

Calendar No. 550

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-295

DISASTER MITIGATION ACT OF 1999

MAY 16, 2000.—Ordered to be printed

Mr. SMITH of New Hampshire, from the Committee on
Environment and Public Works, submitted the following

REPORT

[to accompany S. 1691]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 1691), to amend the Robert T. Stafford Disaster Relief and Emergency Assistance 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 an amendment and recommends that the bill, as amended, 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 authority provided in this 3-year authorization is 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 mission 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 potential 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 house repairs, and grants to individuals and families for basic needs, including food and clothing. Public assistance includes grants to State and local governments to repair or replace damaged infrastructures, including public buildings, roads, bridges, communications facilities, airports and other transit facilities and to certain nonprofit organizations for the repair or replacement of their 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 other natural disasters. Nonstructural activities include, but are not limited to, developing land-use plans and zoning ordinances, restoring wetlands which serve as natural flood storage areas, and relocating property out of the floodplain or other disaster-prone areas. These activities 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 an amount equal to 15 percent of the total Federal 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 declaration has occurred. Because of this limitation, Section 404 assistance is referred to as "post-disaster" mitigation.

"Predisaster" mitigation refers to mitigation activities that are implemented independent of whether a disaster declaration has occurred in the area. The Stafford Act provides extremely narrow authority for federally supported pre-disaster mitigation.

Predisaster and Post-Disaster Mitigation

Recently, there has been increased interest in expanding the Federal authority for predisaster mitigation. In both the 103d and 104th Congresses, bills were introduced that authorized funds for Federal support of predisaster mitigation projects. In its fiscal year 1998 budget, the Administration proposed the establishment of a \$50 million predisaster mitigation fund. Ultimately, the fiscal year 1998 VA-HUD-Independent Agencies appropriations bill allocated \$30 million for FEMA to conduct predisaster mitigation activities. In fiscal years 1999 and 2000, the VA-HUD Independent Agencies appropriations bill allocated \$25 million for FEMA to conduct predisaster mitigation activities. FEMA is using these, and subsequent, moneys to fund its new "Project Impact" program, under which mitigation projects in 185 disaster-prone communities have been initiated to date. 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.

The committee recognizes the importance of local community involvement as critical to the success of implementing long term strategies for disaster resistance. The committee directs FEMA to adopt policies that will foster support to communities for their management of a broad-based, participatory predisaster mitigation program.

The existing post-disaster mitigation program under Section 404 also has come under scrutiny. This program has become an increas-

ingly 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.

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. In the 106th Congress the Administration transmitted to Congress "The Disaster Mitigation Act of 1999". The bill, S. 583, was introduced by Senator Chafee, chairman of the Committee on Environment and Public Works, on March 10, 1999. A companion bill, H.R. 707, was introduced in the House of Representative by Representative Fowler.

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 modification of current Federal cost-share and other requirements of the disaster relief and emergency assistance process.

Summary of S. 1691

Introduced by Senators Inhofe, Graham and Voinovich and 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 title provides for disaster preparedness, mitigation assistance and post-disaster assistance; and the third title contains miscellaneous conforming amendments and definitions.

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 2000.”

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 disaster, and (2) provides a source of predisaster mitigation funding to assist States and local governments in implementing mitigation measures.

Sec. 101. Findings and Purpose

Section 101 describes five findings of Congress: (1) natural disasters pose great dangers to human life and to property throughout the United States, (2) greater emphasis needs to be placed on hazard identification, hazard mitigation, and ensuring that critical infrastructure and facilities of communities will continue to function after a natural disaster, (3) expenditures for disaster assistance are increasing without commensurate reductions in the likelihood of future losses, (4) a high priority should be placed on the implementation of predisaster mitigation activities, and (5) 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.

Sec. 102. Predisaster Hazard Mitigation

Section 102 creates a new Section 203 in the Stafford Act that authorizes the Director of Federal Emergency Management Agency (Director) to establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster mitigation measures designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical infrastructure and facilities under the jurisdiction of the States or local governments.

The Director may provide technical and financial assistance to a State or local government if the Director determines that a State or local government has identified all natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships.

In selecting a site, the Director must consider the extent and nature of the hazards to be mitigated; the degree of commitment of the State or local government to reduce damages from future natural disasters; and the degree of commitment by the State or local government to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance. The committee directs FEMA to establish a

clear, consistent policy on when to utilize this authority in order to ensure that hazard mitigation planning and the implementation of hazard mitigation measures are based on accurate hazard information and risk assessments.

States and local governments shall use the technical and financial assistance principally to implement predisaster hazard mitigation; to support effective public-private natural disaster hazard mitigation partnerships; to ensure that new development and construction is resistant to natural disasters; to improve the assessment of a community's vulnerability to natural hazards; or to establish hazard mitigation priorities, and an appropriate hazard mitigation plan, for a community.

The committee is aware of the potential for cost containment through the use of perforated metal technology employed in fixed, passive protection window applications utilized in predisaster mitigation as demonstrated successfully in Dade County, Florida. The committee encourages FEMA to support enhanced utilization of such mitigation activities in "Project Impact" communities that may be affected by high wind conditions.

The Director may establish in the Treasury of the United States a fund to be known as the "National Predisaster Mitigation Fund" (referred to as "the Fund"), to be used to provide approved predisaster mitigation assistance to the State and local governments. There shall be deposited into the Fund amounts appropriated to carry out this section, which shall remain available until expended; and sums available from gifts, bequests, or donations of services or property received by the Director for the purposes of predisaster mitigation. Congress expects that the Director will not solicit donations for the Fund from the private sector. The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current obligations of the Fund. Investment may be made only in interest-bearing obligations of the United States. Any interest on, or proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund. The amounts required to be transferred to the Fund shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

The Federal share of financial assistance from the fund shall not exceed an amount equal to 75 percent of the total costs of all hazard mitigation proposals approved by the Director under this section. The Director shall not provide financial assistance greater than the amount available in the fund. The overall authority provided for this program is terminated on December 31, 2003.

Sec. 103. Natural Disaster Mitigation Zones

Section 103 of the bill amends Title II of the Stafford Act by adding a new section 204 "Natural Disaster Mitigation Zones." This section generally requires the President to designate historically disaster-prone areas as "natural disaster mitigation zones". These zones are identified as areas in which commonly recurring all natural hazards (including flooding, hurricanes and severe winds, seis-

mic events) create a substantial likelihood of disaster that may require assistance under the Act.

Section 103 requires the President to designate as natural disaster mitigation zones in each coastal flood zone identified on a map prepared under the national flood insurance program that is also identified within a wind zone as identified by the American Society of Civil Engineers under ASCA 7-98 and that has commonly recurring winds in excess of 90 miles per hour.

The President, acting through the Director of the Federal Emergency Management Agency (Director), shall direct Federal agencies which gather information on natural resources and natural and technological hazards, to integrate, or develop and maintain, comprehensive all-hazard maps using geographic information systems technology.

Section 103 is intended to recommend mitigation policies and practices to be followed in the designated disaster mitigation zones. The Director is designated as the individual primarily responsible for identifying and implementing disaster mitigation policies and practices in the natural disaster mitigation zones. The policies and practices may include programs which are comparable to Executive Order No. 11988 relating to floodplain management; Executive Order No. 12699 relating to the seismic safety of Federal and federally assisted or regulated new building construction; and Executive Order No. 12941 relating to seismic safety of existing federally owned or leased buildings.

Other policies and practices shall include recommended model voluntary building codes, consensus standards, test methods, and specifications, such as those established by the International Code Council; the National Fire Protection Association; the American National Standards Institute; the American Society of Testing Materials; and the American Society of Civil Engineers. Having building construction codes and standards consistent with effective mitigation policies and practices can go a long way in mitigating the risks and costs of future natural disasters.

The National Technology Transfer and Advancement Act of 1995 and OMB Circular No. A-119 "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities" permit FEMA to work with both voluntary consensus standards as well as other standards and codes developed by non-governmental entities. FEMA should continue working with its government mitigation partners at the Federal, State, and local level along with private sector groups to identify research needs.

The committee notes that these recommendations are entirely voluntary and should not be construed as Federal mandates.

Federal buildings located in natural disaster mitigation zones shall be required to be designed and constructed in accordance with the policies and practices identified in this section. Section 103 of the bill also authorizes the President to provide incentives to encourage owners of non-Federal buildings in natural disaster mitigation zones to implement the mitigation policies and practices. The President is also authorized to provide additional incentives for owners who build or modify buildings in natural disaster mitiga-

tion zones which produce hazard mitigation benefits which are greater than the requirements identified in the mitigation policies.

Types of incentives the President may wish to provide include lower premiums for Federal flood insurance; more favorable financing through Federal loans, loan guarantees and insured loans; or other incentives within the authority of the President or other Federal agencies. This section does not create any new Federal funding programs, but is intended to leverage existing incentive programs so that monies expended focus on preventative measures.

Not later than 18 months after the date of enactment, each applicable Federal agency shall issue regulations to carry out this section.

Sec. 104. Interagency Task Force

The committee recognizes that the Federal Government has embarked on an ambitious approach to predisaster hazard mitigation within a number of Federal agencies. While these programs may or may not be meritorious, they are currently uncoordinated and may work at cross purposes. It is essential to their success that these hazard mitigation programs be coordinated and function in accord with one another.

Therefore, Section 104 directs the President to establish an interagency task force, chaired by the Director of FEMA, to coordinate the implementation of predisaster mitigation programs administered by the Federal Government. Members of the task force are to include representatives from State and local government organizations and the American Red Cross.

TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

The purpose of this title is to provide for disaster preparedness, mitigation assistance and post-disaster assistance.

Throughout Title II of this Act, the committee is seeking to amend the Public Assistance Program so as to reduce the Federal share of disaster assistance and return to the original premise of the Stafford Act: providing Federal assistance after States and local governments have exhausted their capabilities. With Federal disaster costs escalating beyond sustainable levels in recent years, the committee recognizes the value of making the following changes to the Public Assistance Program.

Sec. 201. Insurance

The single largest expense FEMA faces is the cost to repair or reconstruct public buildings following a disaster event. To that end, the committee, under Section 201, amends Section 311(a)(2) of the Stafford Act by requiring the President to promulgate regulations which strengthen the determination of adequate insurance or self-insurance. The regulations must require applicants to protect property through adequate levels of insurance or self-insurance if the current law is met and the President determines that the property is not adequately insured against disasters. In promulgating any new regulations, the President must include definitions that are expressed in known and generally accepted terms; a definition of “adequate insurance”; specific criteria for a waiver of any insurance eligibility requirement under the regulations; a definition of “self-

insurance” that is sufficiently flexible to take into consideration alternative risk financing methods; available market research in determining availability; and a cost/benefit analysis. The President must also consider alternative risk-financing mechanisms, including risk sharing pools and self-insurance; and the use of independent experts in insurance, disaster preparedness, risk management, and finance to assist in developing regulations. It is expected that cost-prohibitiveness of insurance will also be a determining factor by the President.

The committee understands that FEMA has been working on an insurance rule over the course of the last several years. The committee was encouraged by the work FEMA has completed on the insurance regulation. However, State and local governments have raised concerns that the committee feels are valid regarding FEMA’s attempts to develop the regulation. Recognizing the importance of the insurance regulation to the overall goal of reducing the Federal share of disaster assistance, the committee sought to engage stakeholders and make certain their input was heard. This consultation and cooperation has resulted in the Congressional guidance set out in this section.

The implementing regulations must be promulgated not later than 1 year after enactment of this Act.

While CBO has been unable to quantify the ultimate Federal cost savings as a result of the implementation of an insurance rule, the committee believes the savings will be significant.

Sec. 202. Management Costs

Section 202 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 until new rates are established.

Sec. 203. Assistance to Repair, Restore, Reconstruct, or Replace Damaged Facilities

Section 203 amends and reorganizes Section 406 of the Stafford Act which provides authority for the President to make contributions to a State, local governments 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 eligible cost of repair, restoration, reconstruction of facilities and for associated expenses as defined by this section. As a condition for eligibility, private nonprofit facilities must provide critical infrastructure in the event of a major disaster; or the person that owns or operates the facility has applied, and has been determined to be ineligible, for a disaster loan under section 7(b) of the Small Business Act; or the person that owns or operates the facility has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible. The term “critical infrastructure” will be defined by the President, but will include, at a minimum, the provision of power, water (including water provided by a nongovern-

mental entity), sewer, wastewater treatment, communications, essential medical care and fire protection. It is the intent of Congress that "critical infrastructure" include those buildings, structures, equipment, or systems used to provide emergency services, such as ambulance, or rescue, to the general public, including the administrative and support facilities essential to the operation of such emergency facilities even if not contiguous. It is also the intent of Congress that essential medical care include facilities that provide direct medical services to persons, such as hospitals, clinics, or outpatient services. This provision does not include facilities that may be a part of a medical complex and do not provide direct patient care services.

Before making any contribution under this section to a project in an amount greater than \$20,000,000 (per project), the President is required to notify the Committee on Environment and Public Works of the Senate; the Committee on Appropriations of the Senate; the Committee on Transportation and Infrastructure of the House of Representatives; and the Committee on Appropriations of the House of Representatives.

This section requires regulations be promulgated by the President which will allow for reduced Federal share of assistance if an eligible public or nonprofit facility has previously been damaged, on more than one occasion, by the same type of event and the owner has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

FEMA's use of cost estimating procedures are extended by this Act. FEMA has currently employed a limited cost-estimating procedure in the aftermath of the Northridge earthquake. The current estimating procedure has resulted in the completion of large Public Assistance projects in a more timely and efficient manner. The committee is encouraged by these results and feels that they should be expanded as described in the following paragraph.

The President will now use the cost estimating procedure as the basis for payment of all repair and restoration. An estimate bandwidth, with floor and ceiling percentages, will be established through regulations by the President, taking into account recommendations made by an expert panel. In any case in which the actual cost is greater than the ceiling percentage, the President may determine that the eligible cost includes a portion of the amount that exceeds the original cost estimate. In any case in which the actual cost is greater than or equal to the floor percentage and less than 100 percent of the cost estimate, the State or local government or person receiving funds shall use the excess funds for mitigation efforts. In any case in which the actual cost is lower than the floor percentage, the State or local government or person receiving assistance shall reimburse the President the difference.

The Director of FEMA shall establish an expert panel that will develop recommendations concerning procedures for the estimating of costs and establishing the floor and ceiling percentages. The expert panel must include representatives from the applicable industries and State and local governments. The President is required to review the cost estimating procedures 2 years after the date of promulgation and periodically thereafter. The expert panel must

submit a report to Congress on the appropriateness of the cost estimating procedures 1 year after the date of promulgation and every 2 years thereafter.

In any case in which the impacted facility was under construction on the date of the major disaster, costs eligible for assistance include only those costs that, under the contract for the construction, are the owner's responsibility and not the contractor's responsibility.

Sec. 204. Mitigation Planning Maximum Contribution for Mitigation Costs

Section 204 amends Title III of the Stafford Act by requiring, as a condition of receipt of a disaster loan or grant, States, local, or tribal governments to develop and submit for approval by the Director of FEMA a detailed State mitigation plan. These plans must identify the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government. Local and tribal plans must describe actions to mitigate the hazards and establish a strategy to implement those actions. State plans must support the development of local mitigation plans; provide for technical assistance to local and tribal governments for mitigation planning; and identify and prioritize mitigation actions that the State will support, as resources become available.

Section 204 amends Section 404 by allowing a State, local, or tribal government to use up to 5 percent of funds received under Section 404 for the development and updating of mitigation plans. If, at the time of the declaration of a major disaster, a State has in effect an approved mitigation plan, the President may increase Section 404(a) maximum hazard mitigation contributions from 15 percent to 20 percent. As a condition of this increase, recipients are required to carry out any repair or construction in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards. The President, in consultation with State and local governments, may require safe land use and construction practices. A receipt of a disaster loan or grant under this Act shall provide evidence of compliance with this section as the President may require by regulation.

Under FEMA's current Stafford Act authority, flood hazard data may be generated to support hazard mitigation activities in areas with inadequate flood hazard data. The committee directs FEMA to establish a clear, consistent policy on when to utilize this authority in order to ensure that hazard mitigation planning and the implementation of hazard mitigation measures are based on accurate hazard information and risk assessments.

The committee notes that the Committee on Appropriations in the Omnibus Appropriations Act for fiscal year 2000 provided up to \$215,000,000 for a Buyout Program within the overall funding provided for FEMA Disaster Relief. While the committee supports the underlying policy of moving homes from 100-year floodplains where there is a significant risk of repeat flooding and costly damage, there are many significant policy issues that need to be reviewed and resolved before this approach becomes an accepted policy. In this case, the Buyout Program was enacted without the benefit of hearings or deliberations of this committee, both of which

are critical to a final decision on the role of the Federal Government and States in this type of program. The committee is concerned that the Buyout Program may move away from a primary principle in the Stafford Act of State and local responsibility, and shift much of the cost to the Federal Government. This Buyout Program also diminishes FEMA's ability to use flood insurance as the primary tool for addressing the needs of flood disaster victims, and represents both a significant commitment of Federal funds as well as a lack of specific requirements for oversight and accountability with regard to the use of these buyout funds. As such, there needs to be clear guidance on the use of these funds to ensure that those with the most need are assisted in the most equitable manner.

The committee does not intend to authorize a Buyout Program until comprehensive hearings are held that cover the history of this type of activity; the appropriate role of the Federal Government, States and localities; the extent of the need for this type of program, including the relationship of this program to other Federal and State mitigation programs; and a review of all appropriate safeguards and accountability requirements. Additional funding authorized in this bill is intended to increase State and local participation in all effective mitigation programs. Buy-out decisionmaking will continue to reside with the local communities. The committee also notes that with the additional funds authorized in this bill for section 404 hazard mitigation grants, the need for additional appropriations for buyouts should not be necessary.

Sec. 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 Mitigation Grant Program (Section 404). The President is to set the criteria for, and provide for periodic audits of, this program. The committee expects approved mitigation plans to include provisions that will take into account the cost effectiveness of mitigation efforts in comparison to alternative methods of mitigation. 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.

To qualify, States must demonstrate the ability to manage the program effectively and a strong commitment to mitigation. The States must complete a hazard mitigation planning process consistent with the new Section 323 that incorporates local mitigation planning and a proactive identification of mitigation measures. Additionally, States who complete an approved planning process under this Section may receive the additional 5 percent in Hazard Mitigation Grant Program funding described in Section 204.

Sec. 206. Study Regarding Cost Reduction

Section 206 directs the National Academy of Sciences to submit, no later than 3 years after the date of enactment of this Act, a report to Congress that estimates the reduction in Federal disaster assistance that has resulted and is likely to result from the enactment of this Act.

Sec. 207. Fire Management Assistance

Section 207 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 in support of fire management activities. 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 may preclude the need to issue a major disaster or emergency declaration in these situations. As suppression is not always the preferred method of combating a fire, Section 207 redefines the mission of Section 420 from “fire suppression” to “fire management” allowing for the mitigation, management, and control of fires.

Sec. 208. Public Notice, Comment, and Consultation Requirements

Section 208 adds a new Section 325 to the Stafford Act requiring FEMA to provide for public notice and comment before adopting any new or modified policy that governs implementation of the public assistance program and could result in a significant reduction in assistance. This section requires, in defined circumstances and to the maximum extent practicable, the President to solicit the views and recommendations of grantees and subgrantees with respect to major disaster or emergency concerning the potential impacts of the interim policy. This section does not confer nor remove any legal right of action on any party.

Sec. 209. Community Disaster Loans

Section 209 amends Section 417 of the Stafford Act by capping a Community Disaster Loan (CDL) at \$5,000,000. In addition, recipients shall not be eligible for further assistance under Section 417 if the applicant is in arrears with respect to a required payment of a loan under this section.

TITLE III—MISCELLANEOUS

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

Sec. 301. Technical Correction of Short Title

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

Sec. 302. Definitions

Section 302 provides for an updated definition of the term “State.”

Sec. 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 die or are injured on or after the date of enactment of this Act.

Sec. 304. Disaster Grant Closeout Procedures

Section 304 amends Title VII of the Stafford Act by adding procedures for the closeout of Disaster Grants. With the exception in cases of fraud, this section sets a statute of limitations of 3 years on any administrative action to recover disaster payment made to a State or local government. In any dispute arising after the expiration of the 3 year statute of limitation, there shall be presumption that accounting records were adequately maintained absent affirmative evidence to the contrary. Section 304 codifies existing Inspector General regulations and guidelines concerning the length of time for the audit process (3 years).

Sec. 305. Conforming Amendment

Section 305 amends Title II of the Stafford Act by adding "Mitigation."

HEARINGS

No hearings were held on S. 1691.

LEGISLATIVE HISTORY

On October 5, 1999, Senator Inhofe introduced S. 1691, a bill to amend the Robert T. Stafford Disaster Relief Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control Federal costs of disaster assistance, and for other purposes. The committee ordered the bill and a House-passed companion bill, H.R. 707, reported on February 9, 2000 by voice vote.

ROLLCALL VOTES

Section 7(b) of the 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 February 9, 2000, the committee met to consider S. 1691. The bill was agreed to by unanimous consent and was ordered reported by voice vote. No rollcall votes were taken.

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. 1691, as reported, is expected to impose no regulatory impact to individuals or businesses. After implementation of the bill, individuals and businesses will benefit from the planning and incentives created to help make communities more resistant to disasters and make businesses and individuals safer and able to recover from disasters more readily. This bill is likely to result in a reduction of paperwork. 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. 1691 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 follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 4, 2000.

Hon. ROBERT C. SMITH, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

The Congressional Budget Office has prepared the enclosed cost estimate for S. 1691, the Disaster Mitigation Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll (for Federal costs), who can be reached at 226-2860, and Shelley Finlayson (for the State and local impact), who can be reached at 225-3220.

Sincerely,

DAN L. CRIPPEN.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1691, Disaster Mitigation Act of 1999, As ordered reported by the Senate Committee on Environment and Public Works on February 9, 2000

SUMMARY

S. 1691 would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to make changes to existing disaster relief programs and authorize a new program for predisaster mitigation. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1691 would increase discretionary outlays by a total of about \$2 billion over the 2001-2005 period. That amount includes a net increase in discretionary spending of \$112 million for new activities authorized under the bill. The remainder of the estimated net increase in outlays—\$1.9 billion of the 5-year total—would result from provisions that would accelerate spending of future appropriations from the Federal Emergency Management Agency's (FEMA) disaster relief fund, but would not change total spending over the long term.

If the necessary funding for predisaster mitigation efforts is provided and used judiciously, implementing this legislation could lead to savings to the Federal Government by reducing the need for fu-

ture disaster relief funds. CBO cannot estimate the timing or magnitude of such savings because we cannot predict either the frequency or location of major natural disasters. Over the next 10 years, savings could exceed the \$113 million that CBO estimates would be authorized for predisaster mitigation efforts, but we expect that any such savings would be small over the next 5 years.

S. 1691 also would affect direct spending and receipts; therefore, pay-as-you-go procedures would apply. CBO estimates that the changes in direct spending and receipts would be less than \$500,000 a year.

S. 1691 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and, on balance, would benefit State, local, and tribal governments.

DESCRIPTION OF THE LEGISLATION'S MAJOR PROVISIONS

The Stafford Act authorizes FEMA to provide disaster relief and postdisaster mitigation assistance to State, local, and tribal governments, certain private nonprofit organizations (PNPs), and individuals following Presidentially declared major disasters and emergencies. Total spending for these programs has averaged about \$3 billion each year over the past 5 years. Roughly half of that amount typically supports FEMA's Public Assistance program, which provides grants to public entities and PNPs for response and recovery efforts. Under FEMA's Hazard Mitigation Grant Program, jurisdictions affected by disasters also receive grants for postdisaster mitigation, which CBO estimates cost an average of about \$275 million a year. Remaining amounts support disaster relief for individuals and other programs authorized under the Stafford Act.

S. 1691 would make several amendments to the Stafford Act that would affect Federal spending for the Public Assistance program and postdisaster mitigation. Specifically, the bill would change certain eligibility requirements and establish new procedures for determining the amount of disaster assistance that could be provided to applicants under the Public Assistance program. The bill also would authorize FEMA to provide more assistance to certain applicants for hazard mitigation grants.

In addition, S. 1691 would authorize new predisaster mitigation programs. It would authorize FEMA to provide technical and financial assistance to State, local, and tribal governments for predisaster mitigation activities through 2003. The bill also would direct the President to create all-hazard maps, use those maps to designate hazard mitigation zones, and establish an interagency task force, led by the Director of FEMA, to coordinate Federal disaster mitigation programs. Under the bill, FEMA could collect and spend gifts and bequests for predisaster mitigation.

The bill also would direct the National Academy of Sciences (NAS) to study the impact of enacting this legislation and would make other modifications to the Stafford Act. Finally, S. 1691 would expand the definition of a public safety officer to make certain Federal, State, and local employees eligible for Federal death and disability benefits while working under a major disaster or emergency declaration or other hazardous circumstances.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that implementing S. 1691 would result in additional discretionary outlays of about \$2 billion over the 2001–2005 period. The estimated increase in outlays includes \$112 million in net additional costs and \$1.9 billion from the faster spending of future appropriations. Because the faster spending of disaster relief funds would not affect long-term costs, a corresponding net decrease in outlays would occur over the 2006–2010 period. The legislation also would affect direct spending and receipts, but CBO estimates that the net budgetary impact of these provisions would not be significant.

The estimated budgetary impact of most of the provisions in S. 1691 is shown in the following table. The table does not reflect some potential savings and costs from provisions that may affect discretionary spending but for which CBO cannot estimate the likely effects. In particular, we cannot estimate the potential savings in the costs of future disaster relief that may result from the increased spending on predisaster mitigation activities that would be authorized by S. 1691. While such savings could be significant in the long run, we expect that any savings would be small over the next 5 years. The costs of this legislation fall within budget function 450 (community and regional development) and 750 (administration of justice).

By Fiscal Year, in Millions of Dollars

	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION ^a						
Spending for Disaster Relief Under Current Law						
Budget Authority/Estimated Authorization Level ^b	2,765	2,818	2,866	2,920	2,973	3,027
Estimated Outlays	2,711	2,855	2,933	2,866	2,811	2,790
Proposed Changes						
Estimated New Authorizations						
Estimated Authorization Level	0	46	72	42	23	23
Estimated Outlays	0	16	30	15	26	25
Estimated Change in Outlays from Baseline						
Estimated Authorization Level	0	0	0	0	0	0
Estimated Outlays	0	0	0	292	736	895
Spending for Disaster Relief Under S. 1691						
Budget Authority/Estimated Authorization Level	2,765	2,864	2,938	2,962	2,996	3,050
Estimated Outlays	2,711	2,871	2,963	3,173	3,573	3,710

^a S. 1691 also would increase direct spending and revenues, but CBO estimates that such changes would be less than \$500,000 a year.

^b The 2000 level is the amount appropriated for that year, including \$2,471 million for an emergency supplemental appropriation provided in Public Law 106–74. The remainder of the 2000 level is the regular appropriation of \$294 million. The levels shown for 2001 through 2005 are CBO baseline projections assuming increases for anticipated inflation.

BASIS OF ESTIMATE

For the purposes of this estimate, CBO assumes that S. 1691 will be enacted by the end of this fiscal year and that the amounts estimated to be necessary will be appropriated near the start of each fiscal year.

Spending Subject to Appropriation

S. 1691 contains provisions that would result in both discretionary costs and savings to the Federal Government. CBO estimates costs associated with provisions that would:

- Increase the maximum Federal contribution for postdisaster mitigation costs,
- Authorize new spending for predisaster hazard mitigation efforts, and
- Require the NAS to complete a study and a report.

CBO estimates savings associated with provisions that would:

- Allow FEMA to use the estimated cost of facility repairs rather than the actual cost,
- Require certain PNPs to apply to the SBA for disaster loans, and
- Reduce the Federal share of public assistance provided to repair certain repetitively damaged structures.

CBO cannot estimate the effects of provisions that would:

- Achieve long-run savings associated with the predisaster mitigation efforts,
- Strengthen the existing insurance requirement for recipients of public assistance grants,
- Decrease the size of payments that could be offered to public assistance applicants in lieu of grants to repair or replace damaged facilities,
- Establish standardized rates for reimbursement of management costs, and
- Authorize FEMA to allow States to administer postdisaster mitigation programs.

In addition, CBO estimates that outlays would be accelerated by allowing the President to disburse future appropriations for disaster relief to public entities and PNPs before projects are completed, based on the estimated cost rather than on the actual cost.

Provisions with Estimated Costs. CBO estimates that several provisions of S. 1691 would increase Federal funding for postdisaster and predisaster mitigation efforts. For example, the bill would increase funding for grants to public entities and certain PNPs for postdisaster mitigation efforts following a major disaster or emergency declaration. The size of those grants is based on the total amount of disaster assistance provided within each State covered by the declaration. CBO estimates that FEMA spends an average of about \$275 million annually for such grants. Under S. 1691, if States have an approved mitigation plan, FEMA could increase grants to those States by one-third. Assuming that most States would become eligible for this higher rate over the next 3 years, CBO estimates that this provision would require additional appropriations totaling \$288 million over the 2001–2005 period and that outlays would total \$182 million during that period.

CBO estimates that the new predisaster mitigation initiatives authorized by S. 1691 would increase Federal outlays by a total of \$113 million over the next 5 years. Based on information from FEMA, we estimate that implementing the new 3-year program for grants to State and local governments would require \$27 million in

new budget authority in fiscal year 2001 and \$30 million in each of the fiscal years 2002 and 2003. CBO estimates that activities relating to mapping, designating, and managing hazard mitigation zones would cost at least \$5 million in 2001 and \$4 million each year thereafter. Finally, we estimate the interagency task force established to coordinate mitigation programs would cost about \$1 million annually.

Based on information from the NAS, CBO estimates that conducting a study on the effects of this legislation would cost about \$1 million in 2003.

Provisions with Estimated Savings. CBO estimates that implementing certain changes to FEMA's Public Assistance program would reduce discretionary spending for disaster relief over the 2001–2005 period. For example, the bill would streamline the process for determining the size of public assistance grants by authorizing FEMA to base such grants on the estimated cost of repairing or replacing a public facility rather than the actual cost. Based on information from FEMA, we estimate that the net impact of this provision would be to reduce the costs of administering grants for public assistance by between 15 percent to 20 percent once the new procedures are in place. We expect that administrative savings would not occur before fiscal year 2003 because S. 1691 would first require the President to establish an expert panel to develop procedures for estimating the cost of repairing or replacing a facility. FEMA would likely incur some additional costs for operating the expert panel, estimating the cost of repairs with more precision, and evaluating the accuracy of estimates. Assuming that FEMA spends about \$300 million a year to administer the Public Assistance program, CBO estimates that implementing this provision would result in net administrative savings of about \$138 million over the 2003–2005 period.

Allowing FEMA to substitute the estimated cost for the actual cost in providing disaster relief to public entities and PNPs also could affect both the amount and the timing of assistance provided. Under the legislation, FEMA could receive compensation for overpayments or provide additional assistance for underpayments if the actual costs of a project do not fall within a certain range. The expert panel established under the bill would determine the parameters that would define the ranges that would apply to different projects. Using an estimated cost could substantially increase or decrease the Federal Government's cost to repair or replace public facilities if these estimates consistently fall below or above the actual costs of such projects. Because the Federal Government spends over a \$1 billion each year on such projects, a bias of 10 percent in either direction would change the annual cost of disaster relief by more than \$100 million. Because we have no basis for predicting a bias in either direction, CBO cannot estimate the net change in the cost of disaster relief projects from substituting estimates for actual costs.

The bill also would require certain PNPs to apply to the Small Business Administration (SBA) for disaster loans before requesting public assistance from FEMA's disaster relief fund. Based on information from FEMA and the SBA, CBO estimates that under this provision, about 100 PNPs would receive SBA loans instead of dis-

aster relief grants, resulting in additional loans totaling about \$8 million. We estimate that this change would yield net savings of approximately \$6 million per year from 2001 through 2005. The savings would result because the government would, in some cases, be providing loans instead of grants to these institutions. The estimated savings is the difference between the reduction in FEMA assistance and the SBA's subsidy cost for the new loans.

Other provisions would amend current law to authorize FEMA to reduce disaster assistance for certain repetitively damaged public and PNP structures. Under current law, FEMA may provide up to 75 percent of the cost of repairing or replacing structures owned by public entities or PNPs. S. 1691 would authorize the President to reduce this share if Federal funds have been used at least twice to repair damage caused by the same type of event and if the owner of the facility has not implemented appropriate mitigation measures. Based on historical data and information from FEMA, CBO estimates that this provision would result in savings of at least \$4 million each year starting in fiscal year 2002. Savings could potentially be higher, but CBO does not have sufficient basis to estimate the magnitude or timing of such additional savings.

Provisions with Effects CBO Cannot Estimate. CBO does not have sufficient basis to project potential budgetary effects of some provisions of S. 1691 because they depend upon the extent and nature of future disasters, the manner in which the Administration would implement certain provisions, and the extent to which States would participate in certain programs.

CBO cannot estimate the potential savings associated with the predisaster mitigation efforts proposed in this legislation. Mitigation efforts could achieve significant savings if damages from future disasters are lessened as a result of the predisaster mitigation measures provided for in the legislation, although we expect that any savings in the first 5 years would be small.

S. 1691 would clarify and strengthen existing rules requiring insurance for certain public and PNP properties. Under current law, owners of such properties who receive disaster assistance must maintain insurance in order to qualify for additional assistance for damage caused by subsequent events. According to FEMA, this requirement is often waived by State insurance commissioners and thus is not strictly enforced by the agency. S. 1691 would direct the President to promulgate new regulations to enforce the requirement. If the new insurance rule is strictly enforced, FEMA could reduce Federal payments for public assistance. Because it is uncertain how this provision would be implemented, CBO has no basis for estimating the amount of potential savings that would result from reducing the amount of public assistance provided to uninsured properties.

The bill also would lower the amount of general assistance that FEMA could provide to public entities and owners of PNPs in lieu of the Federal Government's share of the cost to repair or replace a facility. Under current law, applicants for public assistance can elect to receive a payment equal to 90 percent of the Federal Government's expected costs to repair or replace a damaged facility. S. 1691 would lower that rate to 75 percent. While lowering the contribution rate would decrease disaster relief costs in cases where

applicants continue to accept in-lieu contributions, it also could increase costs in those cases where they choose to forgo those contributions and seek the full Federal share of repair costs instead. The two effects could offset one another. The budgetary impact of this provision would depend on choices made by non-Federal entities; thus, CBO has no basis for estimating whether this provision would increase or decrease Federal costs.

S. 1691 would direct the President establish standardized reimbursement rates for indirect costs incurred by grantees but not chargeable to a specific project. Because it is uncertain how these rates would be established, CBO has no basis for estimating the amount of potential savings.

Finally, under S. 1691, States could request permission from FEMA to administer postdisaster mitigation programs. Federal costs could be reduced if States absorbed some of FEMA's administrative costs without reimbursement. CBO has no basis, however, for predicting whether States would pursue this option or for estimating the timing or magnitude of potential administrative savings to FEMA.

Provision Affecting the Timing of Outlays. CBO estimates that S. 1691 would substantially increase the rate at which new budget authority is spent from the disaster relief fund. Under current law, funds appropriated for such assistance are often spent years later. But we expect that disbursements would occur more rapidly because of the provision allowing FEMA to provide funds for disaster relief to public entities and PNPs based on an estimate of a project's costs rather than on its actual costs. (This provision would not apply to FEMA's current balances of previously appropriated funds.) CBO estimates that this change would result in a net increase in outlays of about \$1.9 billion over the 2001–2005 period, but that it would have no net effect over the long run. Because S. 1691 would require the President to convene an expert panel and establish rules for the new process, CBO assumes that this provision would not affect spending for disasters that occur before fiscal year 2003.

Direct Spending

Two provisions in S. 1691 would affect direct spending. First, the bill would increase direct spending by allowing FEMA to spend, without further appropriation, any money donated as gifts and bequests for predisaster mitigation efforts. Based on information from FEMA, CBO estimates that such spending would be negligible in any single year.

The bill also would amend current law to expand the definition of "public safety officer" to include certain employees of FEMA and State and local emergency management agencies. Under current law, families of public safety officers who are killed in the line of duty are eligible to receive a payment of \$146,949 (fiscal year 2000 dollars). Such payments are considered to be direct spending. Based on information from FEMA and State and local emergency management groups, CBO estimates that any increase in direct spending resulting from this provision would not exceed \$500,000 in any year.

Revenues

S. 1691 would allow FEMA to accept gifts and donations for predisaster mitigation efforts. These amounts would be recorded in the budget as governmental receipts (revenues) and the use of any such amounts under this bill would be direct spending. As described above, CBO estimates that such donations would not be significant in any single year.

Pay-As-You-Go Considerations

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Pay-as-you-go procedures would apply to S. 1691 because it would allow FEMA to accept and use gifts and bequests for predisaster mitigation and would make certain FEMA and State and local emergency management employees eligible for Federal death benefits. CBO estimates that these provisions would have no significant effect on direct spending or receipts.

Estimated Impact on State, Local, and Tribal Governments

S. 1691 contains no intergovernmental mandates as defined in UMRA and, on balance, would benefit State, local, and tribal governments. The bill would authorize a predisaster mitigation program to provide technical and financial assistance to qualified State, local, and tribal governments and would increase the maximum Federal contribution for mitigation costs from 15 percent to 20 percent for States with FEMA-approved mitigation plans. Although some costs to State, local, and tribal governments would likely result from certain provisions of the bill (as discussed above as potential savings to the Federal Government), CBO expects that such costs would be more than offset by the budgetary benefits generated by the bill.

Estimated Impact on the Private Sector

The legislation would impose no new private-sector mandates as defined in UMRA.

Previous CBO Estimate

On March 15, 1999, CBO transmitted a cost estimate for H.R. 707 as passed by the House of Representatives on March 4, 1999. At that time, CBO estimated that implementing H.R. 707 would increase discretionary spending by a total of \$2 billion over 5 years. That amount included about \$700 million in new spending and about \$1.3 billion in accelerated spending from FEMA's disaster relief fund. In contrast, we assume that implementing S. 1691 would result in additional spending of \$2 billion over 5 years, including \$112 million in net new spending and about \$1.9 billion in accelerated outlays.

The estimate of new discretionary spending under H.R. 707 is higher because that act would authorize more spending than S. 1691, particularly for postdisaster hazard mitigation. The estimated impact of accelerated spending for disaster relief under S. 1691 is higher than our estimate for H.R. 707 because funding for disaster relief for 2000 increased significantly from the 1999 level. At the time of the previous estimate, the Congress had provided

about \$1.2 billion for disaster relief, compared to about \$2.7 billion for the current year.

Estimate Prepared by: Federal Costs: Megan Carroll and Mark Grabowicz (226–2860); Impact on State, Local, and Tribal Governments: Shelley Finlayson (225–3220); Impact on the Private Sector: Jean Wooster (226–2940).

Estimate Approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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 “Robert T. Stafford Disaster Relief and Emergency Assistance Act”.

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

FINDINGS AND DECLARATIONS

SEC. 101. (a) The Congress hereby finds and declares that—

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 5121 note)

DEFINITIONS

SEC. 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.

(D) Any park.

(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.

(10) CRITICAL INFRASTRUCTURE.—*The term “critical infrastructure” has the meaning given the term by the President, but includes, at a minimum, the provision of power, water (including water provided by a nongovernment entity), sewer, wastewater treatment, communications, and essential medical care.*

(42 U.S.C. 5122)

【TITLE II—DISASTER PREPAREDNESS ASSISTANCE】

TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

SEC. 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 preparedness program, and shall, through such agency, submit a State plan to the President, which shall—

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

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

(d) 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.

(42 U.S.C. 5131)

DISASTER WARNINGS

SEC. 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.

(42 U.S.C. 5132)

SEC. 203. PREDISASTER HAZARD MITIGATION.

(a) *IN GENERAL.*—The Director of the Federal Emergency Management Agency (referred to in this section as the “Director”) may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures designed to reduce injuries, loss of life, and damage and destruction of property, including dam-

age to critical infrastructure and facilities under the jurisdiction of the States or local governments.

(b) *APPROVAL BY DIRECTOR.*—If the Director determines that a State or local government has identified all natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the Director, using amounts in the National Predisaster Mitigation Fund established under subsection (e) (referred to in this section as the ‘Fund’), may provide technical and financial assistance to the State or local government to be used in accordance with subsection (c).

(c) *USES OF TECHNICAL AND FINANCIAL ASSISTANCE.*—Technical and financial assistance provided under subsection (b)—

(1) shall be used by States and local governments principally to implement predisaster hazard mitigation measures described in proposals approved by the Director under this section; and

(2) may be used—

(A) to support effective public-private natural disaster hazard mitigation partnerships;

(B) to ensure that new development and construction is resistant to natural disasters;

(C) to improve the assessment of a community’s vulnerability to natural hazards; or

(D) to establish hazard mitigation priorities, and an appropriate hazard mitigation plan, for a community.

(d) *CRITERIA FOR ASSISTANCE AWARDS.*—In determining whether to provide technical and financial assistance to a State or local government under subsection (a), the Director shall take into account—

(1) the extent and nature of the hazards to be mitigated;

(2) the degree of commitment of the State or local government to reduce damages from future natural disasters; and

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

(e) *NATIONAL PREDISASTER MITIGATION FUND.*—

(1) *ESTABLISHMENT.*—The Director may establish in the Treasury of the United States a fund to be known as the ‘National Predisaster Mitigation Fund’, to be used in carrying out this section.

(2) *TRANSFERS TO FUND.*—There shall be deposited in the Fund—

(A) amounts appropriated to carry out this section, which shall remain available until expended; and

(B) sums available from gifts, bequests, or donations of services or property received by the Director for the purpose of predisaster hazard mitigation.

(3) *EXPENDITURES FROM FUND.*—Upon request by the Director, the Secretary of the Treasury shall transfer from the Fund to the Director such amounts as the Director determines are necessary to provide technical and financial assistance under this section.

(4) INVESTMENT OF AMOUNTS.—

(A) *IN GENERAL.*—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(B) *ACQUISITION OF OBLIGATIONS.*—For the purpose of investments under subparagraph (A), obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(C) *SALE OF OBLIGATIONS.*—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(D) *CREDITS TO FUND.*—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(E) TRANSFERS OF AMOUNTS.—

(i) *IN GENERAL.*—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(ii) *ADJUSTMENTS.*—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) *MAXIMUM TOTAL FEDERAL SHARE.*—Subject to subsection (g), the amount of financial assistance provided from the Fund shall not exceed an amount equal to 75 percent of the total costs of all hazard mitigation proposals approved by the Director under this section.

(g) *LIMITATION ON TOTAL AMOUNT OF FINANCIAL ASSISTANCE.*—The Director shall not provide financial assistance under this section in an amount greater than the amount available in the Fund.

(h) *TERMINATION OF AUTHORITY.*—The authority provided by this section terminates December 31, 2003.

SEC. 204. NATURAL DISASTER MITIGATION ZONES.

(a) DESIGNATION.—

(1) *IN GENERAL.*—In consultation with States, local governments, and appropriate Federal agencies, the President shall designate as a natural disaster mitigation zone each area in which commonly recurring natural hazards (including flooding, hurricanes and severe winds, seismic events, and other hazards) create a substantial likelihood of disasters that may require assistance under this Act.

(2) *FLOOD AND WIND ZONES.*—At a minimum, the President shall designate as a natural disaster mitigation zone each coastal flood zone identified on a map prepared under the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et

seq.) that is also within a wind zone that is identified by the American Society of Civil Engineers under ASCE 7-98 (or a successor document) and that has commonly recurring winds in excess of 90 miles per hour.

(3) INTEGRATION AND DEVELOPMENT OF ALL-HAZARD MAPS.—

(A) IN GENERAL.—To carry out paragraphs (1) and (2), the President shall direct all appropriate Federal agencies that gather information relating to natural resources and natural and technological hazards to integrate, or develop and maintain, comprehensive all-hazard maps using geographic information systems technology.

(B) COORDINATOR.—The President shall designate the Director of the Federal Emergency Management Agency to serve as coordinator of the activities carried out under subparagraph (A).

(C) AVAILABILITY TO THE PUBLIC.—The maps and other resources developed under subparagraph (A) shall be made available to the public.

(b) DISASTER MITIGATION POLICIES AND PRACTICES.—

(1) IN GENERAL.—In order to reduce the likelihood or severity of damage from the hazards anticipated to occur in natural disaster mitigation zones designated under subsection (a), the President shall assign to the Director of the Federal Emergency Management Agency the primary responsibility for identifying disaster mitigation policies and practices for implementation in natural disaster mitigation zones.

(2) POLICIES AND PRACTICES.—The policies and practices referred to in paragraph (1) shall include—

(A) nationally mandated policies and practices comparable to—

(i) Executive Order No. 11988 (42 U.S.C. 4321 note; relating to floodplain management);

(ii) Executive Order No. 12699 (55 Fed. Reg. 835; relating to seismic safety of Federal and federally assisted or regulated new building construction); and

(iii) Executive Order No. 12941 (59 Fed. Reg. 232; relating to seismic safety of existing federally owned or leased buildings); and

(B) recommended voluntary minimum model building codes, consensus standards, test methods, and specifications, such as those established by—

(i) the International Code Council and its member organizations;

(ii) the National Fire Protection Association;

(iii) the American National Standards Institute;

(iv) the American Society of Testing Materials; and

(v) the American Society of Civil Engineers.

(c) CONDITIONS ON FEDERAL FUNDING OF NEW FEDERAL BUILDINGS.—*Each Federal agency responsible for the design and construction of any new Federal building in a natural disaster mitigation zone shall ensure that the building is designed and constructed in accordance with the policies and practices, voluntary minimum*

model building codes, consensus standards, test methods, and specifications identified under subsection (b).

(d) INCENTIVES.—

(1) IN GENERAL.—The President may provide incentives—

(A) to encourage owners of buildings located in a natural disaster mitigation zone that are not subject to subsection (c) to implement the mitigation policies identified under subsection (b); and

(B) to encourage the owners of buildings located in a natural disaster mitigation zone to build or modify the buildings in a manner that is likely to produce more hazard mitigation benefits than the minimum requirements of the mitigation policies identified under subsection (b).

(2) TYPES OF INCENTIVES.—Incentives provided under paragraph (1) may include—

(A) lower premiums for Federal flood insurance under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.);

(B) more favorable financing through Federal loans, loan guarantees, and insured loans; and

(C) other incentives within the authority of the President or any Federal agency to provide.

(e) IMPLEMENTATION.—Not later than 18 months after the date of enactment of this section, each Federal agency that provides financing, insurance, or other assistance for the construction, modification, or acquisition of buildings in natural disaster mitigation zones shall issue regulations to carry out this section.

SEC. 205. INTERAGENCY TASK FORCE.

(a) IN GENERAL.—The President shall establish a Federal interagency task force for the purpose of coordinating the implementation of predisaster hazard mitigation programs administered by the Federal Government.

(b) CHAIRPERSON.—The Director of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

(c) MEMBERSHIP.—The membership of the task force shall include representatives of State and local government organizations and the American Red Cross.

TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINIS- TRATION

SEC. 301. WAIVER OF ADMINISTRATIVE CONDITIONS.

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

SEC. 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.

(42 U.S.C. 5143)

EMERGENCY SUPPORT TEAMS

SEC. 303. The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

(42 U.S.C. 5144)

REIMBURSEMENT

SEC. 304. Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this Act shall

be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(42 U.S.C. 5147)

NONLIABILITY

SEC. 305. The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this Act.

(42 U.S.C. 5148)

PERFORMANCE OF SERVICES

SEC. 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.

(42 U.S.C. 5149)

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 307. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency. This section shall not be considered to restrict the use of Department of Defense resources in the provision of major disaster assistance under this Act.

(42 U.S.C. 5150)

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 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.

(42 U.S.C. 5151)

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 309. (a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

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

(42 U.S.C. 5152)

SEC. 310. PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE.

(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.

(42 U.S.C. 5153)

SEC. 311. INSURANCE.

(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]

(A) *IN GENERAL.*—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) *REQUIRED INSURANCE OR SELF-INSURANCE.*—Not later than 1 year after the date of enactment of this subparagraph, the President shall promulgate regulations under which States, communities, and other applicants subject to paragraph (1) shall be required to protect property through adequate levels of insurance or self-insurance if—

(i) the appropriate State insurance commissioner makes the certification described in subparagraph (A); and

(ii) the President determines that the property is not adequately protected against natural or other disasters.

(C) *REGULATIONS.*—*In promulgating any new regulation requiring public structures to be insured to be eligible for assistance, the President shall—*

(i) include in the regulation—

(I) definitions relating to insurance that are expressed in known and generally accepted terms;

(II) a definition of “adequate insurance”;

(III) the specific criteria for a waiver of any insurance eligibility requirement under the regulation;

(IV) a definition of “self-insurance” that is sufficiently flexible to take into consideration alternative risk financing methods;

(V) available market research used in determining the availability of insurance; and

(VI) a cost-benefit analysis; and

(ii) consider—

(I) alternative risk-financing mechanisms, including risk sharing pools and self-insurance; and

(II) the use of independent experts in insurance, disaster preparedness, risk management, and finance to assist in developing the proposed regulation.

(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.

(42 U.S.C. 5154)

SEC. 312. DUPLICATION OF BENEFITS.

(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 assist-

ance 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.

(42 U.S.C. 5155)

SEC. 313. STANDARDS AND REVIEWS.

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.

(42 U.S.C. 5156)

SEC. 314. PENALTIES.

(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, in-

cluding 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.

(42 U.S.C. 5157)

AVAILABILITY OF MATERIALS

SEC. 315. The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section “construction materials” shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

(42 U.S.C. 5158)

SEC. 316. PROTECTION OF ENVIRONMENT.

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.

(42 U.S.C. 5159)

SEC. 317. RECOVERY OF ASSISTANCE.

(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.

(42 U.S.C. 5160)

SEC. 318. AUDITS AND INVESTIGATIONS.

(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.

(42 U.S.C. 5161)

SEC. 319. ADVANCE OF NON-FEDERAL SHARE.

(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.

(42 U.S.C. 5162)

SEC. 320. LIMITATION ON USE OF SLIDING SCALES.

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.

(42 U.S.C. 5163)

SEC. 321. RULES AND REGULATIONS.

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.

(42 U.S.C. 5164)

SEC. 322. MANAGEMENT COSTS.

(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 disaster preparedness or mitigation 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 (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.*

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

SEC. 323. MITIGATION PLANNING.

(a) **REQUIREMENT OF MITIGATION PLAN.**—*As a condition of receipt of a disaster loan or grant under this Act, a State, local, or tribal government shall develop and submit for approval to the Director of the Federal Emergency Management Agency a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.*

(b) **LOCAL AND TRIBAL PLANS.**—*Each mitigation plan developed by a local or tribal government shall—*

(1) describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and

(2) establish a strategy to implement those actions.

(c) **STATE PLANS.**—*The State process of development of a mitigation plan under this section shall—*

(1) identify the natural hazards, risks, and vulnerabilities of areas in the State;

(2) support development of local mitigation plans;

(3) provide for technical assistance to local and tribal governments for mitigation planning; and

(4) identify and prioritize mitigation actions that the State will support, as resources become available.

(d) **FUNDING.**—

(1) **IN GENERAL.**—Federal contributions under section 404 may be used to fund the development and updating of mitigation plans under this section.

(2) **MAXIMUM FEDERAL CONTRIBUTION.**—With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 404 not to exceed 5 percent of the amount of such contributions available to the government as of a date determined by the government.

(e) **INCREASED FEDERAL SHARE FOR HAZARD MITIGATION MEASURES.**—If, at the time of the declaration of a major disaster, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster, the maximum percentage specified in the last sentence of section 404(a).

SEC. 324. HAZARD RESISTANT CONSTRUCTION STANDARDS.

(a) **IN GENERAL.**—As a condition of receipt of a disaster loan or grant under this Act—

(1) the recipient shall carry out any repair or construction to be financed with the loan or grant in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards; and

(2) the President may require safe land use and construction practices, after adequate consultation with appropriate State and local government officials.

(b) **EVIDENCE OF COMPLIANCE.**—A recipient of a disaster loan or grant under this Act shall provide such evidence of compliance with this section as the President may require by regulation.

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

(a) **PUBLIC NOTICE AND COMMENT CONCERNING NEW OR MODIFIED POLICIES.**—

(1) **IN GENERAL.**—The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that—

(A) governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this Act; and

(B) could result in a significant reduction of assistance under the program.

(2) **APPLICATION.**—Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.

(b) CONSULTATION CONCERNING INTERIM POLICIES.—Before adopting any interim policy under the public assistance program to address specific conditions that relate to a major disaster or emergency that has been declared under this Act, the President, to the maximum extent practicable, shall solicit the views and recommendations of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely—

(1) to result in a significant reduction of assistance to applicants for the assistance with respect to the major disaster or emergency; or

(2) to change the terms of a written agreement to which the Federal Government is a party concerning the declaration of the major disaster or emergency.

(c) PUBLIC ACCESS.—The President shall promote public access to policies governing the implementation of the public assistance program.

(d) NO LEGAL RIGHT OF ACTION.—Nothing in this section confers a legal right of action on any party.

TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

SEC. 401. PROCEDURE FOR DECLARATION.

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.

(42 U.S.C. 5170)

SEC. 402. GENERAL FEDERAL ASSISTANCE.

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.

(42 U.S.C. 5170a)

SEC. 403. ESSENTIAL ASSISTANCE.

(a) **IN GENERAL.**—Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

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

(2) **MEDICINE, FOOD, AND OTHER CONSUMABLES.**—Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, food, and other consumable supplies, and other services and assistance to disaster victims.

(3) **WORK AND SERVICES TO SAVE LIVES AND PROTECT PROPERTY.**—Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including—

(A) debris removal;

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

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

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

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

(F) warning of further risks and hazards;

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

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

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

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

(b) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

(c) UTILIZATION OF DOD RESOURCES.—

(1) GENERAL RULE.—During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, 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.

(42 U.S.C. 5170b)

SEC. 404. HAZARD MITIGATION.

(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] *section 323* 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 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) having in effect an approved mitigation plan under section 323; 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.

(42 U.S.C. 5170c)

FEDERAL FACILITIES

SEC. 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.

(42 U.S.C. 5171)

SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.

[(a) CONTRIBUTIONS.—The President may make contributions—

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

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

(a) CONTRIBUTIONS.—

(1) IN GENERAL.—

(A) AUTHORITY.—*The President may make contributions—*

(i) 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 associated expenses incurred by the government; and

(ii) subject to paragraph (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 associated expenses incurred by the person.

(B) ASSOCIATED EXPENSES.—*For the purposes of this section, associated expenses shall include—*

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

(ii) 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;

(iii) base and overtime wages for employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the major disaster; and

(iv) other expenses determined appropriated by the President.

(2) CONDITIONS FOR ASSISTANCE FOR PRIVATE NONPROFIT FACILITIES.—*The President may make contributions for a private nonprofit facility under paragraph (1)(B) only if—*

(A) the facility provides critical infrastructure in the event of a major disaster;

(B) the person that owns or operates the facility—

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

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

(C) the person that owns or operates the facility has obtained such a loan in the maximum amount for which the Small Business Administration determines the facility is eligible.

(3) *NOTIFICATION TO CONGRESS.*—Before making any contribution under this section in an amount greater than \$20,000,000, the President shall notify—

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

(B) the Committee on Appropriations of the Senate;

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

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

[(b) *MINIMUM FEDERAL SHARE.*—The Federal share of assistance under this section shall be not less than—

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

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

[(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5).]

(b) *FEDERAL SHARE.*—

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

(2) *REDUCED FEDERAL SHARE.*—The President shall promulgate regulations to reduce the Federal share of assistance under this section in the case of the repair, restoration, reconstruction, or replacement of any eligible public or private non-profit facility—

(A) that has previously been damaged, on more than 1 occasion, by the same type of event; and

(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

[(c) *LARGE IN LIEU CONTRIBUTIONS.*—

[(1) *FOR PUBLIC FACILITIES.*—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 facil-

ity, 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.]

(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), 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.*—

(i) *IN GENERAL.*—*Subject to clause (ii), 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.*

(ii) *LIMITATIONS.*—*Funds made available to a State or local government under this paragraph may not be used for—*

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

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

(2) *FOR PRIVATE NONPROFIT FACILITIES.*—

(A) *IN GENERAL.*—*In any case in which a person that owns or operates a private nonprofit facility determines that the public welfare would not 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)(1)(B), 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.—

(i) **IN GENERAL.**—Subject to clause (ii), 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 owned or operated by the person, or to fund hazard mitigation measures, that the person determines to be necessary to meet a need for services and functions in the area affected by the major disaster.

(ii) **LIMITATIONS.**—Funds made available to a person under this paragraph may not be used for—

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

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

(d) FLOOD INSURANCE.—

(1) **REDUCTION OF FEDERAL ASSISTANCE.**—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, 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.—

(i) IN GENERAL.—Subject to paragraph (2), the President shall use the cost estimation procedures developed under paragraph (3) to determine the eligible cost under this subsection.

(ii) APPLICABILITY.—The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 422.

(2) MODIFICATION OF ELIGIBLE COST.—

(A) ACTUAL COST GREATER THAN CEILING PERCENTAGE OF ESTIMATED COST.—*In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair,*

restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).

(B) ACTUAL COST LESS THAN ESTIMATED COST.—

(i) GREATER THAN OR EQUAL TO FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than 100 percent of the cost estimated under paragraph (1), but is greater than or equal to the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving funds under this section shall use the excess funds to carry out cost-effective activities that reduce the risk of future damage, hardship, or suffering from a major disaster.

(ii) LESS THAN FLOOR PERCENTAGE OF ESTIMATED COST.—In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.

(C) NO EFFECT ON APPEALS PROCESS.—Nothing in this paragraph affects any right of appeal under section 423.

(3) EXPERT PANEL.—

(A) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this paragraph, the President, acting through the Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

(B) DUTIES.—The expert panel shall develop recommendations concerning—

(i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and

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

(C) REGULATIONS.—Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations to establish procedures and the ceiling and floor percentages referred to in paragraph (2).

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

(E) REPORT TO CONGRESS.—Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 2 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to

Congress a report on the appropriateness of the cost estimation procedures.

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

[(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.】

(42 U.S.C. 5172)

DEBRIS REMOVAL

SEC. 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.

(42 U.S.C. 5173)

SEC. 408. TEMPORARY HOUSING ASSISTANCE.

(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.

(42 U.S.C. 5174)

【MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES

【SEC. 409. As a condition of any disaster loan or grant made under the provisions of this Act, the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.】

(42 U.S.C. 5176)

UNEMPLOYMENT ASSISTANCE

SEC. 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 unem-

ployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) REEMPLOYMENT ASSISTANCE.—

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

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

(42 U.S.C. 5177)

SEC. 411. INDIVIDUAL AND FAMILY GRANT PROGRAMS.

(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.

(42 U.S.C. 5178)

FOOD COUPONS AND DISTRIBUTION

SEC. 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.

(42 U.S.C. 5179)

FOOD COMMODITIES

SEC. 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.

(42 U.S.C. 5180)

RELOCATION ASSISTANCE

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

as determined by the President, to meet the occupancy requirements set by such Act.

(42 U.S.C. 5181)

LEGAL SERVICES

SEC. 415. Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this Act, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

(42 U.S.C. 5182)

CRISIS COUNSELING ASSISTANCE AND TRAINING

SEC. 416. The President is authorized to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

(42 U.S.C. 5183)

COMMUNITY DISASTER LOANS

SEC. 417. [(a) The President]

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

(b) *AMOUNT.*—*The amount* of any such loan shall be based on need, **[and shall]** *shall* not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, *and shall not exceed \$5,000,000.* **[Repayment]**

(c) *REPAYMENT.*—

(1) *CANCELLATION.*—*Repayment* of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(2) *CONDITION ON CONTINUING ELIGIBILITY.*—*A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.*

[(b) Any loans]

(d) *EFFECT ON OTHER ASSISTANCE.*— Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

(42 U.S.C. 5184)

EMERGENCY COMMUNICATIONS

SEC. 418. The President is authorized during, or in anticipation of, an emergency or major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

(42 U.S.C. 5185)

EMERGENCY PUBLIC TRANSPORTATION

SEC. 419. The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

(42 U.S.C. 5186)

【FIRE SUPPRESSION GRANTS

【SEC. 420. The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.】

SEC. 420. FIRE MANAGEMENT ASSISTANCE.

(a) *IN GENERAL.*—The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland with urban interface that threatens such destruction as would constitute a major disaster.

(b) *COORDINATION WITH STATE DEPARTMENTS OF FORESTRY.*—In providing assistance under this section, the President shall coordinate with State departments of forestry.

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

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

(42 U.S.C. 5187)

TIMBER SALE CONTRACTS

SEC. 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.

(42 U.S.C. 5188)

SEC. 422. SIMPLIFIED PROCEDURE.

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.

(42 U.S.C. 5189)

SEC. 423. APPEALS OF ASSISTANCE DECISIONS.

(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.

(42 U.S.C. 5189a)

SEC. 424. DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER.

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.

(42 U.S.C. 5189b)

TITLE V—EMERGENCY ASSISTANCE PROGRAMS

SEC. 501. PROCEDURE FOR DECLARATION.

(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 exer-

cises 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).

(42 U.S.C. 5191)

SEC. 502. FEDERAL EMERGENCY ASSISTANCE.

(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.

(42 U.S.C. 5192)

SEC. 503. AMOUNT OF ASSISTANCE.

(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.

(42 U.S.C. 5193)

TITLE VI—EMERGENCY PREPAREDNESS

SEC. 601. DECLARATION OF POLICY.

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.

(42 U.S.C. 5195)

SEC. 602. DEFINITIONS.

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

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

(A) a natural disaster; or

(B) an accidental or man-caused event.

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

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

restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 5195a)

SEC. 603. ADMINISTRATION OF TITLE.

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

(42 U.S.C. 5195b)

Subtitle A—Powers and Duties

SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.

(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 $\frac{1}{2}$ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 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.

(42 U.S.C. 5196)

SEC. 612. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES.

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.

(42 U.S.C. 5196a)

SEC. 613. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.

(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.

SEC. 614. REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS.

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.

(42 U.S.C. 5196c)

SEC. 615. USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS.

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.

(42 U.S.C. 5196d)

Subtitle B—General Provisions

SEC. 621. ADMINISTRATIVE AUTHORITY.

(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.

(42 U.S.C. 5197)

SEC. 622. SECURITY REGULATIONS.

(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.

(42 U.S.C. 5197a)

SEC. 623. USE OF EXISTING FACILITIES.

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.

(42 U.S.C. 5197b)

SEC. 624. ANNUAL REPORT TO CONGRESS.

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.

(42 U.S.C. 5197c)

SEC. 625. APPLICABILITY OF TITLE.

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.

(42 U.S.C. 5197d)

SEC. 626. AUTHORIZATION OF APPROPRIATIONS AND TRANSFERS OF FUNDS.

(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.

(42 U.S.C. 5197e)

SEC. 627. RELATION TO ATOMIC ENERGY ACT OF 1954.

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.).

(42 U.S.C. 5197f)

SEC. 628. FEDERAL BUREAU OF INVESTIGATION.

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.

(42 U.S.C. 5197g)

TITLE VII—MISCELLANEOUS**AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS**

SEC. 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.

(42 U.S.C. 5101)

SEC. 702. [Amended various other Acts].**REPEAL OF EXISTING LAW**

SEC. 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

SEC. 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.

SEC. 705. DISASTER GRANT CLOSEOUT PROCEDURES.

(a) *STATUTE OF LIMITATIONS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this Act shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency.

(2) *FRAUD EXCEPTION.*—The limitation under paragraph (1) shall apply unless there is evidence of civil or criminal fraud.

(b) *REBUTTAL OF PRESUMPTION OF RECORD MAINTENANCE.*—

(1) *IN GENERAL.*—In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.

(2) *AFFIRMATIVE EVIDENCE.*—The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.

(3) *INABILITY TO PRODUCE DOCUMENTATION.*—The inability of the Federal, State, or local government to produce source documentation supporting expenditure reports later than 3 years after the date of the transmission of the final expenditure report shall not constitute evidence to rebut the presumption described in paragraph (1).

(4) *RIGHT OF ACCESS.*—The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3-year retention period referred to in paragraph (3), but shall last as long as the records are maintained.

(c) *BINDING NATURE OF GRANT REQUIREMENTS.*—A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this Act if—

(1) the payment was authorized by an approved agreement specifying the costs;

(2) the costs were reasonable; and

(3) the purpose of the grant was accomplished.

* * * * *

UNITED STATES CODE—TITLE 42—THE PUBLIC HEALTH AND WELFARE

CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

SUBCHAPTER XII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

PART A—DEATH BENEFITS

* * * * *

§ 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) *an employee of the Federal Emergency Management Agency who is performing official duties of the Agency in an area, if those official duties—*

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

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

(C) an employee of a State 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.

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