered to restrict the use of Department of Defense resources in the provision of major disaster assistance under this Act.

(Pub. L. 93-288, title III, § 307, formerly § 310, May 22, 1974, 88 Stat. 150; renumbered § 307 and amended Pub. L. 100-707, title I, § 105(e), Nov. 23, 1988, 102 Stat. 4691.)

§ 5151. NONDISCRIMINATION IN DISASTER ASSISTANCE

{Sec. 308}

(a) Regulations for equitable and impartial relief operations

The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

(b) Compliance with regulations as prerequisite to participation by other bodies in relief operations

As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

(Pub. L. 93-288, title III, § 308, formerly § 311, May 22, 1974, 88 Stat. 150; renumbered § 308 and amended Pub. L. 100-707, title I, § 105(f), Nov. 23, 1988, 102 Stat. 4691.)

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

(a) In providing relief and assistance under this Act, the President may utilize, with their

consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

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

(Pub. L. 93-288, title III, § 309, formerly § 312, May 22, 1974, 88 Stat. 150; renumbered § 309 and amended Pub. L. 100-707, title I, § 105(f), Nov. 23, 1988, 102 Stat. 4691.)

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

(a) Priority

In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:

(1) The United States Housing Act of 1937 [42 U.S.C. § 1437 et seq.] for the provision of low-income housing.

(2) Section 462 of title 40 for assistance in public works planning.

(3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. § 5301 et seq.].

(4) Section 1926 of title 7.

(5) The Public Works and Economic Development Act of 1965, as amended [42 U.S.C. § 3121 et seq.].

(6) The Appalachian Regional Development Act of 1965, as amended.

(7) The Federal Water Pollution Control Act [33 U.S.C. § 1251 et seq.]

(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 in major disaster areas.

(Pub. L. 93-288, title III, § 310, as added Nov. 23, 1988, Pub. L. 100-707, title I, § 105(g), Nov. 23, 1988, 102 Stat. 4691.)

§ 5154. INSURANCE

{Sec. 311}

(a) Applicants for replacement of damaged facilities

(1) Compliance with certain regulations

An applicant for assistance under section 5172 of this title [42 U.S.C. § 5172] (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title [42 U.S.C. § 5189] (relating to simplified procedure) or ~~section 3233 of this title [42 U.S.C. § 3233]~~ **section 209(c)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2))** shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

(2) Determination

In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) Maintenance of insurance

No applicant for assistance under section 5172 of this title [42 U.S.C. § 5172] (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title [42 U.S.C. § 5189] (relating to simplified procedure), or ~~section 3233 of this title [42 U.S.C. § 3233]~~ **section 209(c)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2))** may receive such assistance for any property or part thereof

for which the applicant has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 301. [P.L. 103-325, § 521].

(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 [42 U.S.C. § 5172 or 5189] or ~~section 3233 of the Public Works and Economic Development Act of 1965 [42 U.S.C. § 3233]~~ **section 209(c)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2))** or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 5172 or 5189 of this title [42 U.S.C. § 5172 or 5189] 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.

Pub. L. 93-288, title III, § 311, as added Pub. L. 100-707, title I, § 105(h), Nov. 23, 1988, 102 Stat. 4692.)

(Strikeout and bold, P.L. 106-390, § 201, October 30, 2000)

§ 5155. DUPLICATION OF BENEFITS

{Sec. 312}

(a) General prohibition

The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

(b) Special rules

(1) Limitation

This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency

providing the Federal assistance.

(2) Procedures

The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

(3) Effect of partial benefits

Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

(c) Recovery of duplicative benefits

A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, United States Code [31 U.S.C. §§ 3701 et seq.], relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.

(d) Assistance not income

Federal major disaster and emergency assistance provided to individuals and families under this Act, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

(Pub. L. 93-288, title III, § 312, as added Pub. L. 100-707, title I, § 105(i), Nov. 23, 1988, 102 Stat. 4693.)

§ 5156. STANDARDS AND REVIEWS

{ Sec. 313 }

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

Pub. L. 93-288, title III, § 313, as added Pub. L. 100-707, title I, § 105(j), Nov. 23, 1988, 102 Stat. 4694.)

§ 5157. PENALTIES

{Sec. 314}

(a) Misuse of funds.

Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

(b) Civil enforcement.

Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

(c) Referral to Attorney General.

The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.

(d) Civil penalty.

Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than \$5,000 for each violation.

Pub. L. 93-288, title III, § 314, as added Pub. L. 100-707, title I, § 105(k), Nov. 23, 1988, 102 Stat. 4694.)

§ 5158. AVAILABILITY OF MATERIALS

{Sec. 315}

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

companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

(Pub. L. 93-288, title III, § 315, formerly § 318, May 22, 1974, 88 Stat. 152; renumbered § 315, Pub. L. 100-707, title I, § 105(l), Nov. 23, 1988, 102 Stat. 4694.)

§ 5159. PROTECTION OF ENVIRONMENT

{Sec. 316}

An action which is taken or assistance which is provided pursuant to section 402, 403, 406, 407, or 502 [42 U.S.C. § 5170a, 5170b, 5172, 5173, or 5192], including such assistance provided pursuant to the procedures provided for in section 422 [42 U.S.C. § 5189], 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.

(Pub. L. 93-288, title III, § 316, as added Pub. L. 100-707, title I, § 105(m)(1), Nov. 23, 1988, 102 Stat. 4694.)

§ 5160. RECOVERY OF ASSISTANCE

{Sec. 317}

(a) Party liable.

Any person who intentionally causes a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action for reasonable costs shall be brought 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.

(Pub. L. 93-288, title III, § 317, as added Pub. L. 100-707, title I, § 105(m)(1), Nov. 23,

1988, 102 Stat. 4695.)

§ 5161. AUDITS AND INVESTIGATIONS

{Sec. 318}

(a) In general

Subject to the provisions of chapter 75 of title 31, United States Code [31 U.S.C. §§ 7501 et seq.], 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.

(Pub. L. 93-288, title III, § 318, as added Pub. L. 100-707, title I, § 105(m)(1), Nov. 23, 1988, 102 Stat. 4695.)

§ 5162. ADVANCE OF NON-FEDERAL SHARE

{Sec. 319}

(a) In general

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

(1) the State is unable to assume its financial responsibility under such cost-sharing provisions--

(A) with respect to concurrent, multiple major disasters in a jurisdiction, or

(B) after incurring extraordinary costs as a result of a particular disaster; and

(2) the damages caused by such disasters or disaster are so overwhelming and severe

that it is not possible for the applicant or the State to assume immediately their financial responsibility under this Act.

(b) Terms of loans and advances

(1) In general

Any loan or advance under this section shall be repaid to the United States.

(2) Interest

Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

(c) Regulations

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

(Pub. L. 93-288, title III, § 319, as added Pub. L. 100-707, title I, § 105(m)(1), Nov. 23, 1988, 102 Stat. 4695.)

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

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

(Pub. L. 93-288, title III, § 320, as added Pub. L. 100-707, title I, § 105(m)(1), Nov. 23, 1988, 102 Stat. 4696.)

§ 5164. RULES AND REGULATIONS {Sec. 321}

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

(Pub. L. 93-288, title III, § 321, as added Pub. L. 100-707, title I, § 105(m)(1), Nov. 23, 1988, 102 Stat. 4696.)

SEC. 322. MITIGATION PLANNING.

(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 404 may be used to fund the development and updating of mitigation plans under this section.

(2) Maximum federal contribution.--With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 404 not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.

(e) Increased Federal Share for Hazard Mitigation Measures.—

(1) In general.--If, at the time of the declaration of a major disaster, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster, the maximum percentage specified in the last sentence of section 404(a).

(2) Factors for consideration.--In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established—

(A) eligibility criteria for property acquisition and other types of mitigation measures;

(B) requirements for cost effectiveness that are related to the eligibility criteria;

(C) a system of priorities that is related to the eligibility criteria; and

(D) a process by which an assessment of the effectiveness of a mitigation action may be carried out after the mitigation action is complete.

SEC. 323. MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES.

(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.

(Pub.L. 106-390, § 104, October 30, 2000)

SEC. 324. MANAGEMENT COSTS.

(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.

(b) Applicability.—

(1) In general.--Subject to paragraph (2), subsections (a) (b) of section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)) shall apply to major disasters declared under that Act on or after the date of enactment of this Act.

(2) Interim authority.--Until the date on which the President establishes the management cost rates under section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)), section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) (as in effect on the day before the date of enactment of this Act) shall be used to establish management cost rates.

(P.L. 106-390, § 202, October 30, 2000)

SEC. 325. PUBLIC NOTICE, COMMENT, AND CONSULTATION REQUIREMENTS.

(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) 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.

(P.L. 106-390, § 203, October 30, 2000)

SUBCHAPTER IV--MAJOR DISASTER ASSISTANCE PROGRAMS

§ 5170. PROCEDURE FOR DECLARATION

{Sec. 401}

All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the

nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements of this Act. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.

(Pub. L. 93-288, title IV, § 401, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4696.)

§ 5170a. GENERAL FEDERAL ASSISTANCE

{ Sec. 402 }

In any major disaster, the President may--

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

(3) provide technical and advisory assistance to affected State and local governments for--

(A) the performance of essential community services;

(B) issuance of warnings of risks and hazards;

(C) public health and safety information, including dissemination of such information;

(D) provision of health and safety measures; and

(E) management, control, and reduction of immediate threats to public health and safety; and

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

(Pub. L. 93-288, title IV, § 402, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4696.)

§ 5170b. ESSENTIAL ASSISTANCE

{Sec. 403}

(a) In general

Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

(1) Federal resources, generally

Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act.

(2) Medicine, food, and other consumables

Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, food, and other consumable supplies, and other services and assistance to disaster victims.

(3) Work and services to save lives and protect property

Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including--

(A) debris removal;

(B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons;

(C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;

(D) provision of temporary facilities for schools and other essential community services;

(E) demolition of unsafe structures which endanger the public;

(F) warning of further risks and hazards;

(G) dissemination of public information and assistance regarding health and safety measures;

(H) provision of technical advice to State and local governments on disaster management and control; and

(I) reduction of immediate threats to life, property, and public health and safety.

(4) Contributions

Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

(b) Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

(c) Utilization of DOD resources

(1) General rule

During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act [42 U.S.C. §§ 5170 et seq. or 5191 et seq.], the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) Rules applicable to debris removal

Any removal of debris and wreckage carried out under this subsection shall be subject to section 5173(b) of this title [42 U.S.C. § 5173(b)], relating to unconditional authorization and indemnification for debris removal.

(3) Expenditures out of disaster relief funds

The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

(4) Federal share

The Federal share of assistance under this subsection shall be not less than 75 percent.

(5) Guidelines

Not later than 180 days after 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, United States Code.

(B) Emergency work

The term "emergency work" includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

(Pub. L. 93-288, title IV, § 403, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4697.)

§ 5170c. HAZARD MITIGATION

{ Sec. 404 }

(a) In General.

The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 322 of this title and shall be subject to approval by the President. **Subject to section 322**, the total of contributions under this section for a major disaster shall not exceed 15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster.

(Pub.L. 106-390, § 104(c)(1), October 30, 2000)

(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) of this section; 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 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 322; and

(C) a demonstrated commitment to mitigation activities.

(3) Approval.--The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).

(4) Withdrawal of approval.--If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

(5) Audits.--The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.

(P.L. 106-390, § 204, October 30, 2000)

(Pub. L. 93-288, title IV, § 404, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4698, and Pub. L. 103-181, §2(a), Dec. 3, 1993, 107 Stat. 2054.)

[The following section was enacted in PL 106-390, § 104(b), but is not part of the Stafford Act] [[(b) Losses From Straight Line Winds.--The President shall increase the maximum percentage specified in the last sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) from 15 percent to 20 percent with respect to any major disaster that is in the State of Minnesota and for which assistance is being provided as of the date of enactment of this Act, except that additional assistance provided under this subsection shall not exceed \$6,000,000. The mitigation measures assisted under this subsection shall be related to losses in the State of Minnesota from straight line winds.]]]

§ 5171. FEDERAL FACILITIES

{Sec. 405}

(a) Repair, reconstruction, restoration or replacement of United States facilities

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) Availability of funds appropriated to agency for repair, reconstruction, restoration, or replacement of agency facilities

In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) Steps for mitigation of hazards

In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards

prescribed by the President.

(Pub. L. 93-288, title IV, formerly § 405, May 22, 1974, 88 Stat. 153; renumbered § 405, Pub. L. 100-707, title I, § 106(a)(2), Nov. 23, 1988, 102 Stat. 4696.)

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

~~**(a) Contributions**~~

~~The President may make contributions—~~

~~—(1) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility which is damaged or destroyed by a major disaster and for associated expenses incurred by such government; and~~

~~—(2) to a person who owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of such facility and for associated expenses incurred by such person.~~

(a) Contributions.—

(1) In general.--The President may make contributions—

(A) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government; and

(B) subject to paragraph (3), to a person that owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person.

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

(A) the costs of mobilizing and employing the National Guard for performance of eligible work;

(B) the costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging; and

(C) base and overtime wages for the employees and extra hires of a State, local government, or person described in paragraph (1) that perform eligible work, plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster.

(3) Conditions for assistance to private nonprofit facilities.—

(A) In general.--The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—

(i) the facility provides critical services (as defined by the President) in the event of a major disaster; or

(ii) the owner or operator of the facility—

(I) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)); and

(II)(aa) has been determined to be ineligible for such a loan; or

(bb) has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.

(B) Definition of critical services.--In this paragraph, the term ‘critical services’ includes power, water (including water provided by an irrigation organization or facility), sewer, wastewater treatment, communications, and emergency medical care.

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

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(Pub.L. 106-390, § 205(a), October 30, 2000)

~~(b) Minimum Federal share~~

~~—The Federal share of assistance under this section shall be not less than—~~

~~—(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;~~

~~—(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2); and~~

~~—(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5),~~
(b) Federal Share.—

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

(2) Reduced federal share.--The President shall promulgate regulations to reduce the Federal share of assistance under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster—

(A) that has been damaged, on more than 1 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.

(Pub.L. 106-390, § 205(b), October 30, 2000).

~~(c) Large in lieu contributions~~**~~(1) For public facilities~~**

~~—In any case where a State or local government determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by such State or local government, it may elect to receive, in lieu of a contribution under subsection (a)(1), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this~~

~~subsection may be used to repair, restore, or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures which 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.~~

~~—(2) For private nonprofit facilities~~

~~—In any case where a person who owns or operates a private nonprofit facility determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing such facility, such person may elect to receive, in lieu of a contribution under subsection (a)(2) of this section, a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected private nonprofit facilities owned or operated by such person, to construct new private nonprofit facilities to be owned or operated by such person, or to fund hazard mitigation measures which such person determines to be necessary to meet a need for its services and functions in the area affected by the major disaster.~~

~~—(3) Restriction on use for State or local contribution~~

~~—Funds provided under this subsection shall not be used for any State or local government cost-sharing contribution required under this chapter.~~

(c) Large In-Lieu Contributions.—

(1) For public facilities.—

(A) In general.--In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Areas with unstable soil.--In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government because soil instability in the disaster area makes repair, restoration, reconstruction, or replacement infeasible, the State or local government may elect to receive, in lieu of a

contribution under subsection (a)(1)(A), a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

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

(i) to repair, restore, or expand other selected public facilities;

(ii) to construct new facilities; or

(iii) to fund hazard mitigation measures that the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

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

(i) any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

(ii) any uninsured public facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) For private nonprofit facilities.—

(A) In general.--In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(1)(B), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Use of funds.--Funds contributed to a person under this paragraph may be used—

(i) to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;

(ii) to construct new private nonprofit facilities to be owned or operated by the person; or

(iii) to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.

(C) Limitations.--Funds made available to a person under this paragraph may not be used for—

(i) any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or

(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(Pub.L. 106-390, § 205(c), October 30, 2000)

(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 [42 U.S.C. § 4001 et seq.] on such date.

(3) Exception

Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

(4) Dissemination of information

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

~~—(e) 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 date of the major disaster, the cost of repairing, restoring, reconstructing, 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.~~

(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) apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 422.

(2) Modification of eligible cost.—

(A) Actual cost greater than ceiling percentage of estimated cost.--In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) 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 423.

(3) Expert panel.—

(A) Establishment.--Not later than 18 months after the date of enactment of this paragraph, 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—

and (i) cost estimation procedures described in subparagraph (B)(i);

(ii) the ceiling and floor percentages referred to in paragraph (2).

(D) Review by President.--Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.

(E) Report to Congress.--Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

(4) Special rule.--In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing the facility shall include, for the purposes of this section, only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

[(2) Effective date.--The amendment made by paragraph (1) takes effect on the date of enactment of this Act and applies to funds appropriated after the date of enactment of this Act, except that paragraph (1) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as amended by paragraph (1)) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect.]

~~-(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 less than \$100,000, 3 percent of such net eligible costs,~~
- ~~----- (B) For an applicant whose net eligible costs 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 of \$1,000,000,~~

~~—(D) For an applicant whose net eligible costs equal \$5,000,000 or more, \$61,000 plus ½ percent of such net 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 expenses of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under sections 5170b, 5170c, 5172, 5173, 5192, 5193 of this title 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 net eligible cost is \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such total amount net eligible cost in excess of \$100,000,~~

~~—(C) If such total amount net eligible cost is \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such total amount net eligible cost in excess of \$1,000,000,~~

~~—(D) If such total amount net eligible cost is \$5,000,000 or more, \$61,000 plus ½ percent of such total amount net eligible cost 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

~~(Pub. L. 93-288, title IV, § 406, as added Pub. L. 100-707, title I, § 106(b), Nov. 23, 1988, 102 Stat. 4699.)~~

(Pub.L. 106-390, § 205(e), October 30, 2000)

§ 5173. DEBRIS REMOVAL

{Sec. 407}

(a) Authorization for use of Federal assistance and grants to State or local government

The President, whenever he determines it to be in the public interest, is authorized--

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government or owner or operator of a private non-profit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) State or local government authorization; indemnification of Federal government

No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

(c) Rules relating to large lots

The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.

(d) Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.

(Pub. L. 93-288, title IV, § 407, formerly § 403, May 22, 1974, 88 Stat. 154; renumbered § 407 and amended, Pub. L. 100-707, title I, § 106(c), Nov. 23, 1988, 102 Stat. 4701.)

SEC. 408. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.**(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, services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.

(2) Relationship to other assistance.--Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.

(b) Housing Assistance.—

(1) Eligibility.--The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable as a result of damage caused by a major disaster.

(2) Determination of appropriate types of assistance.—

(A) In general.--The President shall determine appropriate types of housing assistance to be provided under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.

(B) Multiple types of assistance.--One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.

(c) Types of Housing Assistance.—

(1) Temporary housing.—

(A) Financial assistance.—

(i) In general.--The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, housing, recreational vehicles, or other readily fabricated dwellings.

(ii) Amount.--The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hookups, or unit installation not provided directly by the President.

(B) Direct assistance.—

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

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

(iii) Collection of rental charges.-- 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) by a major disaster to a safe and sanitary living or functioning condition; and

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

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

(C) Maximum amount of assistance.--The amount of assistance provided to a household under this paragraph shall not exceed \$5,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(3) Replacement.—

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

(B) Maximum amount of assistance.--The amount of assistance provided to a household under this paragraph shall not exceed \$10,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(C) Applicability of flood insurance requirement.--With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.

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

(A) no alternative housing resources are available; and

(B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, not cost-effective.

(d) Terms and Conditions Relating to Housing Assistance.—

(1) Sites.—

(A) In general.--Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

(i) is complete with utilities; and

(ii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

(B) Sites provided by the president.--A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.

(2) Disposal of units.—

(A) Sale to occupants.—

(i) In general.--Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.

(ii) Sale price.--A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.

(iii) Deposit of proceeds.—

Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.

(iv) Hazard and flood insurance.--A sale of a temporary housing unit under clause (i) 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, 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, governmental agency, or voluntary organization agrees—

(I) to comply with the nondiscrimination provisions of section 308; and

(II) to obtain and maintain hazard and flood insurance on the housing unit.

(e) Financial Assistance To Address Other Needs.—

(1) Medical, dental, 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, 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, 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), Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.

(2) Financial assistance to address other needs.--In the case of financial assistance provided under subsection (e)—

(A) the Federal share shall be 75 percent; and

(B) the non-Federal share shall be paid from funds made available by the State.

(h) Maximum Amount of Assistance.—

(1) In general.--No individual or household shall receive financial assistance greater than \$25,000 under this section with respect to a single major disaster.

(2) Adjustment of limit.--The limit established under paragraph (1) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(i) Rules and Regulations.--The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

(d) Effective Date.--The amendments made by this section take effect 18 months after the date of enactment of this Act.

(Pub.L. 106-390, § 206, October 30, 2000)

§ 5175. REPEALED. Pub. L. 100-707, title I, § 105(m)(2), Nov. 23, 1988, 102 Stat. 4696.

~~**§ 5176. MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES**~~ {Sec. 409}

~~—As a condition of any disaster loan or grant made under the provisions of this Act, the recipient shall agree that any repair or construction to be financed therewith shall be in~~

~~accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.~~

(Pub. L. 93-288, title IV, § 409, formerly § 406, May 22, 1974, 88 Stat. 155; renumbered § 409, Pub. L. 100-707, title I, § 106(e), Nov. 23, 1988, 102 Stat. 4703.)

(Section 409 repealed, P.L. 106-390, § 104(c)(2), October 30, 2000.)

§ 5177. UNEMPLOYMENT ASSISTANCE

{Sec. 410}

(a) Unemployment 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 [26 U.S.C. § 85(b)]) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) Reemployment assistance

(1) State assistance

A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

(2) Federal assistance

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

(Pub. L. 93-288, title IV, § 410, formerly § 407, May 22, 1974, 88 Stat. 156; renumbered § 410 and amended Pub. L. 100-707, title I, § 106(e), (f), Nov. 23, 1988, 102 Stat. 4704.)

§ 5177A. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS

(a) In general

The Secretary of Agriculture may make grants, not to exceed \$20,000,000 annually, to public agencies or private organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)], that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.

(b) Definition

For the purposes of this section, the term "low-income migrant or seasonal farmworker" means an individual--

- (1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;
- (2) who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and
- (3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101-624, title XXII, Subtitle C, § 2281, Nov. 28, 1990, 104 Stat. 3978.)

~~§ 5178. INDIVIDUAL AND FAMILY GRANT PROGRAMS~~ {Sec. 411}

~~—(a) In general~~

~~—The President is authorized to make a grant to a State for the purpose of making grants to individuals or families adversely affected by a major disaster for meeting disaster-related necessary expenses or serious needs of such individuals or families in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act or through other means.~~

~~—(b) Cost sharing~~

~~—(1) Federal share~~

~~—The Federal share of a grant to an individual or a family under this section shall be equal to 75 percent of the actual cost incurred.~~

~~—(2) State contribution~~

~~—The Federal share of a grant under this section shall be paid only on condition that the remaining 25 percent of the cost is paid to an individual or family from funds made available by a State.~~

~~—(c) Regulations~~

~~—The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants under this section.~~

~~—(d) Administrative expenses~~

~~—A State may expend not to exceed 5 percent of any grant made by the President to it under subsection (a) for expenses of administering grants to individuals and families under this section.~~

~~—(e) Administration through Governor~~

~~—The Governor of a State shall administer the grant program authorized by this section in the State.~~

~~—(f) Limit on grants to individual~~

~~No individual or family shall receive grants under this section aggregating more than \$10,000 with respect to any single major disaster. Such \$10,000 limit shall annually be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.~~

~~(Pub. L. 93-288, title IV, § 411, as added Pub. L. 100-707, title I, § 106(g), Nov. 23, 1988, 102 Stat. 4704.)~~

(Section 411 repealed, Pub.L. 106-390, § 206(c), October 30, 2000)

§ 5179. Food coupons and distribution

{Sec. 412}

(a) Persons eligible; terms and conditions

Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (Pub. L. 91-671; 84 Stat. 2048) [7 U.S.C. §§ 2011 et seq.] and to make surplus commodities available pursuant to the provisions of this Act.

(b) Duration of assistance; factors considered

The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Food Stamp Act [7 U.S.C. §§ 2011 et seq.] provisions unaffected,

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 [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.

(Pub. L. 93-288, title IV, § 412, formerly § 409, May 22, 1974, 88 Stat. 157; renumbered § 412, Pub. L. 100-707, title I, § 106(h), Nov. 23, 1988, 102 Stat. 4705.)

§ 5180. Food commodities

{Sec. 413}

(a) Emergency mass feeding

The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) Funds for purchase of food commodities

The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), 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.

(Pub. L. 93-288, title IV, § 413, formerly § 410, May 22, 1974, 88 Stat. 157; renumbered § 413, Pub. L. 100-707, title I, § 106(h), Nov. 23, 1988, 102 Stat. 4705.)

§ 5181. Relocation assistance {Sec. 414}

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

(Pub. L. 93-288, title IV, § 414, formerly § 411, May 22, 1974, 88 Stat. 157; renumbered § 414, Pub. L. 100-707, title I, § 106(h), Nov. 23, 1988, 102 Stat. 4705.)

§ 5182. Legal services {Sec. 415}

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

(Pub. L. 93-288, title IV, § 415, formerly § 412, May 22, 1974, 88 Stat. 157; renumbered § 415, Pub. L. 100-707, title I, § 106(h), Nov. 23, 1988, 102 Stat. 4705.)

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

The President is authorized to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in

order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

(Pub. L. 93-288, title IV, § 416, formerly § 413, May 22, 1974, 88 Stat. 157; renumbered § 416, Pub. L. 100-707, title I, § 106(i), Nov. 23, 1988, 102 Stat. 4705.)

§ 5184. Community disaster loans

{Sec. 417}

(a) In General.--The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.

(b) Amount.--The amount of any such loan shall be based on need, shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occur, **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 canceled.

(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.

(Pub. L. 93-288, title IV, § 417, formerly § 414(a), (b), May 22, 1974, 88 Stat. 157; renumbered § 417(a), (b), Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

(Pub. L. 106-390, § 207, October 30, 2000)

COMMUNITY EMERGENCY DROUGHT RELIEF

Pub. L. 95-31, title I, May 23, 1977, 91 Stat. 169, provided: "That this Act be cited as the

'Community Emergency Drought Relief Act of 1977'.

Sec. 101. (a) Upon the application of any State, political subdivision of a State, Indian tribe, or public or private nonprofit organization, the Secretary of Commerce is authorized to make grants and loans to applicants in drought impacted areas for projects that implement short-term actions to augment community water supplies where there are severe problems due to water shortages. Such assistance may be for the improvement, expansion, or construction of water supplies, and purchase and transportation of water, which in the opinion of the Secretary of Commerce will make a substantial contribution to the relief of an existing or threatened drought condition in a designated area.

(b) The Secretary of Commerce may designate any area in the United States as an emergency drought impact area if he or she finds that a major and continuing adverse drought condition exists and is expected to continue, and such condition is causing significant hardships on the affected areas.

(c) Eligible applicants shall be those States or political subdivisions of States with a population of ten thousand or more. Indian tribes, or public or private nonprofit organizations within areas designated pursuant to subsection (b) of this section.

(d) Projects assisted under this Act shall be only those with respect to which assurances can be given to the satisfaction of the Secretary of Commerce that the work can be completed by April 30, 1978, or within such extended time as the Secretary may approve in exceptional circumstances.

Sec. 102. Grants hereunder shall be in an amount not to exceed 50 per centum of allowable project costs. Loans shall be for a term not to exceed 40 years at a per annum interest rate of 5 per centum and shall be on such terms and conditions as the Secretary of Commerce shall determine. In determining the amount Of a grant assistance for any project, the Secretary of Commerce may take into consideration such factors as are established by regulation and are consistent with the purposes of this Act.

Sec. 103. In extending assistance under this Act the Secretary shall take into consideration the relative needs of applicant areas for the projects for which assistance is requested, and the appropriateness of the project for relieving the conditions intended to be alleviated by this Act.

Sec. 104. The Secretary of Commerce shall have such powers and authorities under this Act as are vested in the Secretary by sections 701 and 708 of the Public Works and Economic Development Act of 1965, as amended [sections 3211 and 3218 of this title], with respect to that Act [section 3121 et seq. of this title].

Sec. 105. The National Environmental Protection Act of 1969, as amended [section

4321 et seq. of this title], shall be implemented to the fullest extent consistent with but subject to the time constraints imposed by this Act, and the Secretary of Commerce when making the final determination regarding an application for assistance hereunder shall give consideration to the environmental consequences determined within that period.

Sec. 106. (a) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1977, \$225,000,000 of which sum \$150,000,000 is to be for the loan program herein, including administration thereof, and \$75,000,000 of which is to be used for the grant program herein, including administration thereof, and such additional amounts for the fiscal year ending September 30, 1978, as may be reasonably needed for administrative expenses in monitoring and closing out the program authorized by the Act. Funds authorized by this Act shall be obligated by December 31, 1977.

(b) Funds available to the Secretary for this Act shall be available for expenditure for drought impact projects conducted heretofore by eligible applicants during fiscal year 1977 if such projects are found to be compatible with the broad purposes of this Act."

§ 5185. Emergency communications {Sec. 418}

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

(Pub. L. 93-288, title IV, § 418, formerly § 415, May 22, 1974, 88 Stat. 158; renumbered § 418, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

§ 5186. Emergency public transportation {Sec. 419}

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

(Pub. L. 93-288, title IV, § 419, formerly § 416, May 22, 1974, 88 Stat. 158; renumbered § 419, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

§ 5187. ~~Fire suppression grants~~ {Sec. 420}

~~The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.~~

~~(Pub. L. 93-288, title IV, § 420, formerly § 417, May 22, 1974, 88 Stat. 158; renumbered § 420, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)~~

SEC. 420. FIRE MANAGEMENT ASSISTANCE.

(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 403.

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

(b) Effective Date.--The amendment made by subsection (a) takes effect 1 year after the date of enactment of this Act.

(Pub.L. 106-390, § 303, October 30, 2000)

§ 5188. Timber sale contracts

{Sec. 421}

(a) Cost-sharing arrangement

Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than \$1,000 for sales under one million board feet, (2) of more than \$1 per thousand board feet for sales of one to three million board feet, or (3) of more than \$3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Cancellation of authority

If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) Public notice of sale

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), 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.

(Pub. L. 93-288, title IV, § 421, formerly § 418, May 22, 1974, 88 Stat. 158; renumbered § 421, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

§ 5189. Simplified procedure

{Sec. 422}

If the Federal estimate of the cost of--

- (1) repairing, restoring, reconstructing, or replacing under section 406 [42 U.S.C. § 5172] any damaged or destroyed public facility or private nonprofit facility,
- (2) emergency assistance under section 403 or 502 [42 U.S.C. § 5170b or 5192], or
- (3) debris removed under section 407 [42 U.S.C. § 5173],

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 403, 406, 407, or 502 [42

U.S.C. § 5170b, 5172, 5173 or 5192], 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.

(Pub. L. 93-288, title IV, § 422, as added Pub. L. 100-707, title I, § 106(k), Nov. 23, 1988, 102 Stat. 4705.)

§ 5189a. APPEALS OF ASSISTANCE DECISIONS

{Sec. 423}

(a) Right of appeal

Any decision regarding eligibility for, from, or amount of assistance under this title [42 U.S.C. §§ 5170 et seq.] may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

(b) Period for decision

A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

(c) Rules

The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

(Pub. L. 93-288, title IV, § 423, as added Pub. L. 100-707, title I, § 106(l), Nov. 23, 1988, 102 Stat. 4705.)

§ 5189B. DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER

{Sec. 424}

Eligibility for Federal assistance under this subchapter 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.

(Pub. L. 93-288, title IV, § 424, as added Pub. L. 100-707, title I, § 106(l), Nov. 23, 1988, 102 Stat. 4706.)

SUBCHAPTER IV-A--EMERGENCY ASSISTANCE PROGRAMS**SUBCHAPTER REFERRED TO IN OTHER SECTIONS****§ 5191. PROCEDURE FOR DECLARATION**

{Sec. 501}

(a) Request and declaration

All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

(b) Certain emergencies involving Federal primary responsibility

The President may exercise any authority vested in him by section 502 or section 503 [42 U.S.C. § 5192 or § 5193] with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a).

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

§ 5192. Federal emergency assistance

{Sec. 502}

(a) Specified

In any emergency, the President may--

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State

and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

(3) provide technical and advisory assistance to affected State and local governments for--

(A) the performance of essential community services;

(B) issuance of warnings of risks or hazards;

(C) public health and safety information, including dissemination of such information;

(D) provision of health and safety measures; and

(E) management, control, and reduction of immediate threats to public health and safety;

(4) provide emergency assistance through Federal agencies;

(5) remove debris in accordance with the terms and conditions of section 407 [42 U.S.C. § 5173];

(6) provide ~~temporary housing~~ assistance in accordance with section 408 [42 U.S.C. § 5174]; and [(**Pub.L. 106-390, § 206(b), October 30, 2000**)]

(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

(b) General

Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe.

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

§ 5193. Amount of assistance

{Sec. 503}

(a) Federal share

The Federal share for assistance provided under this title [42 U.S.C. §§ 5191 et seq.] shall be equal to not less than 75 percent of the eligible costs.

(b) Limit on amount of assistance

(1) In general

Except as provided in paragraph (2), total assistance provided under this title [42 U.S.C. §§ 5191 et seq.] for a single emergency shall not exceed \$5,000,000.

(2) Additional assistance

The limitation described in paragraph (1) may be exceeded when the President determines that--

(A) continued emergency assistance is immediately required;

(B) there is a continuing and immediate risk to lives, property, public health or safety; and

(C) necessary assistance will not otherwise be provided on a timely basis.

(3) Report

Whenever the limitation described in paragraph (1) is exceeded, the President shall report to the Congress on the nature and extent of emergency assistance requirements and shall propose additional legislation if necessary.

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

SUBCHAPTER VI--EMERGENCY PREPAREDNESS

[Added by October 5, 1994 , Pub. L. 103-337, Title VI]

Sec.

- 601. Declaration of policy.
- 602. Definitions.
- 603. Administration of subchapter.
- Powers and Duties**
- 611. Detailed functions of administration
- 612. Mutual aid pacts between States and neighboring countries
- 613. Contributions for personnel and administrative expenses
- 614. Requirement for State matching funds for construction of emergency operating centers
- 615. Use of funds to prepare for and respond to hazards
- General Provisions**
- 621. Administrative authority
- 622. Security regulations
- 623. Use of existing facilities.
- 624. Annual report to Congress.
- 625. Applicability of subchapter.
- 626. Authorization of appropriations and transfers of funds.
- 627. Relations to Atomic Energy Act of 1954.
- 628. Federal Bureau of Investigation.

- 3412. Repeal of Federal Civil Defense Act of 1950.

TITLE I--GENERAL PROVISIONS

§ 601. DECLARATION OF POLICY (42 U.S.C. 5195).

The purpose of this Act 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 several States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the several 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 Act so that a comprehensive emergency preparedness system exists for all hazards.

§ 602. DEFINITIONS (42 U.S.C. 5195a).

(a) Definitions. For the purposes of this subchapter only--

(1) Hazard.--The term 'hazard' means an emergency or disaster resulting from--

(1) a natural disaster; or

(2) an accidental or man-caused event.

(2) Natural disaster.--The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

(3) Emergency preparedness. The term 'emergency preparedness' means all those activities and measures designed or undertaken to 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 nonmilitary evacuation of civil 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 (1) necessary to a organization, as distinguished from

personal equipment, and (2) of such a type or nature as to require it to be financed in whole or in part by the Federal Government. It shall not be construed to include those items which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

(5) Materials.--The word "materials" shall include 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 subchapter, shall include 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 611(h).

(b) Cross Reference --The terms 'national defense' and 'defense,' as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), includes emergency preparedness activities conducted pursuant to this title.

§ 603. ADMINISTRATION OF SUBCHAPTER (42 U.S.C. 5195b).

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

POWERS AND DUTIES

Sec. 611. DETAILED FUNCTIONS OF ADMINISTRATION. (42 U.S.C. 5196).

(a) In General.--In order to carry out the policy described in section 601, 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, the Congress and the several 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 the several 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 communications and for dissemination of warnings to the civilian population of an attack or natural disaster;

(e) Emergency preparedness measures.--The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including,

- (1) research and studies as to the best methods of treating the effects of hazards;
- (2) developing shelter designs and materials for protective covering or construction; and
- (3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements;

(f) Training programs.--(1) The Director may--

(A) conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;

(B) conduct or operate schools or classes, including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, 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 deemed 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) Interstate emergency preparedness compacts.--(1) 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 therein and consistency with the national emergency preparedness plans and programs;

(C) assist and coordinate the activities under such compacts;

(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 hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

(2) A copy of each emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of the 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.

(3) 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 Act subchapter [sections 2251 to 2303 of this Appendix], prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended (40 U.S.C. 255).

(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, but not limited to, the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

(2) No contributions shall be made for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.

(3) The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

(4) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning same among the States in the ratio which the urban population of the critical target areas (as determined by the Director) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

(5) The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

(6) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness and (B) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost, except that (subject to the preceding provisions of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Director, necessary for the use of such facility for emergency preparedness purposes.

(7) The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

(8) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under the provisions of this section 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 one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty 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 proviso, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, (5 U.S.C. App.) and section 2 of the Act of June 13, 1934, (40 U.S.C. 276(c)).

(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 in 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 subchapter, the Director may make financial contributions to the States (including interstate authorities established pursuant to section 611(h) for necessary and essential State and local emergency management 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 shall not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) Plan requirements.--A plan submitted under this section shall--

(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them, and be administered or supervised by a single State agency;

(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

(3) provide for the development of State and local emergency preparedness operational plans, pursuant to standards approved by the Director,

(4) provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;

(5) provide that the State shall make such reports in such form and content as the Director may require; and

(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.

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

(d) Application of other provisions.--In carrying out this section, the provisions of section 611(h) and 612(h) shall apply.

(e) Allocation of funds.--For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this subchapter, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States shall give due regard to (1) the criticality of the target and support areas and the areas which may be affected by natural disasters with respect to the development of the total emergency preparedness readiness of the Nation, (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 utilized by a State in an approvable plan submitted hereunder. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(f) Submission of plan.--If a State fails to submit a approvable plan for approval as required by this section within sixty 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 Nation.

(g) Annual reports.--The Director shall report annually to the Congress all contributions made pursuant to this section.

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

Notwithstanding any other provision of this subchapter, funds appropriated to carry out this subchapter 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 subchapter 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 subchapter may be used by the States for the purposes of preparing for, 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 subchapter for emergency preparedness activities and measures related to hazards.

General Provisions

Sec. 621. Administrative authority. (42 U.S.C. 5197).

(a) In General. For the purpose of carrying out the powers and duties to the Director under this title, the Director may exercise the administrative authorities provided under this section.

(b) Advisory personnel.--(1) The Director may employ not more than one hundred such part-time or temporary advisory personnel (including not to exceed twenty-five subjects of the United Kingdom and the Dominion of Canada) as are deemed necessary in carrying out the provisions of this

(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, 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, 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 civil agencies;

(2) establish and use such regional and other offices as may be necessary;

(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 utilize use or distribute same for purposes in accordance with the provisions of this subchapter.

(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 subchapter 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 may deem necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

(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 subchapter, and perform any of the powers and duties provided by this subchapter 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.--(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 subchapter for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this subchapter (or from funds otherwise available for the purposes of this subchapter for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

(2) 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.

§ 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 deems 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 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 shall deem 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, except the subjects of the United Kingdom and the Dominion of Canada specified in section 621(b) of this subchapter 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 shall before entering upon his duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

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

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

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

1621 of Title 18, United States Code .

§ 623. USE OF EXISTING FACILITIES (42 U.S.C. 5197b).

In performing duties under this subchapter, the Director--

(1) shall cooperate with the various departments and agencies of the 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 local 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 subchapter.

§ 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 subchapter, accompanied by such recommendations as the Director considers appropriate.

§ 625. APPLICABILITY OF SUBCHAPTER. (42 U.S.C. 5197d).

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

§ 626. AUTHORIZATION OF APPROPRIATIONS AND TRANSFER OF FUNDS.

(42 U.S.C. 5197e).

(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(b) Funds made available for the purposes of this subchapter may be allocated or transferred for any of the purposes of this subchapter, with the approval of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this subchapter. Each such allocation or transfer shall be reported in full detail to the Congress within thirty days after such allocation or transfer.

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

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

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

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

SUBCHAPTER VII--MISCELLANEOUS

§ 5201. Rules and regulations{Sec. ~~601~~701}

(a)(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.

(Pub. L. 93-288, title VI, § 601, May 22, 1974, 88 Stat. 163; Pub. L. 96-446, Oct. 13, 1980, 94 Stat. 1893; Pub. L. 100-707, title I, § 108(a), Nov. 23, 1988, 102 Stat. 4707.)

§ 5202. REPEALED. Pub. L. 100-707, title I, § 108(c), Nov. 23, 1988, 102 Stat. 4708

Section, Pub. L. 93-288, title VI, § 606, May 22, 1974, 88 Stat. 164; Pub. L. 95-51, § 1, June 20, 1977, 91 Stat. 233; Pub. L. 96-568, § 2, Dec. 22, 1980, 94 Stat. 3334, authorized the appropriations of such sums as necessary to carry out this chapter through the close of Sept. 30, 1981.

§ 5203. EXCESS DISASTER ASSISTANCE PAYMENTS AS BUDGETARY EMERGENCY REQUIREMENTS

Beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of \$320,000,000,

or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 901(b)(2)(D) of title 2, and such amounts shall hereafter be so designated.

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

[This section was enacted as part of the Dire Emergency Supplemental Appropriations and Transfers for Relief from the Effects of Natural Disaster, of Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/ Desert Storm' Act of 1992, and not as part of the Stafford Act].

§ 5204. DEFINITIONS RELATING TO INSULAR AREAS DISASTER SURVIVAL AND RECOVERY. {Sec. 702}

As used in this title--

(1) the term "insular area" means any of the following: American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands;

(2) the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

(3) the term "Secretary" means the Secretary of the Interior.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 201, 106 Stat. 37.

§ 5204a. AUTHORIZATION OF APPROPRIATIONS FOR INSULAR AREAS DISASTER RECOVERY. {Sec. 703}

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 the date of the enactment of this Act; 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 403 and 406 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172) for such disaster. Such sums shall remain available until expended.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 202, 106 Stat. 37.

§ 5204b. TECHNICAL ASSISTANCE FOR INSULAR AREAS DISASTER RECOVERY.

{Sec. 704}

(a) Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director 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 shall submit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs 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.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 203, 106 Stat. 37.

§ 5204c. LIMITATION ON AMOUNT OF CONTRIBUTIONS FOR HAZARD MITIGATION; LOCAL MATCH.

The total of contributions under the last sentence of section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 403, 406, 407, 408, and 411 of such Act [42 U.S.C. 5170c, 5172, 5173, 5174, 5178] 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 406 of such Act for any disaster.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 204, 106 Stat. 38.

[Note: Sections 5204, 5204a, 5204b, and 5204c were enacted as part of the Omnibus Insular Areas Act of 1992 and not as part of the Stafford Act].

SEC. 705. DISASTER GRANT CLOSEOUT PROCEDURES.

(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) 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- 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 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.

(Pub.L. 106-390, § 304, October 30, 2000)

§§ 5205 to 5300. Reserved.

[The following section 208, enacted in P.L. 106-390, is not part of the Stafford Act]

SEC. 208. REPORT ON STATE MANAGEMENT OF SMALL DISASTERS INITIATIVE.

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report describing the results of the State Management of Small Disasters Initiative, including—

(1) identification of any administrative or financial benefits of the initiative; and

(2) recommendations concerning the conditions, if any, which States should be allowed the option to administer parts of the assistance program under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172).

(Pub. L. 106-390, § 208, October 30, 2000)

[The following section, enacted as § 305 of Pub. L. 106-390, is part of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), and is not part of the Stafford Act]

SEC. 305. PUBLIC SAFETY OFFICER BENEFITS FOR CERTAIN FEDERAL AND STATE EMPLOYEES.

(a) In General.--Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended by striking paragraph (7) and inserting the following:

(7) 'public safety officer' means--

(A) an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, or as a member of a rescue squad or ambulance crew;

(B) an employee of the Federal Emergency

Management Agency who is performing official duties of the Agency in an area, if those official duties--

(i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(ii) are determined by the Director of the Federal Emergency Management Agency to be hazardous duties; or

(C) an employee of a State, local, or tribal emergency management or civil defense agency who is performing official duties in cooperation with the Federal Emergency Management Agency in an area, if those official duties--

(i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(ii) are determined by the head of the agency to be hazardous duties.

(b) Effective Date.--The amendment made by subsection (a) applies only to employees described in subparagraphs (B) and (C) of section 1204(7) of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended by subsection (a)) who are injured or who die in the line of duty on or after the date of enactment of this Act.

[The following sections 306, 307, and 308, enacted in Pub. L. 106-390, are not part of the Stafford Act]

SEC. 306. BUY AMERICAN.

(a) Compliance With Buy American Act.--No funds authorized to be appropriated under this Act or any amendment made by this Act may be expended by an entity unless the entity, in expending the funds, complies with the Buy American Act (41 U.S.C. 10a et seq.).

(b) Debarment of Persons Convicted of Fraudulent Use of "Made in America" Labels.--

(1) In general.--If the Director of the Federal Emergency Management Agency determines that a person has been convicted

of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Director shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Definition of debar.--In this subsection, the term "debar" has the meaning given the term in section 2393(c) of title 10, United States Code.

SEC. 307. TREATMENT OF CERTAIN REAL PROPERTY.

(a) In General.--Notwithstanding the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 et seq.), or any other provision of law, or any flood risk zone identified, delineated, or established under any such law (by flood insurance rate map or otherwise), the real property described in subsection (b) shall not be considered to be, or to have been, located in any area having special flood hazards (including any floodway or floodplain).

(b) Real Property.--The real property described in this subsection is all land and improvements on the land located in the Maple Terrace Subdivisions in the city of Sycamore, DeKalb County, Illinois, including--

- (1) Maple Terrace Phase I;
- (2) Maple Terrace Phase II;
- (3) Maple Terrace Phase III Unit 1;
- (4) Maple Terrace Phase III Unit 2;
- (5) Maple Terrace Phase III Unit 3;
- (6) Maple Terrace Phase IV Unit 1;
- (7) Maple Terrace Phase IV Unit 2; and
- (8) Maple Terrace Phase IV Unit 3.

(c) Revision of Flood Insurance Rate Lot Maps.--As soon as practicable after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the appropriate flood insurance rate lot maps of the agency to reflect the treatment under subsection (a) of the real property described in subsection (b).

SEC. 308. STUDY OF PARTICIPATION BY INDIAN TRIBES IN EMERGENCY MANAGEMENT.

(a) Definition of Indian Tribe.--In this section, the term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) Study.--

(1) In general.--The Director of the Federal Emergency Management Agency shall conduct a study of participation by Indian tribes in emergency management.

(2) Required elements.--The study shall--

(A) survey participation by Indian tribes in training, predisaster and postdisaster mitigation, disaster preparedness, and disaster recovery programs at the Federal and State levels; and

(B) review and assess the capacity of Indian tribes to participate in cost-shared emergency management programs and to participate in the management of the programs.

(3) Consultation.--In conducting the study, the Director shall consult with Indian tribes.

(c) Report.--Not later than 1 year after the date of enactment of this Act, the Director shall submit a report on the study under subsection (b) to--

(1) the Committee on Environment and Public Works of the Senate;

(2) the Committee on Transportation and Infrastructure of the House of Representatives;

(3) the Committee on Appropriations of the Senate; and

(4) the Committee on Appropriations of the House of Representatives.

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