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SENATE

{ REPORT
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DISASTER MITIGATION ACT OF 1998

SEPTEMBER 11, 1998.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2361]

The Committee on Environment and Public Works, to which was referred the bill (S. 2361), to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

GENERAL STATEMENT

This legislation amends the Stafford Act to authorize a new predisaster hazard mitigation program (“Project Impact”), streamline management and reduce associated costs thereof, and make other changes and clarifications to existing law. The levels provided in this 5-year authorization are intended to formally authorize the Federal Emergency Management Agency (FEMA) to encourage and promote predisaster mitigation in different localities throughout the country.

BACKGROUND

The Robert T. Stafford Disaster Relief and Emergency Assistance Act originally was enacted in 1974 and amended in 1988 and 1993 (P.L. 93-288). The Stafford Act provides the principal authority for the President to provide assistance in mitigating against, responding to, and preparing for disasters and emergencies such as earthquakes, hurricanes, floods, tornadoes, and terrorist acts. The mis-

sion of the Federal Emergency Management Agency (FEMA), which administers the Act, is to reduce loss of life and property and protect the nation's critical infrastructure from all types of hazards, through a comprehensive, risk-based emergency management program. FEMA programs are administered via ten regional offices [Atlanta, Bothell (WA), Boston, Denton (TX), Chicago, Denver, Kansas City, New York, Philadelphia, and San Francisco]. FEMA also works with a network of State and local emergency management organizations and entities, as well as private sector companies in providing disaster assistance and mitigation help. The Stafford Act authorizes Federal assistance in four areas:

- preparedness (e.g., emergency planning and training);
- mitigation (e.g., reducing damage before disasters occur);
- response (e.g., emergency assistance immediately following a disaster); and
- recovery (e.g., repair and reconstruction after a disaster).

Disaster Relief Program

At the request of the Governor of a disaster-affected State, the President, if he determines that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and local governments and that Federal assistance is necessary, may declare a major disaster. Once such a declaration is made, Federal disaster relief assistance becomes available to the affected State. Included in the definition of disaster are floods, hurricanes, earthquakes, fires, tornadoes, and snowstorms.

Generally, disaster assistance falls into two categories: individual assistance and public assistance. In both cases, States are largely responsible for administering the programs and share up to 25 percent of the assistance. Individual assistance includes temporary housing, crisis counseling, minor housing repairs, and grants to individuals and families for basic needs, including food and clothing. Public assistance includes grants to non-profit organizations and State and local governments to repair or replace damaged infrastructure, including public buildings, roads, bridges, communications facilities, airports and other transit facilities.

Emergency Assistance Program

Federal emergency assistance is available on occasions when the President determines Federal assistance is necessary to supplement State and local efforts to save lives and protect property but where conditions are not as severe as a major disaster. The types of assistance offered by FEMA (matched by States at no more than 25 percent, similar to major disaster assistance) are more limited than under the major disaster relief program and are capped at \$5 million per declaration.

Mitigation

Mitigation encompasses actions that reduce the risk of losses to people and property before a disaster occurs. Structural mitigation activities include constructing dams and flood control projects and retrofitting structures to withstand earthquakes, floods, hurricanes and the like. Nonstructural activities include, but are not limited to, developing land-use plans and zoning ordinances, restoring wet-

lands which serve as natural flood storage areas, and relocating property out of the floodplain or other disaster-prone areas—all of which are intended to reduce the future losses from disasters. Mitigation is considered by many as the only means of reducing the overall cost of disasters.

The Stafford Act offers limited authority for federally sponsored mitigation. Section 404 of the Stafford Act authorizes the primary program for Federal mitigation assistance (the Hazard Mitigation Grant Program). Under Section 404, FEMA may spend up to 15 percent of the total grant assistance expended for a disaster on mitigation projects so that a similar disaster in the future will cause less damage. A major limitation of this program is that it is not triggered until after a disaster has occurred. Because of this limitation, Section 404 assistance is referred to as “post-disaster” mitigation.

“Pre-disaster” mitigation refers to mitigation activities that are implemented independent of whether a disaster has occurred in the area. The Stafford Act provides extremely narrow authority for federally supported pre-disaster mitigation. According to FEMA, from 1989 through 1996 less than 10 percent (less than \$1 billion) of all FEMA disaster relief costs were spent on mitigation, virtually all of this spending was on post-disaster mitigation.

Pre-Disaster and Post-Disaster Mitigation

Recently, there has been increased interest in expanding the Federal authority for pre-disaster mitigation. In both the 103d and 104th Congresses, bills were introduced that authorized funds for Federal support of pre-disaster mitigation projects. In its fiscal year 1998 budget, the Administration proposed the establishment of a \$50 million pre-disaster mitigation fund. Ultimately, the fiscal year 1998 VA-HUD-Independent Agencies appropriations bill allocated \$30 million for FEMA to conduct pre-disaster mitigation activities. FEMA is using these monies to fund its new “Project Impact” program, under which mitigation pilot projects in seven disaster-prone communities were initiated. In addition, FEMA states in its Strategic Plan that it is focusing its resources on creating disaster-resistant communities, and has set the goals of reducing the risk of loss of life by 10 percent and reducing the risk of property loss by 15 percent by the year 2007.

Existing post-disaster mitigation program under Section 404 also has come under scrutiny. This program has become an increasingly popular source of funding for mitigation projects. Questions have been raised as to whether funds are being directed toward appropriate projects, and, more generally, whether post-disaster mitigation is the most effective means of reducing the likelihood and expense of future damages.

The Federal Cost of Response and Recovery

Congress has shown interest in reducing the Federal cost of disaster assistance. FEMA traditionally receives appropriations for disaster relief through the annual appropriations process. However, in the event of major disasters, FEMA often receives supplemental appropriations under emergency funding rules. In the last 8 years, approximately 85 percent of FEMA disaster relief funding has been

provided through emergency supplemental appropriations. In the last few years, supplemental appropriations provided in response to disasters have been unusually large compared to previous years as a result of series of major disasters, including Hurricanes Andrew and Iniki in 1992, the Midwest floods of 1993, the Northridge earthquake of 1994 and the Upper Midwest floods of 1997.

Administration's Proposal

In response to congressional concerns regarding disaster costs, in March 1997, Director James Lee Witt transmitted to Congress the Administration's proposal to amend the Stafford Act. Entitled the "Disaster Streamlining and Costs Reduction Act of 1997," the bill, S. 1007, was introduced in the Senate on July 10, 1997 by Senator Chafee, chairman of the Committee on Environment and Public Works. In the House of Representatives, a companion bill, H.R. 2446, was introduced on September 10, 1997 by Representative Shuster, chairman of the Committee on Transportation and Infrastructure.

The Administration's proposal addresses three key areas: the reduction of the types of facilities and activities that may receive Federal assistance in the event of a disaster; the expansion of FEMA's pre-disaster mitigation authority and funding; the coordination and or modification of current Federal cost-share and other requirements of the disaster relief and emergency assistance process.

SUMMARY OF S. 2361

As amended and approved by the Committee on Environment and Public Works, the bill consists of three titles. The first title authorizes programs for predisaster mitigation; the second streamlines the administration of disaster relief and implements steps to control the Federal costs of disaster assistance; and the third title contains miscellaneous conforming amendments, definitions, and effective date.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Table of Contents

Section 1 establishes the short title of the bill as the "Disaster Mitigation Act of 1998."

TITLE I—PREDISASTER HAZARD MITIGATION

The purpose of this title is to establish a predisaster hazard mitigation program that (1) reduces the loss of life, property, and other costs of disasters, and (2) provides a source of predisaster mitigation funding to assist States and local governments in implementing mitigation measures.

Section 101. Findings and Purpose

Section 101 describes four findings of Congress: (1) greater emphasis needs to be placed on hazard identification and hazard mitigation, (2) expenditures for disaster assistance are increasing without evidence of potential reduction of future losses, (3) a high prior-

ity should be placed on the implementation of predisaster mitigation activities, and (4) a unified effort will be successful in reducing future losses from natural disasters.

These findings signal the importance of commitments by States and local communities to long-term disaster mitigation efforts (including developing appropriate construction standards, practices and materials) for new and existing structures. Such commitments can help reduce the risk of future damage to life and property and ensure that critical facilities and public infrastructure will function after a disaster strikes.

Section 102. State Mitigation Program

Section 102 amends subsection 201(c) of the Stafford Act. As amended, the subsection requires, as a condition for receiving Federal financial assistance for disaster preparedness, that States submit to the President a comprehensive program for mitigating major disasters and emergencies that includes provisions for prioritizing mitigation activities.

Section 103. Disaster Assistance Plans

Section 103 amends subsection 201(d) of the Stafford Act to authorize grants for improving and updating State disaster assistance plans. The Federal share is not to exceed 50 percent of the cost of improving and updating existing State disaster assistance plans, and of the testing and application of hazard identification technologies (such as floodplain mapping technologies) that the President determines are likely to result in substantial savings over current methods. Grants provided pursuant to this section may be used for testing and application of technologies for disasters other than flooding, such as earthquakes, tsunamis, riverine erosion, landslides, ground failure and coastal erosion.

Planning is one of the more important aspects of the mitigation process. With regard to flooding in particular, good flood hazard identification is key to long-term efforts to reduce the cost of disasters. Accordingly, as a part of its post-flood disaster activities, FEMA is encouraged to investigate and verify available flood hazard information.

Section 104. Predisaster Hazard Mitigation

Section 104 creates a new Section 203 in the Stafford Act that authorizes the President to establish a program for States, local governments, and other entities for carrying out predisaster mitigation activities that exhibit long-term, cost-effective benefits and substantially reduce the risk of future damage from major disasters. For the purposes of this section, the term “entities” refers to governmental entities of the State or local government, regional planning organizations, governmental units organized along watershed or other planning foci, or tribal governments.

In selecting a site, the President must consider the likelihood of damage resulting from a natural disaster; the identification of cost effective mitigation activities with meaningful outcomes; the consistency with State mitigation programs; the opportunity to maximize net benefits to society; the ability of a State or local government or entity to fund mitigation activities; private sector interest;

and other criteria established in coordination with State and local governments. Based on these criteria, Governors are to provide a list of recommendations of at least five local governments or other entities from which the President may select one. The process allows the President, at the request of a local government, to select additional entities if circumstances justify such selection and if the selection meets the above criteria. With regard to mitigation activities, this section requires the President and the States consult on a list of those activities that are appropriate, and delegates decisions regarding selections from the list to local governments.

The Federal share for these mitigation activities is set at 75 percent (or 90 percent for impoverished communities with a population of 10,000 or less). Each State is to receive a minimum of the lesser of \$500,000 or 1 percent of total appropriated funds to each State, but no State may receive more than 15 percent of the total funds. Funds for this program are authorized at \$35 million per year for fiscal years 1998–2002; the authorization also allows Section 404 funds (post-disaster mitigation) to be used if not obligated within 30 months of the disaster declaration. The overall authority provided for this program is terminated as of October 1, 2003.

The section also requires that the President, no later than 18 months after the enactment of this Act, submit to Congress a report that evaluates implementation efforts and recommends a process for the future administration of the program (including the appropriateness of transferring the program to States, and consideration of supplementary private sector initiatives).

States receiving financial assistance under this section may use the assistance to fund activities to disseminate information about cost-effective mitigation technologies. Certain construction standards, practices, and materials have been proven effective in mitigating the risks or impacts of actual natural disasters. Public awareness of these technologies can allow communities to make informed decisions that can substantially reduce the risk of future damage, hardship or suffering from a major disaster.

Section 105. Study Regarding Predisaster Hazard Mitigation

Section 105 requires the General Accounting Office (GAO) to submit, within 3 years of enactment of this Act, a report to Congress that examines the effectiveness of the predisaster hazard mitigation program and reviewing of its goals and objectives; determines if expenditures are warranted; and provides recommendations regarding site selections and activities associated with predisaster mitigation.

Section 106. Interagency Task Force

Section 106 directs the President to establish an interagency task force, chaired by the Director of FEMA, to coordinate the implementation of the predisaster hazard mitigation program. Members of the task force are to include representatives from State and local governments. In addition, the task force should include members from appropriate State organizations, such as those dealing with geological survey, emergency management, community planning and development, floodplain management, among others.

Section 107. Maximum Contribution for Mitigation Costs

Section 107 amends Section 404(a) of the Stafford Act by changing maximum hazard mitigation contributions from 15% to 20% of aggregate amount of grants. The changes made by this section are applicable to all major disasters declared after March 1, 1997.

Section 108. Conforming Amendment

Section 108 adds the term “Mitigation” to title II of the Stafford Act.

TITLE II—STREAMLINING AND COST REDUCTION

The purpose of this title is to streamline the administration and reduce the costs of disaster assistance.

Section 201. Management Costs

Section 201 adds a new Section 322 to the Stafford Act. It provides a definition for management costs and directs the President to establish management cost reimbursement rates, subject to periodic review, for grantees and subgrantees receiving assistance under the Act. Appropriate costs are to be established by Federal regulation. The current reimbursement system will remain in effect for disasters declared before the new rates are established.

Section 202. Assistance to Repair, Restore, Reconstruct, or Replace Damaged Facilities

Section 202 amends and reorganizes the section of the Stafford Act (Section 406) that provides authority to the President to make contributions to a State, local government, or person for the repair, restoration, or replacement of public facilities or private nonprofit facilities. As amended, this section establishes a minimum Federal share of 75 percent of the cost of such activities, but allows the President to reduce the share to 50 percent in cases where the State or local government is unable or unwilling to promptly and efficiently process claims for assistance. For large, in-lieu contributions used for mitigation activities consistent with State plans, the President is authorized to increase the Federal share to up to 90 percent.

This section also sets new rules for cost estimates by allowing the cost of repairs in situations where the actual cost is above 120 percent or below 80 percent of the estimated cost to be reconsidered. In addition, it directs the President to establish an expert panel for development of procedures for cost estimations.

Numerous circumstances may arise that act to prevent State and local governments from processing claims for assistance expeditiously. Factors to be considered by the FEMA Director prior to reducing the Federal share of assistance include, but are not limited to, the following: 1) the magnitude of the event, 2) the total number of projects eligible for assistance, and 3) a limited building/construction season for the affected area.

With regard to FEMA policy, to ensure that there has not been disparate treatment in the implementation and application of such policies, FEMA is encouraged to allow elected officials and other

representatives of State and local government appropriate time for input regarding policymaking in the regulatory process.

Section 203. Federal Assistance to Individuals and Households

Section 203 amends Section 408 of the Stafford Act to combine the Housing and Individual and Family Grant (IFG) Programs. As amended, this section establishes the type of assistance available for housing, repairs, and construction, and caps total assistance per individual or household under the combined program at \$25,000 per major disaster. It authorizes the President to assist individuals by replacing their homes under certain conditions or allowing them to rent alternate housing accommodations, and by providing financial assistance for medical, dental, funeral, personal property, and transportation expenses. The President is to issue regulations to determine eligibility for assistance.

Section 204. Repeals

Section 204 repeals Section 417 of the Stafford Act (providing for Community Disaster Loans), as well as Section 422 (regarding simplified procedure), in order to conform with the amendment made under Section 202(d) of the bill.

Section 205. State Administration of Hazard Mitigation Grant Program

Section 205 requires the President to establish a process for offering to States the option of administering the Hazard Grant Mitigation Program (Section 404) program. The President is to set the criteria for, and provide for periodic audits of, this program. While the President is required to approve any program that meets these criteria, he may withdraw approval if the program is not being administered by the State in a satisfactory manner.

When considering a State's application for the delegation of authority for administering the Hazard Mitigation Grant Program, FEMA is expected to consult with both State and local governmental entities. Such consultation should include an analysis of a State's ability to process local grant applications in an efficient and timely manner.

Section 206. Streamlining of Damaged Facilities Program

Section 206 requires the President to conduct in at least two States a pilot program for the purpose of streamlining the Public Assistance (Section 406) program. The President is to establish criteria for implementation of the pilot program, and report to Congress within two years on the program's results, including any financial or administrative benefits.

Section 207. Study Regarding Cost Reduction

Section 207 directs GAO to submit, within 3 years of enactment of this Act, a report to Congress that estimates the reduction in Federal disaster assistance that results from the enactment of this Act.

Section 208. Study Regarding Disaster Insurance for Public Infrastructure

Section 208 directs GAO to submit, within 2 years of enactment of this Act, a report to Congress on the current and future availability of insurance for public infrastructure eligible for assistance under Section 406 of the Stafford Act.

Section 209. Study Regarding Declarations

Section 209 directs GAO to submit, within 3 years of enactment of this Act, a report to Congress that examines previously declared disasters and emergencies, and describes the criteria on which such declarations were based as well as how such criteria have changed over time.

Section 210. Fire Suppression Assistance

Section 210 amends Section 420 of the Stafford Act (Fire Suppression Assistance) by allowing the Federal government to provide assistance as defined under Section 403 (Essential Assistance) to both State and local governments. Under current law, fire suppression assistance is limited to grants to States for the suppression of wildfires. This section would allow for payment of the extraordinary costs incurred by local governments in complex, multi-location wildfire situations (e.g., Texas and Oklahoma in 1996, Florida in 1998), and would preclude the need to issue a major disaster or emergency declaration in these situations.

TITLE III—MISCELLANEOUS

The purpose of this title is to make various necessary conforming and other amendments.

Section 301. Technical Correction of Short Title.

Section 301 deletes an extra “the” from the title of the Act.

Section 302. Definitions

Section 302 provides for an updated definition of the term “State.” As amended, this section also modifies the definition of “public facility” to exclude golf courses.

Section 303. Public Safety Officer Benefits for Certain Federal and State Employees

Section 303 provides benefits for public safety officers, FEMA employees, or State emergency management or civil defense employees who die or are injured while performing official duties related to a major disaster or emergency or those duties determined to be hazardous by the FEMA Director (or, in the case of a State employee, the head of the State agency). This section applies to those employees who dies or are injured on or after the date of enactment of this Act.

HEARINGS

The Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety held a hearing on July 23, 1998, prior to the introduction of S. 2361. Witnesses included FEMA Director James Lee

Witt; the Hon. Hal Daub, Mayor of Omaha, for the National League of Cities; Mr Joseph Myers, Director of the Florida Division of Emergency Management, for the National Emergency Management Association; Mr. Albert Ashwood, Director of the Oklahoma Department of Civil Emergency Management; and Mr. Dan Summers, Director of the Department of Emergency Management for New Hanover County, Wilmington, North Carolina. Witnesses testified on the bill as introduced, the effectiveness of FEMA programs, and the relationship between Federal and State and local governments.

CONGRESSIONAL LEGISLATION

On July 27, 1998, Senators Inhofe and Graham, Chairman and Ranking Minority Member of the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety, introduced S. 2361, the Disaster Mitigation Act of 1998. On July 29, the full Committee on Environment and Public Works ordered the bill, as amended, reported by voice vote.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of legislation be noted in the report.

On July 29, 1998, the committee met to consider S. 2361. The chairman offered a manager's amendment containing three separate provisions, which was adopted by voice vote. Subsequently, an amendment offered by Senator Bond concerning the exclusion of golf courses from the definition of public facility; this amendment was adopted by a vote of 9 ayes to 7 nays, with 2 not voting. Voting in favor of the Bond amendment were Senators Allard, Bond, Chafee, Hutchinson, Inhofe, Kempthorne, Smith of New Hampshire, Thomas, and Wyden. Voting against were Senators Baucus, Boxer, Graham, Lautenberg, Lieberman, Moynihan, and Reid. Not voting were Senators Sessions and Warner. The bill then was agreed to, as amended, by voice vote.

EVALUATION OF REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires publication in the report the committee's estimate of the regulatory impact made by the bill as reported. S. 2361, as reported, is expected to impose no regulatory impact. This bill will not affect the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee makes the following evaluation of the Federal mandates contained in the reported bill. S. 2361, as reported, imposes no Federal intergovernmental mandates on State, local or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement has been requested. However, it is the opinion of the committee that the business of the Senate should proceed without delay, and that the CBO statement will be printed in the Congressional Record when it is available.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

[As Amended Through P.L. 105–153, December 17, 1997]

AN ACT Entitled the “Disaster Relief Act Amendments of 1974”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “[The] Robert T. Stafford Disaster Relief and Emergency Assistance Act”.

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

FINDINGS AND DECLARATIONS

§ 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.

DEFINITIONS

§ 102. AS USED IN THIS ACT—

(1) EMERGENCY.—“Emergency” means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement 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, [the Northern Mariana Islands, and the Trust Territory of the Pacific Islands] *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, [the Northern Mariana Islands, and the Trust Territory of the Pacific Islands] *and the Commonwealth of the Northern Mariana Islands*.

(5) “Governor” means the chief executive of any State.

(6) “Local government” means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(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, *but excluding any golf course*.

(D) Any park, *but excluding any golf course*.

(9) PRIVATE NONPROFIT FACILITY.—“Private nonprofit facility” means private nonprofit educational, utility, 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.

【TITLE II—DISASTER PREPAREDNESS ASSISTANCE】

TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

§ 201. (a) 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) 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 damaged or destroyed public and private facilities.

(c) 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. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster prepared-

ness 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**【.】**; and

(3) *set forth, with the ongoing cooperation of local governments and consistent with section 409, a comprehensive and detailed State program for mitigating emergencies and major disasters, including provisions for prioritizing mitigation measures.*

【(d) 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.】

(d) GRANTS FOR DISASTER ASSISTANCE AND HAZARD IDENTIFICATION.—The President may make grants for—

(1) not to exceed 50 percent of the cost of improving, maintaining, and updating State disaster assistance plans, including, consistent with section 409, evaluation of natural hazards and development of the programs and actions required to mitigate natural hazards; and

(2) not to exceed 50 percent of the cost of testing and application of emerging hazard identification technologies, such as improved floodplain mapping technologies, that—

(A) can be used by and in cooperation with State and local governments; and

(B) the President determines will likely result in substantial cost savings as compared to current hazard identification methods.

DISASTER WARNINGS

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

(b) 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) 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 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.

(d) 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.

PREDISASTER HAZARD MITIGATION

§ 203. (a) *DEFINITION OF SMALL IMPOVERISHED COMMUNITY.*—In this section, the term “small impoverished community” means a community of 10,000 or fewer individuals who are economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.

(b) *GENERAL AUTHORITY.*—The President may establish a program to provide financial assistance to States, local governments, and other entities for the purpose of carrying out predisaster hazard mitigation activities that exhibit long-term, cost-effective benefits and substantially reduce the risk of future damage, hardship, or suffering from a major disaster.

(c) *PURPOSE OF ASSISTANCE.*—A State, local government, or other entity that receives financial assistance under this section shall use the assistance for funding activities that exhibit long-term, cost-effective benefits and substantially reduce the risk of future damage, hardship, or suffering from a major disaster.

(d) *ALLOCATION OF FUNDS.*—Financial assistance made available to a State, including financial assistance made available to local governments of the State, under this section for a fiscal year shall—

(1) be in an amount that is not less than the lesser of \$500,000 or 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;

(2) be in an amount that does not exceed 15 percent of the total funds appropriated to carry out this section for the fiscal year; and

(3) be provided for projects that meet the criteria specified in subsection (e).

(e) *CRITERIA.*—Subject to subsections (d) and (f), in determining whether to provide assistance to a State, local government, or other entity under this section and the amount of the assistance, the President shall consider the following criteria:

(1) The likelihood of a natural disaster increasing the risk of future damage to a community.

(2) The clear identification of prioritized cost-effective mitigation activities that produce meaningful and definable outcomes.

(3) If the State has submitted a mitigation program in cooperation with local governments under section 201(c)(3), the degree to which the activities identified under paragraph (2) are consistent with the State mitigation program.

(4) The opportunity to fund activities that maximize net benefits to society.

(5) The ability of the State, local government, or other entity to fund mitigation activities, with additional consideration for mitigation activities in small impoverished communities.

(6) The level of interest by the private sector to enter into a partnership to promote mitigation.

(7) *Such other criteria as the President establishes in consultation and coordination with State and local governments.*

(f) *STATE NOMINATIONS.—*

(1) *IN GENERAL.—*

(A) *RECOMMENDATIONS BY GOVERNOR.—The Governor of each State may recommend to the President not fewer than 5 local governments or other entities to receive assistance under this section.*

(B) *SUBMISSIONS TO PRESIDENT.—The recommendations shall be submitted to the President not later than January 1 of calendar year 1999 and each calendar year thereafter or such later date in the calendar year as the President may establish.*

(C) *CRITERIA FOR RECOMMENDATIONS.—In making the recommendations, each Governor shall consider the criteria specified in subsection (e).*

(2) *USE.—*

(A) *IN GENERAL.—In providing assistance to local governments and other entities under this section, the President shall select from among the local governments and other entities recommended by the Governors under this subsection.*

(B) *SELECTION OF ADDITIONAL ENTITIES.—On the request of a local government, the President may select additional entities if the President determines that special circumstances justify the additional selection and the selection will meet the criteria specified in subsection (e).*

(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 (e), any local governments of the State or other entities to receive assistance under this section.*

(g) *FEDERAL SHARE.—The Federal share of the cost of mitigation activities approved by the President for financial assistance under this section shall be—*

(1) *except as provided in paragraph (2), up to 75 percent;*
and

(2) *in the case of mitigation activities in small impoverished communities, up to 90 percent.*

(h) *LOCAL GOVERNMENTS.—In carrying out this section, the President and States shall—*

(1) *consult with local governments for the purpose of developing a list of appropriate activities for predisaster hazard mitigation funding; and*

(2) *delegate to the local governments the decision to select specific activities from the list developed under paragraph (1).*

(i) *AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$35,000,000 for each of fiscal years 1998 through 2002.*

(j) *AUTHORIZATION OF SECTION 404 FUNDS.—In addition to amounts appropriated under subsection (i), the President, in consultation and coordination with State and local governments, may use to carry out this section funds that are appropriated to carry out section 404 for post-disaster mitigation activities that have not been*

obligated within 30 months after the disaster declaration on which the funding availability is based.

(k) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates effective October 1, 2003.

TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

WAIVER OF ADMINISTRATIVE CONDITIONS

§ 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.

COORDINATING OFFICERS

§ 302. (a) 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) 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 advise or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) 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.

EMERGENCY SUPPORT TEAMS

§ 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.

REIMBURSEMENT

§ 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.

NONLIABILITY

§ 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.

PERFORMANCE OF SERVICES

§ 306. (a) 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) In performing any services under this Act, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, 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, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

USE OF LOCAL FIRMS AND INDIVIDUALS

§ 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 con-

tract 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.

NONDISCRIMINATION IN DISASTER ASSISTANCE

§ 308. (a) 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) 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.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

§ 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.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND
PUBLIC HOUSING ASSISTANCE.

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

(1) The United States Housing Act of 1937 for the provision of low-income housing.

(2) Section 702 of the Housing Act of 1954 for assistance in public works planning.

(3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974.

(4) Section 306 of the Consolidated Farm and Rural Development Act.

(5) The Public Works and Economic Development Act of 1965.

(6) The Appalachian Regional Development Act of 1965.

(7) The Federal Water Pollution Control Act.

(b) OBLIGATION OF CERTAIN DISCRETIONARY FUNDS.—In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.

INSURANCE

§ 311. (a) APPLICANTS FOR REPLACEMENT OF DAMAGED FACILITIES.—

(1) COMPLIANCE WITH CERTAIN REGULATIONS.—An applicant for assistance under section 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure) or section 803 of the Public Works and Economic Development Act of 1965 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 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure), or section 803 of the Public Works and Economic Development Act of 1965 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.

(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 406 or 422 of this Act or section 803 of the Public Works and Economic Development Act of 1965 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 406 or 422 of this Act 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.

DUPLICATION OF BENEFITS

§ 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 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, 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.

STANDARDS AND REVIEWS

§ 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.

PENALTIES

§ 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.

AVAILABILITY OF MATERIALS

§ 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.

PROTECTION OF ENVIRONMENT

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

RECOVERY OF ASSISTANCE

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

(b) RENDERING OF CARE.—A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering care or assistance in response to a major disaster or emergency.

AUDITS AND INVESTIGATIONS

§ 318. (a) IN GENERAL.—Subject to the provisions of chapter 75 of title 31, United States Code, 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.

ADVANCE OF NON-FEDERAL SHARE

§ 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.

LIMITATION ON USE OF SLIDING SCALES

§ 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.

RULES AND REGULATIONS

§ 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.

MANAGEMENT COSTS

Sec 322. (a) *DEFINITION OF MANAGEMENT COST.*—*In this section, the term “management cost” includes any indirect cost, administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or emergency preparedness activity or measure.*

(b) *MANAGEMENT COST RATES.*—*Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall 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 (a) (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.*

(d) *REGULATIONS.*—*The President shall promulgate a regulation to define appropriate costs to be included in management costs under this section.*

TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

PROCEDURE FOR DECLARATION

§ 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.

GENERAL FEDERAL ASSISTANCE

§ 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.

ESSENTIAL ASSISTANCE

§ 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 Menonite 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, 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 407(b), relating to unconditional authorization and indemnification for debris removal.

(3) EXPENDITURES OUT OF DISASTER RELIEF FUNDS.—The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

(4) FEDERAL SHARE.—The Federal share of assistance under this subsection shall be not less than 75 percent.

(5) GUIDELINES.—Not later than 180 days after the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 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.

HAZARD MITIGATION

§ 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 409 and shall be subject to approval by the President. The total of contributions under this section for a major disaster shall not exceed [15 percent] 20 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—

(1) GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the Director of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

(2) TERMS AND CONDITIONS.—An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the Director that provides assurances that—

(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project

will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

(I) a public facility that is open on all sides and functionally related to a designated open space;

(II) a rest room; or

(III) a structure that the Director approves in writing before the commencement of the construction of the structure; and

(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before the date of enactment of this subsection.

(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.*

(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) *submission of the plan required under section 201(c); 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.

FEDERAL FACILITIES

§ 405. (a) 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) 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) 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.

REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

§ 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.

[(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).

[(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), 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 Act.]

(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 that is damaged or destroyed by a major disaster and for management costs incurred by the government; and*

(2) *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 management costs incurred by the person.*

(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) DECREASED FEDERAL SHARE.—*In the case of a State or local government that is unable or unwilling to take appropriate steps promptly and efficiently to complete the processing of claims for assistance under this section, the President, after the end of the 3-year period beginning on the date of declaration of the major disaster, may reduce the Federal share of assistance under this section to a share of less than 75 percent, but greater than or equal to 50 percent, of the eligible cost of repair, restoration, reconstruction, or replacement carried out under this section with respect to the major disaster.*

(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 be best 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 contribution in an amount equal to 75 percent of the Federal share of the cost of repairing, restoring, reconstructing, or replacing the facility and of management costs, as estimated by the President.

(B) USE OF FUNDS.—Funds made available to a State or local government under this paragraph may be used to repair, restore, or expand other eligible public facilities, to construct new facilities, or 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.

(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 be best served by repairing, restoring, reconstructing, or replacing the facility, the person may elect to receive, in lieu of a contribution under subsection (a)(2), a contribution in an amount equal to 75 percent of the Federal share of the cost of repairing, restoring, reconstructing, or replacing the facility and of management costs, as estimated by the President.

(B) USE OF FUNDS.—Funds made available to a person under this paragraph may be used to repair, restore, or expand other eligible private nonprofit facilities owned or operated by the person, to construct new private nonprofit facilities to be owned or operated by the person, or to fund hazard mitigation measures, that the person determines to be necessary to meet a need for its services and functions in the area affected by the major disaster.

(3) MODIFICATION OF FEDERAL SHARE TO ENCOURAGE USE OF FUNDS FOR MITIGATION ACTIVITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the President shall modify the Federal share of the cost estimate provided in paragraphs (1) and (2) with respect to a large in-lieu contribution if the President determines that the large in-lieu contribution will be used for mitigation activities consistent with the State plan under section 201(c).

(B) LIMITATION.—Under subparagraph (A), the Federal share for the purposes of paragraphs (1) and (2) shall not exceed 90 percent of the amount described in paragraph (1)(A) or (2)(A).

(d) FLOOD INSURANCE.—

(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following

the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

(2) AMOUNT OF REDUCTION.—The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

(A) the value of such facility on the date of the flood damage or destruction, or

(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

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

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

[(e) 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 current applicable 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.)).

(B) *COST ESTIMATION PROCEDURES.*—Subject to paragraph (2), the President shall use the cost estimation procedures developed under paragraph (3) to make the estimate under subparagraph (A).

(2) *MODIFICATION OF ELIGIBLE COST.*—If the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is more than 120 percent or less than 80 percent of the cost estimated under paragraph (1), the President may determine that the eligible cost shall be the actual cost of the repair, restoration, reconstruction, or replacement.

(3) *EXPERT PANEL.*—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, to develop procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices.

(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.

(5) *OTHER ELIGIBLE COSTS.*—For purposes of this section, the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility includes the following:

(A) *COSTS OF NATIONAL GUARD.*—The cost of mobilizing and employing the National Guard for performance of eligible work.

(B) *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.

(C) *OTHER LABOR COSTS.*—Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on the wages to the extent that the benefits were being paid before the major disaster.

[(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 403, 404, 406, 407, 502, and 503 in such State in connection with the major disaster as follows:

【(A) If such total amount is less than \$100,000, 3 percent of such total amount.

【(B) If such total amount is \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such total amount in excess of \$100,000.

【(C) If such total amount is \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such total amount in excess of \$1,000,000.

【(D) If such total amount is \$5,000,000 or more, \$61,000 plus ½ percent of such total amount in excess of \$5,000,000.

【(3) COSTS OF NATIONAL GUARD.—The costs of mobilizing and employing the National Guard for performance of eligible work.

【(4) COSTS OF PRISON LABOR.—The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.

【(5) OTHER LABOR COSTS.—Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.】

DEBRIS REMOVAL

§ 407. (a) 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 nonprofit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) 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.

【TEMPORARY HOUSING ASSISTANCE

【§ 408. (a) PROVISION OF TEMPORARY HOUSING.—

【(1) IN GENERAL.—The President may—

【(A) provide, by purchase or lease, temporary housing (including unoccupied habitable dwellings), suitable rental housing, mobile homes, or other readily fabricated dwellings to persons who, as a result of a major disaster, require temporary housing; and

【(B) reimburse State and local governments in accordance with paragraph (4) for the cost of sites provided under paragraph (2).

【(2) MOBILE HOME SITE.—

【(A) IN GENERAL.—Any mobile home or other readily fabricated dwelling provided under this section shall whenever possible be located on a site which—

【(i) is provided by the State or local government;

and

【(ii) has utilities 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) OTHER SITES.—Mobile homes and other readily fabricated dwellings may be located on sites provided by the President if the President determines that such sites would be more economical or accessible than sites described in subparagraph (A).

【(3) PERIOD.—Federal financial and operational assistance under this section shall continue for not longer than 18 months after the date of the major disaster declaration by the President, unless the President determines that due to extraordinary circumstances it would be in the public interest to extend such 18-month period.

【(4) FEDERAL SHARE.—The Federal share of assistance under this section shall be 100 percent; except that the Federal share of assistance under this section for construction and site development costs (including installation of utilities) at a mobile home group site shall be 75 percent of the eligible cost of such assistance. The State or local government receiving assistance under this section shall pay any cost which is not paid for from the Federal share.

【(b) TEMPORARY MORTGAGE AND RENTAL PAYMENTS.—The President is authorized to provide assistance on a temporary basis

in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of a foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for the duration of the period of financial hardship but not to exceed 18 months.

[(c) IN LIEU EXPENDITURES.—In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition.

[(d) TRANSFER OF TEMPORARY HOUSING.—

[(1) DIRECT SALE TO OCCUPANTS.—Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

[(2) TRANSFERS TO STATES, LOCAL GOVERNMENTS, AND VOLUNTARY ORGANIZATIONS.—The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 308 requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) and to the purposes of providing temporary housing for disaster victims in major disasters or emergencies.

[(e) NOTIFICATION.—

[(1) IN GENERAL.—Each person who applies for assistance under this section shall be notified regarding the type and amount of any assistance for which such person qualifies. Whenever practicable, such notice shall be provided within 7 days after the date of submission of such application.

[(2) INFORMATION.—Notification under this subsection shall provide information regarding—

[(A) all forms of such assistance available;

[(B) any specific criteria which must be met to qualify for each type of assistance that is available;

[(C) any limitations which apply to each type of assistance; and

[(D) the address and telephone number of offices responsible for responding to—

[(i) appeals of determinations of eligibility for assistance; and

[(ii) requests for changes in the type or amount of assistance provided.

[(f) LOCATION.—In providing assistance under this section, consideration shall be given to the location of and travel time to—

[(1) the applicant's home and place of business;

[(2) schools which the applicant or members of the applicant's family who reside with the applicant attend; and

[(3) crops or livestock which the applicant tends in the course of any involvement in farming which provides 25 percent or more of the applicant's annual income.]

FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS

§ 408. (a) GENERAL AUTHORITY.—*In accordance with this section, the President, in consultation and coordination with the Governor of an affected State, may provide financial assistance, and, if necessary, direct services, to disaster victims who—*

(1) *as a direct result of a major disaster have necessary expenses and serious needs; and*

(2) *are unable to meet the necessary expenses and serious needs through other means, including insurance proceeds or loan assistance from the Small Business Administration.*

(b) HOUSING ASSISTANCE.—

(1) ELIGIBILITY.—*The President may provide financial or other assistance under this section to individuals and families to respond to the disaster-related housing needs of individuals and families 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.—*The President shall determine appropriate types of housing assistance to be provided to disaster victims under this section based on considerations of cost effectiveness, convenience to disaster victims, and such other factors as the President considers to be appropriate. One or more types of housing assistance may be made available, based on the suitability and availability of the types of assistance, to meet the needs of disaster victims in a particular disaster situation.*

(c) TYPES OF HOUSING ASSISTANCE.—

(1) TEMPORARY HOUSING.—

(A) FINANCIAL ASSISTANCE.—

(i) IN GENERAL.—*The President may provide financial assistance under this section to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings.*

(ii) AMOUNT.—*The amount of assistance under clause (i) shall be based on the sum of—*

(I) *the fair market rent for the accommodation being provided; and*

(II) *the cost of any transportation, utility hook-ups, or unit installation not being directly provided by the President.*

(B) DIRECT ASSISTANCE.—

(i) IN GENERAL.—*The President may directly provide under this section housing units, acquired by purchase or lease, 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.*—

(I) *IN GENERAL.*—Subject to subclause (II), the President may not provide direct assistance under clause (i) with respect to a major disaster after the expiration of the 18-month period beginning on the date of the declaration of the major disaster by the President.

(II) *EXTENSION OF PERIOD.*—The President may extend the period under subclause (I) if the President determines that due to extraordinary circumstances an extension would be in the public interest.

(iii) *COLLECTION OF RENTAL CHARGES.*—After the expiration of the 18-month period referred to in clause (ii), the President may charge fair market rent for the accommodation being provided.

(2) *REPAIRS.*—

(A) *IN GENERAL.*—The President may provide financial assistance for the repair of owner-occupied primary residences, utilities, and residential infrastructure (such as private access routes) damaged by a major disaster to a habitable or functioning condition.

(B) *EMERGENCY REPAIRS.*—To be eligible to receive assistance under subparagraph (A), a recipient shall not be required to demonstrate that the recipient is unable to meet the need for the assistance through other means, except insurance proceeds, if the assistance—

(i) is used for emergency repairs to make a private primary residence habitable; and

(ii) does not exceed \$5,000, as adjusted annually to reflect changes in the Consumer Price Index as reported by the Bureau of Labor Statistics of the Department of Labor.

(3) *PERMANENT HOUSING CONSTRUCTION.*—The President may provide financial assistance or direct assistance under this section to individuals or households to construct permanent housing in insular areas outside the continental United States and other remote locations in cases in which—

(A) no alternative housing resources are available; and

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

(d) *TERMS AND CONDITIONS RELATING TO HOUSING ASSISTANCE.*—

(1) *SITES.*—

(A) *IN GENERAL.*—Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

(i) is provided by the State or local government; and

(ii) is complete with utilities 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.*—Readily fabricated dwellings may be located on sites provided by the President if the President determines that the sites 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 needs permanent housing.

(ii) *SALES PRICE.*—Sales of temporary housing units under clause (i) shall be accomplished at prices that are fair and equitable.

(iii) *DEPOSIT OF PROCEEDS.*—Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited into the appropriate Disaster Relief Fund account.

(iv) *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.*—

(i) *SALE.*—If not disposed of under subparagraph (A), a temporary housing unit purchased by the President for the purpose of housing disaster victims may be resold.

(ii) *DISPOSAL TO GOVERNMENTS AND VOLUNTARY ORGANIZATIONS.*—A temporary housing unit described in clause (i) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, donation, or other making available, the State, other 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 and coordination with the Governor of the affected State, may provide financial assistance under this section to an individual or household adversely affected by a major disaster to meet disaster-related medical, dental, and funeral expenses.

(2) *PERSONAL PROPERTY, TRANSPORTATION, AND OTHER EXPENSES.*—The President, in consultation and coordination with the Governor of the affected State, may provide financial assist-

ance 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.—The President shall provide for the substantial and ongoing involvement of the affected State in administering assistance under this section.

(g) MAXIMUM AMOUNT OF ASSISTANCE.—The maximum amount of financial assistance that an individual or household may receive under this section with respect to a single major disaster shall be \$25,000, as adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers published by the Department of Labor.

(h) ISSUANCE OF REGULATIONS.—The President shall issue rules and regulations to carry out the program established by this section, including criteria, standards, and procedures for determining eligibility for assistance.

MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES

§ 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.

UNEMPLOYMENT ASSISTANCE

§ 410. (a) The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agree-

ments 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.

INDIVIDUAL AND FAMILY GRANT PROGRAMS

§ 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.]

§ 411. [Repealed.]

FOOD COUPONS AND DISTRIBUTION

§ 412. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such

terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91-671; 84 Stat. 2048) and to make surplus commodities available pursuant to the provisions of this Act.

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

FOOD COMMODITIES

§ 413. (a) 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) 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.

RELOCATION ASSISTANCE

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

LEGAL SERVICES

§ 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.

CRISIS COUNSELING ASSISTANCE AND TRAINING

§ 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.

【COMMUNITY DISASTER LOANS

【§ 417. (a) 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. The amount of any such loan shall be based on need, and shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

【(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.】

§ 417. [Repealed.]

EMERGENCY COMMUNICATIONS

§ 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.

EMERGENCY PUBLIC TRANSPORTATION

§ 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.

【FIRE SUPPRESSION GRANTS

【§ 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.】

FIRE SUPPRESSION ASSISTANCE

§ 420. (a) IN GENERAL.—The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the suppression of any fire on a publicly or privately owned forest or grassland that threatens such destruction as would constitute a major disaster.

(b) *ESSENTIAL ASSISTANCE.*—*In providing assistance under this section, the President may use the authority provided under section 403.*

(c) *RULES AND REGULATIONS.*—*The President shall prescribe such rules and regulations as are necessary to carry out this section.*

TIMBER SALE CONTRACTS

§ 421. (a) 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) 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) 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) 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.

【SIMPLIFIED PROCEDURE

【§ 422. If the Federal estimate of the cost of—

【(1) repairing, restoring, reconstructing, or replacing under section 406 any damaged or destroyed public facility or private nonprofit facility,

【(2) emergency assistance under section 403 or 502, or

[(3) debris removed under section 407, 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, 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.]

§ 422. [Repealed.]

APPEALS OF ASSISTANCE DECISIONS

§ 423. (a) RIGHT OF APPEAL.—Any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

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

(c) RULES.—The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER.

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

TITLE V—EMERGENCY ASSISTANCE PROGRAMS

PROCEDURE FOR DECLARATION

§ 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 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).

FEDERAL EMERGENCY ASSISTANCE

§ 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;

(6) provide [temporary housing] assistance in accordance with section 408; and

(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.

AMOUNT OF ASSISTANCE

§ 503. (a) FEDERAL SHARE.—The Federal share for assistance provided under this title shall be equal to not less than 75 percent of the eligible costs.

(b) LIMIT ON AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), total assistance provided under this title for a single emergency shall not exceed \$5,000,000.

(2) ADDITIONAL ASSISTANCE.—The limitation described in paragraph (1) may be exceeded when the President determines that—

(A) continued emergency assistance is immediately required;

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

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

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

TITLE VI—EMERGENCY PREPAREDNESS

DECLARATION OF POLICY

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

DEFINITIONS

§ 602. (a) DEFINITIONS.—For purposes of this title only:

(1) HAZARD.—The term “hazard” means an emergency or disaster resulting from—

(A) a natural disaster; or

(B) an accidental or man-caused event.

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

(3) EMERGENCY PREPAREDNESS.—The term “emergency preparedness” means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the haz-

ard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

(A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).

(B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

(C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

(4) ORGANIZATIONAL EQUIPMENT.—The term “organizational equipment” means equipment determined by the Director to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

(5) MATERIALS.—The term “materials” includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.

(6) FACILITIES.—The term “facilities”, except as otherwise provided in this title, includes buildings, shelters, utilities, and land.

(7) DIRECTOR.—The term “Director” means the Director of the Federal Emergency Management Agency.

(8) NEIGHBORING COUNTRIES.—The term “neighboring countries” includes Canada and Mexico.

(9) UNITED STATES AND STATES.—The terms “United States” and “States” includes the several States, the District of Columbia, and territories and possessions of the United States.

(10) STATE.—The term “State” includes interstate emergency preparedness authorities established under section 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.

ADMINISTRATION OF TITLE

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

Subtitle A—Powers and Duties

DETAILED FUNCTIONS OF ADMINISTRATION

§ 611. (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, Congress, and the States advised of the status of emergency preparedness in the United States.

(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—With the approval of the President, the Director may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(d) COMMUNICATIONS AND WARNINGS.—The Director may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

(e) EMERGENCY PREPAREDNESS MEASURES.—The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

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

(f) TRAINING PROGRAMS.—(1) The Director may—

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

(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, 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 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 between such compacts and consistency with Federal emergency response plans and programs;

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

(D) aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid for emergency preparedness purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

(2) A copy of each interstate emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress is deemed to be granted to each such compact upon the expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.

(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 title before the approval of title by the Attorney General as required by section 355 of the Revised Statutes (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 the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

(2) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.

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

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

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

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

of the Director necessary for the use of such facility for emergency preparedness purposes.

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

(8) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a-276a-5)), and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 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 under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES

§ 612. 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.

CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES

§ 613. (a) GENERAL AUTHORITY.—To further assist in carrying out the purposes of this title, the Director may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 611(h)) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) PLAN REQUIREMENTS.—A plan submitted under this section shall—

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

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

(3) provide for the development of State and local emergency preparedness operational plans, 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 621(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 title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe. The Director may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(f) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the Director notifies the States of the allocations under this section, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director, will best assure the adequate development of the emergency preparedness capability of the United States.

(g) ANNUAL REPORTS.—The Director shall report annually to the Congress all contributions made pursuant to this section.

REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF
EMERGENCY OPERATING CENTERS

§ 614. Notwithstanding any other provision of this title, funds appropriated to carry out this title may not be used for the purpose of constructing emergency operating centers (or similar facilities) in

any State unless such State matches in an equal amount the amount made available to such State under this title for such purpose.

USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS

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

Subtitle B—General Provisions

ADMINISTRATIVE AUTHORITY

§ 621. (a) IN GENERAL.—For the purpose of carrying out the powers and duties assigned to the Director under this title, the Director may exercise the administrative authorities provided under this section.

(b) ADVISORY PERSONNEL.—(1) The Director may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the Director considers to be necessary in carrying out the provisions of this title.

(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, plus authorized subsistence and travel, as determined by the Director.

(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The Director may—

(1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;

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

(3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.

(d) GIFTS.—Notwithstanding any other provision of law, the Director may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.

(e) REIMBURSEMENT.—The Director may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.

(f) PRINTING.—The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary

upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, 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 title and perform any of the powers and duties provided by this title. The Director may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate.

(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

(2) Until so satisfied, the Director shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

(3) As used in this subsection, the term “person” means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

SECURITY REGULATIONS

§ 622. (a) ESTABLISHMENT.—The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director considers necessary.

(b) LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director

of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Director of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director of the Federal Emergency Management Agency for action.

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

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

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

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

USE OF EXISTING FACILITIES

§ 623. In performing duties under this title, the Director—

(1) shall cooperate with the various departments and agencies of the Federal Government;

(2) shall use, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

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

ANNUAL REPORT TO CONGRESS

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

APPLICABILITY OF TITLE

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

AUTHORIZATION OF APPROPRIATIONS AND TRANSFERS OF FUNDS

§ 626. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) TRANSFER AUTHORITY.—Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Director of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

RELATION TO ATOMIC ENERGY ACT OF 1954

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

FEDERAL BUREAU OF INVESTIGATION

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

TITLE VII—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS

§ 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.

§ 702. [Amended various other Acts].

REPEAL OF EXISTING LAW

§ 703. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235, 236, 237, 301, 302, 303, and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

§ 704. Funds heretofore appropriated and available under Public Laws 91–606, as amended, and 92–385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

UNITED STATES CODE

TITLE 42—THE PUBLIC HEALTH AND WELFARE

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CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

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SUBCHAPTER XII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

§ 3796. Payment of death benefits.

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§ 3796b. Definitions.

As used in this subchapter—

(1) “catastrophic injury” means consequences of an injury that permanently prevent an individual from performing any gainful work;

(2) “child” means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer’s death, is—

(i) 18 years of age or under;

(ii) over 18 years of age and a student as defined in section 8101 of title 5; or

(iii) over 18 years of age and incapable of self-support because of physical or mental disability;

(3) “firefighter” includes an individual serving as an officially recognized or designated member of a legally organized volunteer fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew;

(4) “intoxication” means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—

(i) a post-mortem blood alcohol level of .20 per centum or greater; or

(ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death; or resulting from drugs or other substances in the body;

(5) “law enforcement officer” means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers;

(6) “public agency” means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing; and

[(7) “public safety officer” means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, or rescue squad or ambulance crew.]

(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) a permanent 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 or local 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.

