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COLLECTION TITLE:
Counsel's Office, White House

SERIES:
Kavanaugh, Brett - Subject Files

FOLDER TITLE:
President's Emergency Powers

FRC ID:
9804

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U.S. Department of Justice

Office of Legal Counsel

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

September 13, 2001

MEMORANDUM FOR TIM FLANIGAN
DEPUTY WHITE HOUSE COUNSEL

From: Sheldon Bradshaw
Deputy Assistant Attorney General

Re: *National Emergencies Act*

This memorandum briefly discusses what national authorities, particularly presidential authorities, are triggered by the declaration of a national emergency pursuant to the National Emergencies Act ("NEA"). *See* 50 U.S.C. § 1621 *et seq.*

During a national emergency, which the NEA explicitly authorizes the President to declare,[1] the President is authorized to exercise special or extraordinary power.[2] *Id.* § 1621(a). A substantial portion of the President's power in times of declared national emergencies relate to military personnel. The President also has broad power to requisition or commandeer certain natural resources, vessels, and facilities. In addition, the President has the power to undertake certain construction projects. Moreover, the President has the power to alter the terms of certain contracts. Another set of powers relate to maritime issues. Finally, and of particular importance, the declaration of a national emergency is necessary for the President to use the powers available to him under the International Emergency Economics Powers Act ("IEEPA"). *See* 50 U.S.C. § 1701 *et seq.* These powers are discussed in greater detail below.

Military Personnel

In a national emergency, the President has broad authority to appoint servicemen; suspend statutory provisions that restrict the number of officers in military service, that limit the armed forces to which officers may be reassigned, that relate to officers' promotion or separation, or that restrict the maximum number of reserve officers; and to provide medical care to active duty

[1] Under the NEA, Congress reserved for itself the power to terminate a presidential declaration of a national emergency by concurrent resolution. *See* 50 U.S.C. § 1622(a)(1). It is the position of this Office that after *INS v. Chadha*, 103 S. Ct. 2764 (1983), that provision is facially unconstitutional and unenforceable.

[2] Laws like the Defense Production Act of 1950, which do not require a Presidential declaration of emergency for their use, are not affected by the NEA.

personnel. Congress specifically has assigned several of these powers to the Secretary of Defense.

- Under 10 U.S.C. § 603, the President may appoint any "qualified person" to "any officer grade" in the Army, Navy, Air Force, or Marine Corps. Such appointments are "temporary," and the President has the discretion to vacate them "at any time." This section does not authorize him to make appointments "in grades above major general or rear admiral."

- 50 U.S.C. § 460(d) empowers the President to "assign additional armed forces personnel" -- i.e., in excess of the normal limit of 745 persons -- to the Selective Service System.

- 10 U.S.C. § 123 authorizes the President to suspend the operation of "any provision of law" relating to the "promotion, involuntary retirement, or separation" of commissioned officers in the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve.

- The United States Code ordinarily limits the number of general and flag officers who can be detailed for service in another branch of the armed forces, the Office of the Secretary of Defense, the Joint Chiefs of Staff, NATO, or similar positions. 10 U.S.C. § 721 allows the President to suspend these limitations.

- The President may suspend the requirement that no more than ten retired flag officers of the Regular Navy may be on active duty. *See* 10 U.S.C. §§ 5450, 5451.

- 14 U.S.C. § 275 authorizes the President to suspend "any section" of the United States Code chapter relating to the "selection, promotion, or involuntary separation" of Coast Guard officers. The President further is authorized, "under regulations to be prescribed by him," to promote certain warrant officers to the next highest officer grade.

- 14 U.S.C. § 722 similarly grants the President power to suspend the statutory subchapter dealing with the promotion of officers in the Coast Guard Reserve. If the President does so, he must "by regulation, in so far as practicable" adjust the grades of Reserve officers in the same manner as he adjusts the grades of Regular officers.

- The United States Code imposes restrictions on the number of reserve

commissioned officers, the number of reserve general and flag officers, and what percentage of reserve officers should be allocated to various grades below brigadier general or rear admiral. *See* 10 U.S.C. § 12003-05. Section 12006 authorizes the President to suspend these limitations during a national emergency.

- 10 U.S.C. § 12302 empowers the Secretary of Defense to order "any unit" in the Ready Reserve to active duty for no longer than 24 consecutive months.

- Under 33 U.S.C. § 855, the President may transfer the National Oceanic and Atmospheric Administration's commissioned officers (as well as its vessels, equipment, and stations) to "a military department." The President may invoke this provision "whenever in his judgment a sufficient national emergency exists"; in contrast to most statutes, § 855 does not expressly require him formally to declare a national emergency.

- The Secretary of Defense is authorized to provide medical care to members of the armed forces on active duty. He may enter into contracts with private facilities to provide medical care to veterans who are displaced from government facilities. *See* 38 U.S.C. § 8111A.

Commandeering Certain Resources

In a national emergency, the President also has broad powers to requisition or commandeer certain natural resources, vessels, and facilities. The President's powers in this arena are supplemented by the Secretaries of the Interior, Treasury, and Transportation, as well as the Federal Communications Commission.

- 43 U.S.C. § 1341 grants the United States a right of first refusal to purchase "all or any portion of any mineral" produced from the Outer Continental Shelf. The Secretary of the Interior has the authority to suspend operations "under any lease" to extract minerals from the Shelf.

- 50 U.S.C. § 98f authorizes the President, or certain presidential designees, to release stockpiled strategic raw materials for "use, sale, or other disposition." If he does so, he "promptly" must notify the House and Senate Armed Services Committees.

- Under 19 U.S.C. § 1318, the President may authorize the Secretary of the Treasury to permit, by prescribing regulations, the duty-free importation of food, clothing, and other supplies "for use in emergency relief work." He

further may authorize the Secretary to extend the time periods specified in the Tariff Act "for the performance of any act."

- Under 46 U.S.C. § 1242(a), the Secretary of Transportation may requisition or purchase "any vessel or other watercraft" owned by United States citizens, so long as he furnishes just compensation.

- As discussed above, 33 U.S.C. § 855 authorizes the President to transfer the National Oceanic and Atmospheric Administration's vessels, equipment, and stations (as well as its commissioned officers) to "a military department." Again, § 855 does not expressly require the President to declare a national emergency; he may invoke it "whenever in his judgment a sufficient national emergency exists."

- 47 U.S.C. § 606(c) authorizes the President to "suspend or amend" the regulations applicable to "any and all stations or devices capable of emitting electromagnetic radiations" within the United States. He may close "any station . . . or device" that "is suitable for use as a navigational aid beyond five miles." Or he may authorize "any department of the Government" to use such a station or device, provided that he first prescribes regulations and furnishes just compensation to the owners.

- Normally, the Federal Communications Commission may grant construction permits and station licenses "only upon written application." But in times of declared national emergency it may grant permits and licenses in whatever manner it "shall by regulation prescribe." The Commission further may issue by electronic means a permit to operate a station on a United States vessel at sea. *See* 47 U.S.C. § 308(a).

New Construction

Congress also has granted the President the power to undertake the construction of military and other governmental facilities. The Secretaries of all military departments, the Secretary of the Army in particular, and the Secretary of Defense also have received congressional grants of authority.

- If the President declares that a particular national emergency "requires use of the armed forces," the Secretary of Defense may "undertake military construction projects . . . not otherwise authorized by law that are necessary to support such use of the armed forces." The cost of such projects must not exceed the total appropriations for normal military construction. *See* 10 U.S.C. § 2808(a).

- 40 U.S.C. § 276a-5 authorizes the President to suspend statutory provisions

that guarantee a minimum wage to laborers working to construct or modify "public buildings or public works," and that allow the government to terminate agreements with contractors who are not paying the required rate.

- The Secretary of the Army may terminate or defer any civil works construction project "that he deems not essential to the national defense," and apply the civil works program's resources to "projects that are essential to the national defense." The Secretary must provide immediate notice to Congress. *See* 33 U.S.C. § 2293.

- 10 U.S.C. § 2662 suspends the requirement that a Secretary of a military department provide notice to the House and Senate's Armed Services Committees before undertaking a number of enumerated real property transactions, including acquisitions of fee title and leases.

Contracting

The President wields limited powers to alter the terms of contracts, both between private parties and between a private party and the federal government.

- Ordinarily, the President may not prevent the export of certain agricultural goods under export sales contracts. But he is authorized by 7 U.S.C. § 5712(c) to "prohibit or curtail" the export of "any agricultural commodity" during times of declared national emergencies.

- 31 U.S.C. § 2727 provides that a contract with any "agency the President designates" "may be changed without consideration to provide" that future payments under the contract to an assignee are "not subject to reduction or setoff." Payments due under the contract "shall be paid to the assignee without a reduction or setoff for liability of the assignor."

Maritime

Another set of powers relates to maritime issues. Congress has granted the Secretary of Transportation the authority to regulate vessels in the United States' territorial waters, and the Secretary of the Navy the authority to transport persons on Navy vessels.

- If the President declares that a particular national emergency exists "by reason of actual or threatened war," the Secretary of Transportation may (1) "subject to the approval of the President," make regulations governing "any vessel, foreign or domestic, in the territorial waters of the United States; (2) inspect such vessel "at any time"; (3) place guards on such vessel; or (4) in special circumstances, take "full possession and control of such vessel" and remove her officers and crew.

- Under 10 U.S.C. § 7224 the Secretary of the Navy by regulation may permit persons to be "transported and subsisted on naval vessels at Government expense."

IEEPA

A proclamation of national emergency is also necessary before the President may use the powers available under IEEPA.[3] 50 U.S.C. § 1701. For purposes of IEEPA, such an emergency may be declared with respect to any unusual and extraordinary threat to the national security, foreign policy or economy of the United States which has its source outside this country. 50 U.S.C. § 1701. This language was left broad to provide necessary discretion. H.R. Rep. No. 459, 95th Cong., 1st Sess. 10 (1977). A presidential declaration of emergency under IEEPA can be short and to the point. In the Iran crisis, the President stated: "I find that the situation in Iran constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and hereby declare a national emergency to deal with that threat." E.O. 12170 of Nov. 14, 1979. The courts will not review a determination so peculiarly within the province of the President. See 42 Op. A.G. at 370.

[3] Under IEEPA, the President has extraordinarily broad authority to regulate or prohibit economic transactions with respect to "any property in which any foreign country or national thereof has any interest." 50 U.S.C. § 1702(a).



91-383 GOV

CRS Report for Congress
National Emergency Powers

Harold C. Relyea
Specialist in American National Government
Government Division

December 10, 1990
Revised April 29, 1991

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Summary	National Emergency Powers
Background History	The Emergency Concept
Law and Practice	Congressional Concerns
The National Emergencies	Conclusion
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NATIONAL EMERGENCY POWERS

SUMMARY

The President of the United States has available certain powers that may be exercised in the event that the Nation is threatened by crisis, exigency, or emergency circumstances (other than natural disasters, war, or near-war situations). Such powers may be stated explicitly or implied by the Constitution, assumed by the Chief Executive to be constitutionally permissible, or inferred from or specified by statute. Through legislation, Congress has made a great many delegations of authority in this regard over the past 200 years.

There are, however, limits and restraints upon the President in his exercise of emergency powers. With the exception of the habeas corpus clause, the Constitution makes no allowance for the suspension of

any of its provisions during a national emergency. Disputes over the constitutionality or legality of the exercise of emergency powers are judicially reviewable. Indeed, both the Judiciary and Congress, as co-equal branches, can restrain the Executive regarding emergency powers. So can public opinion. Furthermore, since 1976, the President has been subject to certain procedural formalities in utilizing some statutorily delegated emergency authority. The ***National Emergencies Act*** (50 U.S.C. 1601-1651) eliminated or modified some statutory grants of emergency authority, required the President to declare formally the existence of a national emergency and to specify what statutory authority, activated by the declaration, would be used, and provided Congress a means to countermand the President's declaration and the activated authority being sought.

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NATIONAL EMERGENCY POWERS

Federal law provides a variety of powers for the President to use in response to crisis, exigency, or emergency circumstances threatening the Nation. Moreover, they are not limited to military or war situations. Some of these authorities, deriving from the Constitution or statutory law, are continuously available to the President with little or no qualification. Others--statutory delegations from Congress--exist on a stand-by basis and remain dormant until the President formally declares a national emergency. These delegations, or grants of power, authorize the President to meet the problems of governing effectively in times of crisis. Under the powers delegated by such statutes, **the President may seize property, organize and control the means of production, seize commodities, assign military forces abroad, institute martial law, seize and control all transportation and communication, regulate the operation of private enterprise, restrict travel, and, in a variety of ways, control the lives of United States citizens.** Furthermore, Congress may modify, rescind, or render dormant such delegated emergency authority.

Until the crisis of World War I, Presidents utilized emergency powers at their own discretion. Proclamations announced their exercise of exigency authority. However, during World War I and thereafter, Chief Executives have had available to them a growing body of stand-by emergency authority which became operative upon the issuance of a proclamation declaring a condition of national emergency. Sometimes such proclamations confined the matter of crisis to a specific policy sphere, and sometimes they placed no limitation on the pronouncement whatsoever. These activations of stand-by emergency authority remained acceptable practice until the era of the Vietnam war. In 1976, Congress curtailed this practice with the passage of the ***National Emergencies Act.***

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BACKGROUND AND HISTORY

The exercise of emergency powers had long been a concern of the classical political theorists, including the eighteenth century English philosopher **John Locke,** who had a strong influence upon the Founding Fathers in the United States. A preeminent exponent of a government of laws and not of men, **Locke** argued that occasions may arise when the Executive must exert a broad discretion in meeting special exigencies or "emergencies" for which the legislative power has provided no relief or existing law grants no necessary remedy. He did not regard this prerogative as limited to wartime, or even to

situations of great urgency. It was sufficient if the "public good" might be advanced by its exercise./1

Emergency powers were first expressed prior to the actual founding of the Republic. Between 1775 and 1781, the Continental Congress passed a series of acts and resolves which count as the first expressions of emergency authority./2 These instruments dealt almost exclusively with the prosecution of the Revolutionary War.

At the Constitutional Convention of 1787, emergency powers, as such, failed to attract much attention during the course of debate over the charter for the new government. It may be argued, however, that the granting of emergency powers by Congress is implicit in its Article I, section 8 authority to "provide for the common Defense and general Welfare," the commerce clause, its war, armed forces, and militia powers, and the "necessary and proper" clause empowering it to make such laws as are required to fulfill the executions of "the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

There is a tradition of constitutional interpretation that has resulted in so-called implied powers, which may be invoked in order to respond to an emergency situation. **Locke** seems to have anticipated this practice. Furthermore, Presidents have occasionally taken an emergency action which they assumed to be constitutionally permissible. Thus, in the American governmental experience, the exercise of emergency powers has been somewhat dependent upon the Chief Executive's view of the Presidential office.

Perhaps the President who most clearly articulated a view of his office in conformity with the **Lockean** position was **Theodore Roosevelt.** Describing what came to be called the "stewardship" theory of the Presidency, **Roosevelt** wrote of his "insistence upon the theory that the executive power was limited only by specific restrictions and prohibitions appearing in the Constitution or imposed by the Congress under its constitutional powers. "It was his view " that every executive officer, and above all every executive officer in high position, was a steward of the people," and he "declined to adopt the view that what was imperatively necessary for the Nation could not be done by the President unless he could find some specific authorization to do it." Indeed, it was **Roosevelt's** belief that, for the President, "it was not only his right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws."/3

Opposed to this view of the Presidency was **Roosevelt's** former Secretary of War, personal choice for, and actual successor as Chief Executive, **William Howard Taft.** America's twenty-seventh President viewed his office in more limited terms, writing "that the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such express grant as proper and necessary to its exercise. In his view, such a "specific grant must be either in the Federal Constitution or in an act of Congress passed in pursuance thereof. There is, "**Taft** concluded," no undefined residuum of power which he can exercise because it seems to him to be in the public interest .... /4

Between these two views of the Presidency lie various gradations of opinion, resulting in perhaps as many conceptions of the office as there have been holders. One authority has summed up the situation in the following words:

> Emergency powers are not solely derived from legal sources. The extent of their invocation and use is also contingent upon the personal conception which the incumbent of the Presidential office has of the Presidency and the premises upon which he interprets his legal powers. In the last analysis, the authority of a President is largely determined by the President himself./5

Finally, apart from the Constitution, but resulting from its prescribed procedures, there are statutory grants of power for emergency conditions. The President is authorized by Congress to take some special or extraordinary action, ostensibly to meet the problems of governing effectively in times of exigency. Sometimes these laws are only of temporary duration. The ***Economic Stabilization Act*** of 1970, for example, allowed the President to impose certain wage and price controls for about three years before it eventually expired automatically in 1974./6 The statute gave the President emergency authority to address a crisis in the Nation's economy.

Of course, many of these laws are continuously maintained or permanently available for the President's ready use in responding to an emergency. The ***Defense Production Act,*** originally adopted in 1950 to prioritize and regulate the manufacture of military material, is exemplary of this type of statute./7

Lastly, there are various stand-by laws which convey special emergency powers once the President formally declares a national emergency activating them. In 1973, a Senate special committee studying emergency powers published a compilation identifying some 470 provisions of Federal law delegating to the Executive extraordinary authority in time of national emergency./8 The vast majority of them are of the stand-by kind-dormant until activated by the President. However, formal procedures for invoking these authorities, accounting for their use, and regulating their activation and application were only recently established by the ***National Emergencies Act*** of 1976./9

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THE EMERGENCY CONCEPT

Relying upon constitutional authority or congressional delegations made at various times over the past 200 years, the President of the United States may exercise certain powers in the event that the continued existence of the Nation is threatened by crisis, exigency, or emergency circumstances. What is a national emergency?

In the simplest understanding of the term, the dictionary defines an emergency as "an unforeseen combination of circumstances or the resulting state that calls for immediate action."/10 In the midst of the crisis of the Great Depression, a 1934 Supreme Court majority opinion characterized an emergency in terms of urgency and relative infrequency of occurrence as well as equivalence to a public calamity resulting from fire, flood, or like disaster not reasonably subject to anticipation./11 An eminent constitutional scholar, the late **Edward S. Corwin,** explained emergency conditions as being those which have not attained enough of stability or recurrency to admit of their being dealt with according to rule."/12 During congressional committee hearings on emergency powers in 1973, a political scientist described an emergency in the following terms: "It denotes the existence of conditions of varying nature, intensity and duration, which are perceived to threaten life or well-being beyond tolerable limits."/13 **Corwin** also indicated it "connotes the existence of conditions suddenly intensifying the degree of existing danger to life or well-being beyond that which is accepted as normal."/14

There are perhaps at least four aspects of an emergency condition. The first is its temporal character: an emergency is sudden, unforeseen, and of unknown duration. The second is its potential gravity: an emergency is dangerous and threatening to life and well-being. The third, in terms of governmental role and authority, is the matter of perception: who discerns this phenomenon? The Constitution may be guiding on this question, but not always conclusive. Fourth, there is the element, of response: by

definition, an emergency requires immediate action, but is, as well, unanticipated and, therefore, as **Corwin** notes, cannot always be "dealt with according to rule." From these simple factors arise the dynamics of national emergency powers./15 These dynamics can be seen in the history of the exercise of emergency powers.

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LAW AND PRACTICE

During the summer of 1792, residents of western Pennsylvania, Virginia, and the Carolinas began forcefully opposing the collection of a Federal excise tax on whiskey. Anticipating rebellious activity, Congress enacted legislation providing for the calling forth of the militia to suppress insurrections and repel invasions./16 Section 3 of this statute required that a Presidential proclamation be issued to warn insurgents to cease their activity./17 If hostilities persisted, the militia could be dispatched.
On August 17, 1794, President **Washington** issued such a proclamation. The insurgency continued. The President then took command of the forces organized to put down the rebellion./18

Here was the beginning of a pattern of policy expression and implementation regarding emergency powers. Congress legislated extraordinary or special authority for discretionary use by the President in a time of emergency. In issuing a proclamation, the Chief Executive notified Congress that he was making use of this power and also apprised other affected parties of his emergency action.

Over the next 100 years, Congress enacted various permanent and stand-by laws for responding largely to military, economic, and labor emergencies. During this span of years, however, the exercise of emergency powers by President **Lincoln** brought the first great dispute over the authority and discretion of the Chief Executive to engage in emergency actions.

By the time of **Lincoln's** inauguration (March 4, 1861), seven States of the lower South had announced their secession from the Union; the Confederate provisional government had been established (February 4, 1861); **Jefferson Davis** had been elected (February 9, 1861) and installed as president of the Confederacy (February 18, 1861); and an army was being mobilized by the secessionists. **Lincoln** had a little over two months to consider his course of action.

When the new President assumed office, Congress was not in session. For reasons of his own, **Lincoln** delayed calling a special meeting of the legislature, but soon ventured into its constitutionally designated policy sphere. On April 19, he issued a proclamation establishing a blockade on the ports of the secessionist States,/19 "a measure hitherto regarded as contrary to both the Constitution and the law of nations except when the government was embroiled in a declared, foreign war."/20 Congress, of course, had not been given an opportunity to consider a declaration of war.

The next day, the President ordered the addition of 19 vessels to the Navy "for purposes of public defense."/21 A short time later, the blockade was extended to the ports of Virginia and North Carolina./22

By a proclamation of May 3, **Lincoln** ordered that the regular army be enlarged by 22,714 men, that Navy personnel be increased by 18,000, and that 42,032 volunteers be accommodated for three-year terms of service./23 Such a directive, of course, antagonized many Representatives and Senators, because Congress is specifically authorized by Article I, Section 8, of the Constitution

"to raise and support armies."

In his July message to the newly assembled Congress, **Lincoln** suggested that, while his actions with regard to the expansion of the armed forces might be legally suspect, "[t]hese measures, whether strictly legal or not, were ventured upon under what appeared to be a popular and a public necessity, trusting then, as now, that Congress would readily ratify them. It is believed," he wrote, "that nothing has been done beyond the constitutional competency of Congress."/24

Indeed, Congress subsequently did legislatively authorize, and thereby approve, the President's actions regarding his increasing armed forces personnel, and would do the same later concerning some other questionable emergency actions. In the case of **Lincoln,** the opinion of scholars and experts is "that neither Congress nor the Supreme Court exercised any effective restraint upon the President./25 The emergency actions of the Chief Executive were either unchallenged or approved by Congress, and were either accepted or, because of almost no opportunity to render judgment, went largely without notice by the Supreme Court. The President made a quick response to the emergency at hand, a response which Congress or the Court might have rejected in law, but which, nonetheless, had been made in fact and with some degree of popular approval. Similar controversy would arise concerning the emergency actions of Presidents **Woodrow Wilson** and **Franklin D. Roosevelt.** Both men exercised extensive emergency powers with regard to world hostilities, and **Roosevelt** also used emergency authority to deal with the Great Depression. Their emergency actions, however, were largely supported by statutory delegations and a high degree of approval on the part of both Congress and the public.

Furthermore, during the **Wilson** and **Roosevelt** presidencies, a major procedural development occurred in the exercise of emergency powers -- use of a proclamation to declare a national emergency and, thereby, to activate all stand-by statutory provisions delegating authority to the President during a national emergency. The first such national emergency proclamation was issued by President **Wilson** on February 5, 1917./26 Promulgated on the authority of a statute establishing the **United States Shipping Board,** the proclamation concerned water transportation policy./27 It Was statutorily terminated along with a variety of other wartime measures on March 3, 1921./28

President **Franklin D. Roosevelt** issued the next national emergency proclamation some 48 hours after assuming office./29 Proclaimed March 6, 1933, on the somewhat questionable authority of the ***Trading With the Enemy Act*** of 1917,/30 the proclamation declared a so-called "bank holiday" and halted a major class of financial transactions by closing the banks. Congress subsequently gave specific statutory support for the Chief Executive's action with the passage of the ***Emergency Banking Act*** on March 9./31 Upon signing this legislation into law, the President issued a second banking proclamation, based upon the authority of the new law, continuing the bank holiday until it was determined that banking institutions were capable of conducting business in accordance with new banking policy./32

Next, on September 8, 1939, President **Roosevelt** promulgated a proclamation of "limited" national emergency, though the qualifying term had no meaningful legal significance./33 Almost two years later, on May 27, 1941, he issued a proclamation of "unlimited" national emergency./34 This action, however, actually did not make any important new powers available to the Chief Executive in addition to those activated by the 1939 proclamation. The President's purpose in making the second proclamation was largely to apprise the American people of the worsening conflict in Europe and growing tensions in Asia.

These two war-related proclamations of a general condition of national emergency remained operative until 1947 when certain of the provisions of law they had activated were statutorily rescinded./35 Then, in 1951, Congress terminated the declaration of war against Germany./36 In the spring of the

following year, the Senate ratified the treaty of peace with Japan. Because these actions marked the end of World War II for the United States, legislation was required to keep certain emergency provisions in effect. Initially, the ***Emergency Powers Interim Continuation Act*** temporarily maintained this emergency authority./37 It was subsequently supplanted by the ***Emergency Powers Continuation Act,*** which kept selected emergency delegations in force until August of 1953./38 By proclamation in April of 1952, President **Harry S. Truman** terminated the 1939 and 1941 national emergency declarations, leaving operative only those emergency authorities continued by statutory specification./39

Truman's 1952 termination, however, specifically exempted a December, 1950, proclamation of national emergency he had issued in response to hostilities in Korea./40 Furthermore, this condition of national emergency would remain in force and unimpaired well into the era of the Vietnam war.

Two other proclamations of national emergency also would be promulgated before Congress once again turned its attention to these matters. Faced with a postal strike, President **Richard M. Nixon** declared a national emergency in March of 1970,/41 thereby permitting him to use units of the military Ready Reserve to assist in moving the mail./42 A second national emergency was proclaimed by **Nixon** in August, 1971, to control the balance of payments flow by terminating temporarily certain trade agreement provisos and imposing supplemental duties on some imported goods./43

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CONGRESSIONAL CONCERNS

In the years following the conclusion of U.S. armed forces involvement in active military conflict in Korea, occasional expressions of concern were heard in Congress regarding the continued existence of **Truman's** 1950 national emergency proclamation long after the conditions prompting its issuance had disappeared. There was some annoyance that the President was retaining extraordinary powers intended only for time of genuine emergency, and a feeling that the Chief Executive was thwarting the legislative intent of Congress by continuously failing to terminate the declared national emergency./44

Growing public and congressional displeasure with the President's exercise of his war powers and deepening U.S. involvement in hostilities in Vietnam prompted interest in a variety of related matters. For Senator **Charles McC. Mathias,** a leader in this policy area, interest in the question of emergency powers developed out of U.S. involvement in Vietnam and the incursion into Cambodia. "It became clear," he said, "that the President had powers to commit us to warfare without adequate respect for the constitutional requirement that Congress alone can declare a state of war. In response, among other actions, Mathias, together with Senator **Frank Church,** sought to establish a Senate special committee to study and investigate the termination of a 1950 proclamation of national emergency that was being used to prosecute the Vietnam war, "to consider problems which might arise as the result of the termination and to consider what administrative or legislative actions might be necessary." Such a panel was initially chartered by S. Res. 304 as the Special Committee on the Termination of the National Emergency in June of 1972, but did not begin operations before the end of the year./45

With the convening of the 93rd Congress in 1973, the Special Committee was approved again with S. Res. 9. Upon exploring the subject matter of national emergency powers, however, the mission of the Special Committee became more burdensome. There was not just one proclamation of national emergency in effect, but four such instruments, issued in 1933, 1950, 1970, and 1971. The United States

was in a condition of national emergency four times over, and with each proclamation, the whole collection of statutorily delegated emergency powers was activated. Consequently, in 1974, with S. Res. 242, the study panel was rechartered as the Special Committee on National Emergencies and Delegated Emergency Powers to reflect its focus upon matters larger than the 1950 emergency proclamation. It's final mandate was provided by S. Res. 10 in the 94th Congress, although its termination date was necessarily extended briefly in 1976 by S. Res. 370. Senator Church and Senator Mathias co-chaired the panel./46

The Special Committee conducted and produced various studies during its existence./47 After scrutinizing the United States Code and uncodified statutory emergency powers, the panel identified 470 provisions of Federal law which delegated extraordinary authority to the Executive in time of national emergency./48 Not all of them required a declaration of national emergency to be operative, but they were, nevertheless, extraordinary grants. The Special Committee also found that no process existed for automatically terminating the four outstanding national emergency proclamations. Thus, the panel began developing legislation containing a formula for regulating emergency declarations in the future and otherwise adjusting the body of statutorily delegated emergency powers by abolishing some provisions, relegating others to permanent status, and continuing others in a stand-by capacity. In addition, the panel also began preparing a report offering its findings and recommendations regarding the state of national emergency powers in the Nation.

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THE NATIONAL EMERGENCIES ACT

The Special Committee, in July of 1974, unanimously recommended legislation establishing a procedure for the Presidential declaration and congressional regulation of a national emergency. The proposal also modified various statutorily delegated emergency powers./49 In arriving at this reform measure, the panel consulted with various executive branch agencies regarding the significance of existing emergency statutes, recommendations for legislative action, and views as to the repeal of some provisions of emergency law./50

This recommended legislation was introduced by Senator Frank Church for himself and others on August 22, 1974, and became S. 3957. It was reported from the Senate Committee on Government Operations on September 30 without public hearings or amendment./51 The bill was subsequently discussed on the Senate floor on October 7, when it was amended and passed./52

Although a version of the reform legislation had been introduced in the House on September 16, becoming H.R. 16668, the Committee on the Judiciary, to which the measure was referred, did not have an opportunity to consider either that bill or the Senate adopted version due to the press of other business--chiefly the impeachment of President **Nixon** and the nomination of **Nelson A. Rockefeller** to be Vice President of the United States. Thus, the ***National Emergencies Act*** failed to be considered on the House floor before the final adjournment of the 93rd Congress.

With the convening of the next Congress, the proposal was introduced in the House on February 27, 1975, becoming H.R. 3884, and in the Senate on March 6, becoming S. 977. House hearings occurred in March and April before the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary./53 The bill was subsequently marked-up and, on April 15, was reported in amended form to the full committee on a 4-0 vote. On May 21, the

Committee on the Judiciary, on a voice vote, reported the bill with technical amendments./54 During the course of House debate on September 4, there was agreement to both the committee amendments and a floor amendment providing that national emergencies end automatically one year after their declaration unless the President informs Congress and the public of a continuation. The bill was then passed on a 388-5 yea and nay vote and sent to the Senate, where it was referred to the Committee on Government Operations./55

The Senate Committee on Government Operations held a hearing on H.R. 3884 on February 25, 1976,/56 The bill was subsequently reported on August 26 with one substantive and several technical amendments./57 The following day, the amended bill was passed and returned to the House./58 On August 31, the House agreed to the Senate amendments,/59 clearing the proposal for President **Gerald Ford's** signature on September.l4./60

As enacted, the ***National Emergencies Act*** consists of five titles. The first of these generally returned all stand-by statutory delegations of emergency power activated by an outstanding declaration of national emergency to a dormant state two years after the statute's approval. However, the Act did not cancel the 1933, 1950, 1970, and 1971 national emergency proclamations because these were issued by the President pursuant to his Article II constitutional authority. Nevertheless, it did render them ineffective by returning to dormancy the statutory authorities they had activated, thereby necessitating a new declaration to activate stand-by statutory emergency authorities.

Title II provides a procedure for future declarations of national emergency by the President and prescribes arrangements for their congressional regulation. The statute establishes an exclusive means for declaring a national emergency. Furthermore, emergency declarations shall automatically terminate after one year unless formally continued for another year by the President, but may be terminated earlier by either the President or Congress, Originally, the prescribed method for congressional termination of a declared national emergency originally was a concurrent resolution adopted by both Houses of Congress. This type of so-called "legislative veto" was effectively invalidated by the Supreme Court in 1983./61 The ***National Emergencies Act*** was amended in 1985 to substitute a joint resolution as the vehicle for rescinding a national emergency declaration./62

When declaring a national emergency, the President must indicate, according to Title III, the powers and authorities being activated to respond to the exigency at hand.

Certain Presidential accountability and reporting requirements regarding national emergency declarations are specified in Title IV, and the repeal and continuation of various statutory provisions delegating emergency powers is accomplished in Title V.

Since the 1976 enactment of the ***National Emergencies Act,*** the following national emergencies have been declared pursuant to its provisions. With the exception of the 1983 and 1984 actions continuing export control regulations, all of these emergency declarations are operative.

TABLE 1:
DECLARED NATIONAL EMERGENCIES, 1976-1990/63

Declaration	Date	Title
E.O. 12170	11/14/79	Blocking Iranian Government Property

E.O. 12211	04/17/80	Further Prohibitions on Transactions with Iran
E.O. 12444	10/14/83	Continuation of Export Control Regulations
E.O. 12470	03/30/84	Continuation of Export Control Regulations
E.O. 12513	05/01/85	Prohibiting Trade and Certain Other Transactions Involving Nicaragua
E.O. 12532	09/09/85	Prohibiting Trade and Certain Other Transactions Involving South Africa
E.O. 12543	01/07/86	Prohibiting Trade and Certain Transactions Involving Libya
E.O. 12635	04/08/88	Prohibiting Certain Transactions With Respect to Panama
E.O. 12722	08/02/90	Blocking Iraqi Government Property and Prohibiting Transactions with Iraq
E.O. 12730	09/30/90	Continuation of Export Control Regulations
E.O. 12735	11/16/90	Chemical and Biological Weapons Proliferation

In its final report, issued in late May of 1976, the Special Committee concluded "by reemphasizing that emergency laws and procedures in the United States have been neglected for too long, and that Congress must pass the ***National Emergencies Act*** to end a potentially dangerous situation./64 The panel's recommended legislation, of course, was enacted into law before the end of the year.

Other issues identified by the Special Committee as deserving attention in the future, however, did not fare so well. The panel, for example, was hopeful that standing committees of both Houses of Congress would review statutory emergency power provisions within their respective jurisdictions with a view to the continued need for and possible adjustment of such authority./65 Actions in this regard probably were not as ambitious as the Special Committee expected. A title of the ***Federal Civil Defense Act*** of 1950, granting the President or Congress power to declare a civil defense emergency in the event an attack on the United States occurred or was anticipated, expired in June of 1974 after the House Committee on Rules failed to report a measure continuing the statute./66

A provision of emergency law was refined in May of 1976. Legislation was enacted granting the President the authority to order certain selected members of an armed services reserve component to active duty without a declaration of war or national emergency./67 Previously, such an activation of military reserve personnel had been limited to a "time of national emergency declared by the President" or "when otherwise authorized by law."/68

Another refinement of emergency law occurred in 1977 when action was completed on the ***International Emergency Economic Powers Act.***/69 Reform legislation containing this statute/70 modified a provision of the ***Trading With the Enemy Act*** of 1917 authorizing the President to regulate the Nation's international and domestic finance during periods of declared war or national emergency./71 The enacted bill limited the President's ***Trading With the Enemy Act*** power to regulate the country's finances to times of declared war. In the ***International Emergency Economic Powers Act;*** it conferred authority on the Chief Executive to exercise controls over international economic transactions in the future during a declared national emergency and established procedures governing the use of this power, including close consultation with Congress when declaring a national emergency to activate the IEEPA. Such a declaration would be subject to congressional regulation under

the procedures of the ***National Emergencies Act.***/72

Other matters identified in the final report of the Special Committee for congressional scrutiny included--

- investigation of emergency preparedness efforts conducted by the executive branch;
- attention to congressional preparations for an emergency and continual review of emergency law; ending open-ended grants of authority to the Executive;
- investigation and institution of stricter controls over delegated powers; and
- improving the accountability of Executive decision making./73

There is some public record indication that certain of these points, particularly the first and the last, have been addressed in the past decade and a half by congressional overseers./74

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CONCLUSION

The development, exercise, and regulation of emergency powers, from the days of the Continental Congress to the present, reflect at least one highly discernible trend: those authorities available to the Executive in time of national crisis or exigency have, since the time of the **Lincoln** Administration, come to be increasingly rooted in statutory law. The discretion available to a Civil War President in his exercise of emergency power has, to a considerable extent, been harnessed in the contemporary period. Furthermore, due to greater reliance upon statutory expression, the range of this authority has come to be more circumscribed, and the options for its use have come to be regulated procedurally through the ***National Emergencies Act.*** Since its enactment, however, the ***National Emergencies Act*** has not been revisited by congressional overseers. Nonetheless, as the final report of the Senate Special Committee on National Emergencies suggests, the prospect remains that further improvements and reforms in this policy area might be pursued and perfected.

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1. **Thomas I. Cook,** ed. "Two Treatises of Government" by **John Lock.** New York, Hafner Publishing Company, 1947, pp. 203-207; **Edward S. Corwin.** "The President: Office and Powers," 1787-1957. Fourth Revised Edition. New York, New York University Press, 1957, pp. 147-148.

2. See **J. Reuben Clark, Jr.,** comp. Emergency Legislation Passed Prior to December 1917 Dealing with the Control and Taking of Private Property for the Public Use, Benefit, or Welfare, Presidential Proclamations and Executive Orders Thereunder, to and Including January 31, 1918, to Which Is Added a Reprint of Analogous Legislation Since 1775. Washington, U.S. Govt. Print. Off., 1918, pp. 201-228.

3. **Theodore Roosevelt.** An Autobiography. New York, The Macmillan Company, 1913, pp. 388-389.

4. **William Howard Taft.** Our Chief Magistrate and his Powers. New York, Press, 1916, pp. 139-140; for a direct response to **Theodore Roosevelt's** expression of Presidential power, see **William Howard Taft.** The Presidency. New York, Charles Scribner's Sons, 1916, pp. 125-130.

5. **Albert L. Sturm.** Emergencies and the Presidency. Journal of Politics, v. 11, February, 1949, pp. 125-126.

6. See 84 Stat. 799-800, 1468; 85 Stat. 13, 38, 743-755; and 87 Stat. 27-29.

7. See 64 Stat. 798; 50 U.S.C. App. 2061 et. seq.

8. U.S. Congress. Senate. Special Committee on the Termination of the National Emergency. Emergency Powers Statutes. S. Rept. 93-549, 93rd Congress, Ist session. Washington, U.S. Govt. Print. Off., 1973.

9. 90 Stat. 1255; 50 U.S.C. 1601-1651.

10. Webster's New Collegiate Dictionary. Springfield, G & C Merriam Company, 1974, p. 372.

11. Home Building and Loan Association v. Blaisdell, 290 U.S. 398, 440 (1934).

12. **Edward S. Corwin.** The President: Office and Powers, 1787-1957, p. 3.

13. U.S. Congress. Senate. Special Committee on the Termination of the National Emergency. National Emergency. Hearings, 93rd Congress, Ist session. April 11-12, 1973. Washington, U.S. Govt. Print. Off., 1973, p. 277.

14. Ibid., p. 279.

15. While the concept of emergency powers can arguably be extended to embrace authority exercised in response to circumstances of natural disaster, this dimension is not within the scope of this report. Various Federal response arrangements and programs for dealing with natural disasters have been established and administered with no potential or actual disruption of constitutional arrangements. With regard to **Corwin's** characterization of emergency conditions, these long-standing arrangements and programs suggest that natural disasters do "admit of their being dealt with according to rule.

16. 1Stat. 264-265.

17. This authority may presently be found at 10 U.S.C. 334 (1988).

18. See **James D. Richardson,** ed. A Compilation of the Messages and Papers of the Presidents. Vol. 1. New York, Bureau of National Literature, 1897, pp. 149-154.

19. See Ibid., Vol. 7, pp. 3215-3216.

20. **Clinton L. Rossiter.** Constitutional Dictatorship. New York, Harcourt, Brace, and World, 1963, p. 225.

21. Ibid.

22. See **James D. Richardson,** comp. A Compilation of the Messages and Papers of the Presidents. Vol. 7, p. 3216.

23. See Ibid., pp. 3216-3217.

24. Ibid., p. 3225.

25. **James G. Randall.** Constitutional Problems Under **Lincoln.** Urbana, University of Illinois Press, 1951; also see **Wilfred E. Binkley.** President and Congress. New York, Alfred A. Knopf, 1947, pp. 124-127; **Clinton L. Rossiter.** Constitutional Dictatorship, pp. 233-234; and **Woodrow Wilson.** Constitutional Government in the United States. New York, Columbia University Press, 1907, p. 58.

26. 39 Stat. 1814.

27. 39 Stat. 728.

28. 41 Stat. 1359.

29. 48 Stat. 1689.

30. 40 Stat. 411.

31. 48 Stat. 1.

32. 48 Stat. 1691.

33. 54 Stat. 2643.

34. 55 Stat. 1647.

35. 61 Stat. 449.

36. 65 Stat. 451.

37. 66 Stat. 54; extended at 66 Stat. 96, 137, and 296.

38. 66 Stat, 330; extended at 67 Stat. 18 and 131.

39. 66 Stat. c31.

40. 64 Stat. A454.

41. 84 Stat. 2222.

42. See 10 U.S.C. 673 (1970).

43. 85 Stat. 926.

44. The historical record suggests that, prior to 1973 when congressional research revealed their existence, other outstanding proclaimed national emergencies were not apparent to or much discussed by Members of Congress.

45. U.S. Congress. House. Committee on the Judiciary. ***National Emergencies Act.*** Hearings, 94th Congress, Ist session. March 6, 13, 19, and April 9, 1975. Washington, U.S. Govt. Print. Off., 1975, p. 20.

46. Other members of the Special Committee included Senators **Clifford P. Case, Clifford P. Hansen, Philip A. Hart, James B. Pearson, Claiborne Pell,** and **Adlai E. Stevenson III.**

47. See U.S. Congress. Senate. Special Committee on National Emergencies and Delegated Emergency Powers. A Brief History of Emergency Powers in the United States. Committee print, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974; U.S. Congress. Senate. Special Committee on National Emergencies and Delegated Emergency Powers. A Recommended

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48. See U.S. Congress. Senate. Special Committee on the Termination of the National Emergency. Emergency Powers Statutes.

49. See. U.S. Congress. Senate. Special Committee on National Emergencies and Delegated Emergency Powers. A Recommended National Emergencies Act.

50. See U.S. Congress. Senate. Special Committee on National Emergencies and Delegated Emergency Powers. Executive Replies.

51. See U.S. Congress. Senate. Committee on Government Operations. ***National Emergencies Act.*** S. Rept. 93-1193, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974.

52. See Congressional Record, v. 120, October 7, 1974, pp. 34011-34022.

53. See U.S. Congress. House. Committee on the Judiciary, ***National Emergencies Act. Hearings,*** 94th Congress, Ist session. March 6, 13, 19, and April 9, 1975. Washington, U.S. Govt. Print. Off., 1975.

54. U.S. Congress. House. Committee on the Judiciary. National Emergencies. H. Rept. 94-238, 94th Congress, Ist session. Washington, U.S. Govt. Print. Off., 1975.

55. Congressional Record, v. 121, September 4, 1975, pp. 27631-27647; p. 27745.

56. See U.S. Congress. Senate. Committee on Government Operations. ***National Emergencies Act.*** Hearing, 94th Congress, 2d session. February 25, 1976. Washington, U.S. Govt. Print, Off., 1976.

57. See U.S. Congress. Senate. Committee on Government Operations. ***National Emergencies Act,*** S. Rept. 94-1168, 94th Congress, 2d session. Washington, U.S. Govt. Print. Off., 1976.

58. See Congressional Record, v. 122, August 27, 1976, pp. 28224-28228.

59. Ibid., August 31, 1976, p. 28466.

60. 90 Stat. 1255; 50 U.S.C. 1601-1651 (1988); see U.S. Congress. Senate. Committee on Government Operations and Special Committee on National Emergencies and Delegated Emergency Powers. The ***National Emergencies Act*** (Public Law 94-412). Source Book: Legislative History, Texts, and Other Documents. Committee print, 94th Congress, 2d session. Washington, U.S. Govt. Print. Off., 1976.

61. See Immigration and Naturalization Service v. Chadha, 462 U.S. 919 (1983).

62. See 99 Stat. 405, 448.

63. The full texts of the cited executive orders declaring a national emergency may be found in the Title 3 compilations of the Code of Federal Regulations for the year indicated, or otherwise as follows: E.O. 12170, 3 C.F.R., 1979 Comp., pp. 457-458; E.O. 12211, 3 C.F.R., 1980 Comp., pp. 253-255; E.O. 12444, 3 C.F.R., 1983 Comp., pp. 214-215; E.O. 12470, pp. 168-169; E.O. 12513, 3 C.F.R., 1985 Comp., p. 342; E.O. 12532, 3 C.F.R., 1985 Comp., pp. 387-391; E.O. 12543, 3 C.F.R., 1986 Comp., pp. 181-182; E.O. 12635, pp. 563-564; E.O. 12722, Federal Register, v. 55, August 3, 1990, pp. 31803-31804; E.O. 12730, Federal Register, v. 55, October 2, 1990, pp. 40373- 40374.

64. U.S. Congress. Senate. Special Committee on National Emergencies and Delegated Emergency Powers. National Emergencies and Delegated Emergency Powers, p. 19.

65. Ibid., p. 10.

66. See 50 U.S.C. App. 2297 (1970); U.S. Congress. House. Committee on Armed Services. Extending Civil Defense Emergency Authorities. H. Rept. 93- 1243, 93rd Congress, 2d session. Washington, U.S. Govt. Print. Off., 1974; Associated Press. Rules Panel Halts Bill on War Powers. Washington Post, September 19, 1974, p. A5.

67. 90 Stat. 517; 10 U.S.C. 673b.

68. See 10 U.S.C. 673 (1970).

69. See 50 U.S.C. 1701-1706 (1988).

70. See 91 Stat. 1625.

71. See 12 U.S.C. 95a and 50 U.S.C. App. 5(b) (1976).

72. Of related interest to these statutory developments, President **Ford,** by proclamation of February 19, 1976, gave notice that E.O. 966, providing for the internment of Japanese-Americans in certain military areas during World War II, was canceled as of the issuance of the proclamation formally establishing the cessation of World War II on December 31, 1946. See 3 C.F.R., 1976 Comp., pp. 8-9. Certain statutory authority relevant to this executive order, concerning the creation of military areas and zones, was canceled by the ***National Emergencies Act.*** See 18 U.S.C. 1383 (1976). However, not all such authority was eliminated by the statute; a parallel provision concerning defensive sea areas was retained without modification or qualification. See 18 U.S.C. 2152 (1988).

73. See U.S. Congress. Senate. Special Committee on National Emergencies and Delegated Emergency Powers. National Emergencies and Delegated Emergency Powers, pp. 11-18.

74. See, for example, U.S. Congress. House. Committee on Government Operations. ***Presidential Directives and Records Accountability Act.*** Hearing, 100th Congress, 2d session. August 3, 1988. Washington, U.S. Govt. Print. Off., 1989; U.S. Congress. House. Committee on Interior and Insular Affairs. Emergency Preparedness and the Licensing Process for Commercial Nuclear Power Reactors. [2 parts.] Hearings, 98th Congress, Ist session. April 18 and July 8, 1983. Washington, U.S. Govt. Print. Off., 1985.

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(2) Affirmative evidence

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

(3) Inability to produce documentation

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

(4) Right of access

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

(c) Binding nature of grant requirements

A State or local government shall not be liable for reimbursement or any other penalty for any payment made under this chapter if—

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

(2) the costs were reasonable; and

(3) the purpose of the grant was accomplished.

(Pub.L. 93–288, Title VII, § 705, as added Pub.L. 106–390, Title III, § 304, Oct. 30, 2000, 114 Stat. 1573.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

References in Text

This chapter, referred to in text, originally read "this Act", meaning the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub.L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. See Tables for complete classification.

LIBRARY REFERENCES

American Digest System

United States ⇐82(2, 5).
Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 122.

§ 5206. Buy American

(a) Compliance with Buy American Act

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

(b) Debarment of persons convicted of fraudulent use of "made in america" labels

(1) In general

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

(2) Definition of debar

In this subsection, the term "debar" has the meaning given the term in section 2393(c) of Title 10.

(Pub.L. 106–390, Title III, § 306, Oct. 30, 2000, 114 Stat. 1574.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

References in Text

"This Act and the amendments made by this Act", referred to in subsec. (a), is Pub.L. 106–390, Oct. 30, 2000, 114 Stat 1552, the Disaster Mitigation Act of 2000, which enacted sections 5133, 5134, 5165, 5165a, 5165b, 5165c, 5205 and 5206 of this title, amended sections 3796b, 5122, 5154, 5170c, 5172, 5174, 5184, 5187, and 5192 of this title, and repealed sections 5176 and 5178 of this title; see Tables for complete classification.

The Buy American Act, referred to in subsec. (a), is Act Mar. 3, 1933, c. 212, Title III, 47 Stat. 1520, as amended, which is classified principally to section 10a et seq. of Title 41. See Tables for complete classification.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(1), is Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to this chapter. See Tables for complete classification.

Codifications

Section was enacted as part of the Disaster Mitigation Act of 2000, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which comprises this chapter.

LIBRARY REFERENCES

American Digest System

United States ⇐82(2, 5).
Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 122.

CHAPTER 69—COMMUNITY DEVELOPMENT

Sec.
5302. General provisions.
5305. Activities eligible for assistance.
5307. Special purpose grants.
5308. Guarantee and commitment to guarantee loans for acquisition of property.
5318a. John Heinz Neighborhood Development Program.

LIBRARY REFERENCES

Texts and Treatises

6 Fed Proc L Ed, Civil Rights § 11:814.

1 Am Disab, Programs, Services and Accommodations § 1:137.

§ 5301. Congressional findings and declaration of purpose

HISTORICAL AND STATUTORY NOTES

Income Eligibility for Home and CDBG Programs

Pub.L. 105–276, Title V, § 590, Oct. 21, 1998, 112 Stat. 2651, provided that:

"(a) **In general.**—The Secretary of Housing and Urban Development shall, for not less than 10 jurisdictions that are metropolitan cities or urban counties for purposes of title I of the Housing and Community Development Act of 1974 [Title I of Pub.L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified generally to 42 U.S.C.A. § 5301 et seq.], grant exceptions not later than 90 days after the date of the enactment of this Act [Oct. 21, 1998] for such jurisdictions that provide that—

"(1) for purposes of the HOME investment partnerships program under title II of the Cranston–Gonzalez National Affordable Housing Act [Title II of Pub.L. 101–625, Nov. 28, 1990, 104 Stat. 4079, which is generally classified to 42 U.S.C.A. § 12721 et seq.], the limitation based on percentage of median income that is applicable under section 104(10), 214(1)(A), or 215(a)(1)(A) [section 12704(10), 12744(1)(A), or 12745(a)(1)(A) of this title] for purposes of the community development block grant program under title I of the Housing and Community Development Act of 1974 [Title I of Pub.L. 93–383, Aug. 22, 1974, 88 Stat. 633, which is classified generally to 42 U.S.C.A. § 5301 et seq.], the limitation based on percentage of median income that is applicable pursuant to section 102(a)(20) [section 5302(a)(20) of this title] for any area within the State or unit of general local government shall be the numerical percentage that is specified in subparagraph (A) of such section.

"(b) **Effective date.**—This section [this note] shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

[Amendments under Title V of Pub.L. 105–276 made on Oct. 21, 1998, but Title V to take effect, and the amendments made by Title V to apply beginning upon, Oct. 1, 1999, except as otherwise specifically provided in Title V or as otherwise specifically provided in any amendment made by Title V, and continuing applicability of provisions of law amended by Title V, see section 503 of Pub.L. 105–276, set out as a note

The procedures established under subsection (a) of this section shall require—

[See main volume for text of (1) to (4)]

(5) that any background check under subsection (a) of this section and the results thereof shall be handled in accordance with the requirements of Public Law 92–544, except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3).

[See main volume for text of (c) to (e)]

(As amended Pub.L. 105–251, Title II, §§ 222(a),(b), Oct. 9, 1998, 112 Stat. 1885.)

HISTORICAL AND STATUTORY NOTES

Amendments

1998 Amendments. Subsec. (a)(3). Pub.L. 105–251, § 222(a), added par. (3).

Subsec. (b)(5). Pub.L. 105–251, § 222(b), inserted before the period at the end the following: ", except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)".

§ 5119b. Funding for improvement of child abuse crime information

[See main volume for text of (a)]

(b) Additional funding grants for improvement of child abuse crime information.

[See main volume for text of (1)]

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1999, 2000, 2001, and 2002.

[See main volume for text of (c)]

(As amended Pub.L. 105–251, Title II, § 222(c), Oct. 9, 1998, 112 Stat. 1885.)

HISTORICAL AND STATUTORY NOTES

Amendments

1998 Amendments. Subsec. (b)(2). Pub.L. 105–251, § 222(c), struck out "1994, 1995, 1996, and 1997" and inserted "1999, 2000, 2001, and 2002" in lieu thereof.

CHAPTER 68—DISASTER RELIEF

SUBCHAPTER I—FINDINGS, DECLARATIONS, AND DEFINITIONS

Sec.
5122. Definitions.

SUBCHAPTER II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

5133. Predisaster hazard mitigation.
5134. Interagency task force.

SUBCHAPTER III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

5154. Insurance.
5165. Mitigation planning.
5165a. Minimum standards for public and private structures.
5165b. Management costs.
5165c. Public notice, comment, and consultation requirements.

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

5170c. Hazard mitigation.
5172. Repair, restoration, and replacement of damaged facilities.
5174. Temporary housing assistance.
5176. Repealed.
5178. Individual and family grant programs.
5184. Community disaster loans.
5187. Fire suppression grants.

SUBCHAPTER IV-A—EMERGENCY ASSISTANCE PROGRAMS

5192. Federal emergency assistance.

SUBCHAPTER IV-B—EMERGENCY PREPAREDNESS

5195. Declaration of policy.

PART A—POWERS AND DUTIES

5196. Detailed functions of administration.
5196e. Radiological Emergency Preparedness Fund.

SUBCHAPTER V—MISCELLANEOUS

5205. Disaster grant closeout procedures.
5206. Buy American.

SUBCHAPTER I—FINDINGS, DECLARATIONS, AND DEFINITIONS

CROSS REFERENCES

Commodity Credit Corporation sales price restrictions, and Presidential disaster areas costs, see 7 USCA § 7285.

§ 5121. Congressional findings and declarations

HISTORICAL AND STATUTORY NOTES

Short Title

2000 Amendments. Pub.L. 106–390, § 1(a), Oct. 30, 2000, 114 Stat. 1552, provided that: "This Act [enacting sections 5133, 5134, 5165, 5165a, 5165b, 5165c, 5205, and 5206 of this title, amending sections 3796b, 5122, 5154, 5170c, 5172, 5174, 5184, 5187, and 5192 of this title, repealing sections 5176 and 5178 of this title, and enacting provisions set out as notes under sections 3796b, 5121, 5165b, 5172, 5174, and 5187 of this title] may be cited as the 'Disaster Mitigation Act of 2000'."

1974 Acts. Section 1 of Pub.L. 93–288, as amended Pub.L. 100–707, Title I, § 102(a), Nov. 23, 1988, 102 Stat. 4689; Pub.L. 106–390, Title III, § 301, Oct. 30, 2000, 114 Stat. 1572, provided: "That this Act [enacting this section and sections 3231 to 3236, 5122, 5131, 5132, 5141 to 5158, 5171 to 5189, 5201, and former 5202 of this title, and section 1264 of former Title 31, Money and Finance, amending sections 1706c, 1709, 1715*l* of Title 12, Banks and Banking, sections 241–1, 646, 758 of Title 20, Education, sections 165, 5064, 5708 of Title 26, Internal Revenue Code, former section 1820 of Title 38, Veterans' Benefits, section 461 of Title 40, Public Buildings, Property, and Works, repealing sections 4401, 4402, 4411 to 4413, 4414 to 4420, 4431 to 4436, 4457 to 4462, 4481 to 4485 of this title, and enacting provisions set out as notes under this section and sections 4401, and 5178 of this title, section 1264 of former Title 31, and section 1681 of Title 48, Territories and Insular Possessions] may be cited as the 'Robert T. Stafford Disaster Relief and Emergency Assistance Act'."

Report on State Management of Small Disasters Initiative

Pub.L. 106–390, Title II, § 208, Oct. 30, 2000, 114 Stat. 1571, provided that:

"Not later than 3 years after the date of the enactment of this Act [Oct. 30, 2000], the President shall submit to Congress a report describing the results of the State Management of Small Disasters Initiative, including—

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

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

Study Regarding Cost Reduction

Pub.L. 106–390, Title II, § 209, Oct. 30, 2000, 114 Stat. 1571, provided that:

"Not later than 3 years after the date of the enactment of this Act [Oct. 30, 2000], the Director of the Congressional Budget Office shall complete a study estimating the reduction in Federal disaster assistance that has resulted and is likely to result from the enactment of this Act [the Disaster Mitigation Act of 2000, Pub.L. 106–390, Oct. 30, 2000, 114 Stat. 1552]."

Study of Participation by Indian Tribes in Emergency Management

Pub.L. 106–390, Title III, § 308, Oct. 30, 2000, 114 Stat. 1575, provided that:

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

"**(b) Study.**—

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

"**(2) Required elements.**—The study shall—

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

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

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

"**(c) Report.**—Not later than 1 year after the date of the enactment of this Act [Oct. 30, 2000], the Director shall submit a report on the study under subsection (b) to—

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

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

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

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

The National Drought Policy Act of 1998—Advisory Commission

Pub.L. 105–199, §§ 1 to 7, July 16, 1998, 112 Stat. 641 to 644, as amended Pub.L. 106–78,

Title VII, § 753, Oct. 22, 1999, 113 Stat. 1170, provided that:

"Section 1. Short title.

"This Act [this note] may be cited as the 'National Drought Policy Act of 1998'.

"Sec. 2. Findings.

"Congress finds that—

"(1) the United States often suffers serious economic and environmental losses from severe regional droughts and there is no coordinated Federal strategy to respond to such emergencies;

"(2) at the Federal level, even though historically there have been frequent, significant droughts of national consequences, drought is addressed mainly through special legislation and ad hoc action rather than through a systematic and permanent process as occurs with other natural disasters;

"(3) there is an increasing need, particularly at the Federal level, to emphasize preparedness, mitigation, and risk management (rather than simply crisis management) when addressing drought and other natural disasters or emergencies;

"(4) several Federal agencies have a role in drought from predicting, forecasting, and monitoring of drought conditions to the provision of planning, technical, and financial assistance;

"(5) there is no single Federal agency in a lead or coordinating role with regard to drought;

"(6) State, local, and tribal governments have had to deal individually and separately with each Federal agency involved in drought assistance; and

"(7) the President should appoint an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for, mitigate the impacts of, respond to, and recover from serious drought emergencies.

"Sec. 3. Establishment of Commission.

"**(a) Establishment.**—There is established a commission to be known as the National Drought Policy Commission (hereafter in this Act [this note] referred to as the 'Commission').

"**(b) Membership.**—

"**(1) Composition.**—The Commission shall be composed of 16 members. The members of the Commission shall include—

"(A) the Secretary of Agriculture, or the designee of the Secretary, who shall chair the Commission;

"(B) the Secretary of the Interior, or the designee of the Secretary;

"(C) the Secretary of the Army, or the designee of the Secretary;

"(D) the Secretary of Commerce, or the designee of the Secretary;

"(E) the Director of the Federal Emergency Management Agency, or the designee of the Director;

"(F) the Administrator of the Small Business Administration, or the designee of

"(G) two governors, who may be represented on the Commission by their respective designees, nominated by the National Governors' Association and appointed by the President, of whom—

"(i) one shall be the governor of a State east of the Mississippi River; and

"(ii) one shall be a governor of a State west of the Mississippi River;

"(H) a person nominated by the National Association of Counties and appointed by the President;

"(I) a person nominated by the United States Conference of Mayors and appointed by the President; and

"(J) six persons, appointed by the Secretary of Agriculture in coordination with the Secretary of the Interior and the Secretary of the Army, who shall be representative of groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural and urban water associations, Native Americans, and fishing and environmental interests.

"**(2) Date.**—The appointments of the members of the Commission shall be made no later than 60 days after the date of the enactment of this Act [July 16, 1998].

"**(c) Period of appointment; vacancies.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"**(d) Initial meeting.**—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

"**(e) Meetings.**—The Commission shall meet at the call of the chair.

"**(f) Quorum.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"**(g) Vice chair.**—The Commission shall select a vice chair from among the members who are not Federal officers or employees.

"Sec. 4. Duties of the Commission.

"**(a) Study and report.**—The Commission shall conduct a thorough study and submit a report on national drought policy in accordance with this section [section 4 of this note].

"**(b) Content of study and report.**—In conducting the study and report, the Commission shall—

"(1) determine, in consultation with the National Drought Mitigation Center in Lincoln, Nebraska, and other appropriate entities, what needs exist on the Federal, State, local, and tribal levels to prepare for and respond to drought emergencies;

"(2) review all existing Federal laws and programs relating to drought;

"(3) review State, local, and tribal laws and programs relating to drought that the Commission finds pertinent;

"(4) determine what differences exist between the needs of those affected by drought to mitigate the impacts of and respond to drought;

"(5) collaborate with the Western Drought Coordination Council and other appropriate entities in order to consider regional drought initiatives and the application of such initiatives at the national level;

"(6) make recommendations on how Federal drought laws and programs can be better integrated with ongoing State, local, and tribal programs into a comprehensive national policy to mitigate the impacts of and respond to drought emergencies without diminishing the rights of States to control water through State law and considering the need for protection of the environment;

"(7) make recommendations on improving public awareness of the need for drought mitigation, and prevention; and response on developing a coordinated approach to drought mitigation, prevention, and response by governmental and nongovernmental entities, including academic, private, and nonprofit interests; and

"(8) include a recommendation on whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency and, if so, identify such agency.

"**(c) Submission of report.**—

"**(1) In general.**—No later than 18 months after the date of the enactment of this Act [July 16, 1998], the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

"**(2) Approval of report.**—Before submission of the report, the contents of the report shall be approved by unanimous consent or majority vote. If the report is approved by majority vote, members voting not to approve the contents shall be given the opportunity to submit dissenting views with the report.

"Sec. 5. Powers of the Commission.

"**(a) Hearings.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out the purposes of this Act [this note].

"**(b) Information from Federal agencies.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act [this note]. Upon request of the chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

"**(c) Postal services.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"**(d) Gifts.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

"Sec. 6. Commission personnel matters.

"**(a) Compensation of members.**—Each member of the Commission who is not an officer or employee of the Federal Government shall not be compensated for service on the Commission, except as provided under subsection (b). All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"**(b) Travel expenses.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code [section 5701 et seq. of Title 5], while away from their homes or regular places of business in the performance of services for the Commission.

"**(c) Detail of Government employees.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"**(d) Administrative support.**—The Secretary of Agriculture shall provide all financial, administrative, and staff support services for the Commission.

"Sec. 7. Termination of the Commission.

"The Commission shall terminate 90 days after the date on which the Commission submits its report under section 4 [of this note]."

LIBRARY REFERENCES

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

70 Am Jur 2d, Welfare Laws § 44.

Law Review and Journal Commentaries

Helping hands: Aid for natural disaster homeless vs. Aid for "ordinary homeless". David W. Sar, 7:1 Stan. Law & Pol'y Rev. 129 (1995–96).

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development, § 44:539.

7 Fed Proc L Ed, Condemnation of Property § 14:374.

20 Fed Proc L Ed, Internal Revenue § 48:862.

§ 5122. Definitions

As used in this chapter—

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[See main volume for text of (5)]

(6) Local Government

The term "local government" means—

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

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

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

[See main volume for text of (7) and (8)]

(9) Private nonprofit facility

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

(As amended Pub.L. 106–390, Title III, § 302, Oct. 30, 2000, 114 Stat. 1572.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

Amendments

2000 Amendments. Par. (3). Pub.L. 106–390, § 302(1), rewrote par. (3), which formerly read: "(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.".

Par. (4). Pub.L. 106–390, § 302(1), rewrote par. (4), which formerly read: "(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, or the Trust Territory of the Pacific Islands.".

Par. (6). Pub.L. 106–390, § 302(2), rewrote par. (6), which formerly read: "(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.".

Par. (9). Pub.L. 106–390, § 302(3), inserted "irrigation," following "utility,".

Local Government

Section 103(e) of Pub.L. 100–707 provided that:

[See main volume for text]

[Any reference in any provision of law enacted before Jan. 4, 1995, to the Committee on Public Works and Transportation of the House of Representatives treated as referring to the Committee on Transportation and Infrastructure of the House of Representatives, see section 1(a)(9) of Pub.L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.]

CROSS REFERENCES

Major disaster as defined in this section for purposes of—

Special rule for extending time for filing drawback claims, see 19 USCA § 1313.

LIBRARY REFERENCES

Encyclopedias

79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development, § 44:539.

7 Fed Proc L Ed, Condemnation of Property § 14:386.

20 Fed Proc L Ed, Internal Revenue § 48:815.

NOTES OF DECISIONS

1. Emergency—Generally

Colon v. Carter, D.C.Puerto Rico 1980, 507 F.Supp. 1026, [main volume] vacated 633 F.2d 964.

SUBCHAPTER II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

§ 5131. Federal and State disaster preparedness programs

LIBRARY REFERENCES

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development, § 44:597.

20 Fed Proc L Ed, Internal Revenue § 48:862.

§ 5132. Disaster warnings

LIBRARY REFERENCES

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

79 Am Jur 2d, Welfare Laws § 44.

§ 5133. Predisaster hazard mitigation

(a) Definition of small impoverished community

In this section, the term "small impoverished community" means a community of 3,000 or fewer individuals that is economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President.

(b) Establishment of program

The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.

(c) Approval by President

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

(d) State recommendations

(1) In general

(A) Recommendations

The Governor of each State may recommend to the President not fewer than

(B) Deadline for submission

The recommendations under subparagraph (A) shall be submitted to the President not later than October 1, 2001, and each October 1st thereafter or such later date in the year as the President may establish.

(C) Criteria

In making recommendations under subparagraph (A), a Governor shall consider the criteria specified in subsection (g).

(2) Use

(A) In general

Except as provided in subparagraph (B), in providing assistance to local governments under this section, the President shall select from local governments recommended by the Governors under this subsection.

(B) Extraordinary circumstances

In providing assistance to local governments under this section, the President may select a local government that has not been recommended by a Governor under this subsection if the President determines that extraordinary circumstances justify the selection and that making the selection will further the purpose of this section.

(3) Effect of failure to nominate

If a Governor of a State fails to submit recommendations under this subsection in a timely manner, the President may select, subject to the criteria specified in subsection (g), any local governments of the State to receive assistance under this section.

(e) Uses of technical and financial assistance

(1) In general

Technical and financial assistance provided under this section—

(A) shall be used by States and local governments principally to implement predisaster hazard mitigation measures that are cost-effective and are described in proposals approved by the President under this section; and

(B) may be used—

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

(ii) to improve the assessment of a community's vulnerability to natural hazards; or

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

(2) Dissemination

A State or local government may use not more than 10 percent of the financial assistance received by the State or local government under this section for a fiscal year to fund activities to disseminate information regarding cost-effective mitigation technologies.

(f) Allocation of funds

The amount of financial assistance made available to a State (including amounts made available to local governments of the State) under this section for a fiscal year—

(1) shall be not less than the lesser of—

(A) $500,000; or

(B) the amount that is equal to 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;

(2) shall not exceed 15 percent of the total funds described in paragraph (1)(B); and

(3) shall be subject to the criteria specified in subsection (g).

(g) Criteria for assistance awards

In determining whether to provide technical and financial assistance to a State or local government under this section, the President shall take into account—

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

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

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

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

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

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

(7) if the State or local government has submitted a mitigation plan under section 5165 of this title, the extent to which the activities identified under paragraph (6) are consistent with the mitigation plan;

(8) the opportunity to fund activities that maximize net benefits to society;

(9) the extent to which assistance will fund mitigation activities in small impoverished communities; and

(10) such other criteria as the President establishes in consultation with State and local governments.

(h) Federal share

(1) In general

Financial assistance provided under this section may contribute up to 75 percent of the total cost of mitigation activities approved by the President.

(2) Small impoverished communities

Notwithstanding paragraph (1), the President may contribute up to 90 percent of the total cost of a mitigation activity carried out in a small impoverished community.

(i) National predisaster mitigation fund

(1) Establishment

The President may establish in the Treasury of the United States a fund to be known as the "National Predisaster Mitigation Fund", to be used in carrying out this section.

(2) Transfers to fund

There shall be deposited in the Fund—

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

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

(3) Expenditures from fund

Upon request by the President, the Secretary of the Treasury shall transfer from the Fund to the President such amounts as the President determines are necessary to provide technical and financial assistance under this section.

(4) Investment of amounts

(A) In general

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

(B) Acquisition of obligations

For the purpose of investments under subparagraph (A), obligations may be acquired—

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

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

(C) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(D) Credits to fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(E) Transfers of amounts

(i) In general

The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(ii) Adjustments

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(j) Limitation on total amount of financial assistance

The President shall not provide financial assistance under this section in an amount greater than the amount available in the Fund.

(k) Multihazard advisory maps

(1) Definition of multihazard advisory map

In this subsection, the term "multihazard advisory map" means a map on which hazard data concerning each type of natural disaster is identified simultaneously for the purpose of showing areas of hazard overlap.

(2) Development of maps

In consultation with States, local governments, and appropriate Federal agencies, the President shall develop multihazard advisory maps for areas, in not fewer than five States, that are subject to commonly recurring natural hazards (including flooding, hurricanes and severe winds, and seismic events).

(3) Use of technology

In developing multihazard advisory maps under this subsection, the President shall use, to the maximum extent practicable, the most cost-effective and efficient technology available.

(4) Use of maps

(A) Advisory nature

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

(B) Availability of maps

The multihazard advisory maps shall be made available to the appropriate State and local governments for the purposes of—

(i) informing the general public about the risks of natural hazards in the areas described in paragraph (2);

(ii) supporting the activities described in subsection (e); and

(iii) other public uses.

(l) Report on Federal and State administration

Not later than 18 months after October 30, 2000, the President, in consultation with State and local governments, shall submit to Congress a report evaluating efforts to implement this section and recommending a process for transferring greater authority and responsibility for administering the assistance program established under this section to capable States.

(m) Termination of authority

The authority provided by this section terminates December 31, 2003.

(Pub.L. 93–288, Title II, § 203, as added Pub.L. 106–390, Title I, § 102(a), Oct. 30, 2000, 114 Stat. 1553.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

References in Text

This chapter, referred to in subsec. (g), originally read "this Act", meaning the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub.L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. See Tables for complete classification.

Findings and Purpose

(Pub.L. 106–390, Title I, § 101, Oct. 30, 2000, 114 Stat. 1552, provided that:

"(a) **Findings.**—Congress finds that—

"(1) natural disasters, including earthquakes, tsunamis, tornadoes, hurricanes, flooding, and wildfires, pose great danger to human life and to property throughout the United States;

"(2) Greater emphasis needs to be placed on—

"(A) identifying and assessing the risks to States and local governments (including Indian tribes) from natural disasters;

"(B) implementing adequate measures to reduce losses from natural disasters; and

"(C) ensuring that the critical services and facilities of communities will continue to function after a natural disaster;

"(3) expenditures for postdisaster assistance are increasing without commensurate reductions in the likelihood of future losses from natural disasters;

"(4) in the expenditure of Federal funds under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), high priority should be given to mitigation of hazards at the local level; and

"(5) With a unified effort of economic incentives, awareness and education, technical assistance, and demonstrated Federal support, States and local Governments (including indian tribes) will be able to—

"(A) form effective community-based partnerships for hazard mitigation purposes;

"(B) implement effective hazard mitigation measures that reduce the potential damage from natural disasters;

"(C) ensure continued functionality of critical services;

"(D) leverage additional non-Federal resources in meeting natural disaster resistance goals; and

"(E) make commitments to long-term hazard mitigation efforts to be applied to new and existing structures.

"(b) **Purpose.**—The purpose of this title [Title I of Pub.L. 106–390, Oct. 30, 2000, 114 Stat. 1552, which enacted this section and sections 5134, 5165, and 5165a of this title, amended section 5170c of this title, and repealed section 5176 of this title] is to establish a national disaster hazard mitigation program—

"(1) to reduce the loss of life and property, human suffering, economic disruption, and disaster assistance costs resulting from natural disasters; and

"(2) to provide a source of predisaster hazard mitigation funding that will assist States and local governments (including Indian tribes) in implementing effective hazard mitigation measures that are designed to ensure the continued functionality of critical services and facilities after a natural disaster."

LIBRARY REFERENCES

American Digest System

United States ⇐26, 32(2, 5).

Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 27 to 28, 122.

§ 5134. 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—

(1) relevant Federal agencies;

(2) State and local government organizations (including Indian tribes); and

(3) the American Red Cross.

(Pub.L. 93–288, Title II, § 204, as added Pub.L. 106–390, Title I, § 103, Oct. 30, 2000, 114 Stat. 1557.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

LIBRARY REFERENCES

American Digest System

United States ⇐26, 36.
Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 27 to 28, 36 to 37, 62 to 64.

SUBCHAPTER III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

§ 5141. Waiver of administrative conditions

LIBRARY REFERENCES

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

79 Am Jur 2d, Welfare Laws § 44.

§ 5148. Nonliability of Federal Government

LIBRARY REFERENCES

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:539.

NOTES OF DECISIONS

Discretionary function 5
Persons protected 4

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4. Persons protected

Police officer who had been deputized, at request of Federal Emergency Management Agency (FEMA), by United States Marshals Service in aftermath of hurricane, and who was involved in automobile accident while driving government vehicle in course of performing his duties of protecting FEMA workers and property, was not engaged in discretionary function at time of accident, and thus, officer and United States were not protected from liability under immunity provision of Disaster Relief Act; while FEMA's decision to establish disaster assistance centers was exercise of discretionary function, allegedly negligent operation of vehicle by government employee was performance of nondiscretionary, operational function. Torres v. Government of the U.S. (Federal Emergency Management Agency and U.S. Marshal's Service), D.Virgin Islands 1997, 979 F.Supp. 1054.

5. Discretionary function

Stafford Act's discretionary function exception, which immunized federal government from liability arising out of its performance of discretionary function in providing disaster relief, did not apply to bar breach of contract claims asserted by trustee for owner of mobile home park and park's lessee-operator, based on alleged failure of Federal Emergency Management Agency (FEMA) and Army Corps of Engineers to ensure that cleanup of hurricane damage to park was conducted according to alleged contract; once FEMA entered into contract governing cleanup of park, its actions did not involve element of judgment or choice, but rather were mandated by agreed-upon standards. Dureiko v. U.S., C.A.Fed.2000, 209 F.3d 1345.

Property owner's breach of contract claims against the government arising from government contractor's removal of debris on the property after hurricane were barred under discretionary function exception of the Stafford Act precluding government liability for discretionary actions during disaster efforts authorized by the President pursuant to the Act. Sunrise Village Mobile Home Park, L.C. v. U.S., Fed.Cl.1998, 42 Fed.Cl. 392.

§ 5149. Performance of services

NOTES OF DECISIONS

Compensation 1

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1. Compensation

As used in statute authorizing Federal Emergency Management Agency (FEMA) to appoint and fix "compensation" of temporary personnel without regard to requirements of federal civil service laws, term "compensation" includes leave and holiday pay, and thus FEMA is authorized to set compensation for temporary Disaster Assistance Employees without regard to provisions of Federal Leave Act. Thiess v. Witt, C.A.Fed. (Dist.Col.) 1996, 100 F.3d 915, exceptions sustained in part.

§ 5154. Insurance

(a) Applicants for replacement of damaged facilities

(1) Compliance with certain regulations

An applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure) or section 3149(c)(2) of this title shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

[See main volume for text of (2)]

(b) Maintenance of insurance

No applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure), or section 3149(c)(2) of this title may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this chapter unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 5141 of this title.

(c) State acting as self-insurer

A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 5172 or 5189 of this title or section 3149(c)(2) of this title or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a) of this section. No such self-insurer may receive assistance under section 5172 or 5189 of this title for any property or part thereof for which it has previously received assistance under this chapter, to the extent that insurance for such property or part thereof would have been reasonably available.

(As amended Pub.L. 106–390, Title II, § 201, Oct. 30, 2000, 114 Stat. 1559.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

Amendments

2000 Amendments. Subsec. (a)(1). Pub.L. 106–390, § 201, struck out "section 3233 of this title" and inserted "section 3149 (c)(2) of this title".

Subsec. (b). Pub.L. 106–390, § 201, struck out "section 3233 of this title" and inserted "section 3149 (c)(2) of this title".

Subsec. (c). Pub.L. 106–390, § 201, struck out "section 3233 of this title" and inserted "section 3149 (c)(2) of this title".

LIBRARY REFERENCES

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Devel-

§ 5155. Duplication of benefits

LIBRARY REFERENCES

Administrative Law

Emergency funds for repair of federal-aid highways, see 23 CFR § 668.101 et seq.

NOTES OF DECISIONS

Generally 1

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1. Generally

Determination by Federal Emergency Management Agency (FEMA) that disaster assistance statute required state to reimburse FEMA for insurance money available to state did not constitute rulemaking and, thus, notice and comment rulemaking requirements of Administrative Procedure Act (APA) were inapplicable to FEMA's determination. State ex rel. Attorney General v. Federal Emergency Management Agency, D.Hawai'i 1999, 78 F.Supp.2d 1111.

§ 5157. Penalties

LIBRARY REFERENCES

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development §§ 44:552, 684.

§ 5158. Availability of materials

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

79 Am Jur 2d, Welfare Laws § 44.

§ 5165. Mitigation planning

(a) Requirement of mitigation plan

As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e), a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.

(b) Local and tribal plans

Each mitigation plan developed by a local or tribal government shall—

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

(2) establish a strategy to implement those actions.

(c) State plans

The State process of development of a mitigation plan under this section shall—

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

(2) support development of local mitigation plans;

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

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

(d) Funding

(1) In general

Federal contributions under section 5170c of this title may be used to fund the development and updating of mitigation plans under this section.

(2) Maximum Federal contribution

With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 5170c of this title not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.

(e) Increased Federal share for hazard mitigation measures

(1) In general

If, at the time of the declaration of a major disaster, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster, the maximum percentage specified in the last sentence of section 5170c(a) of this title.

(2) Factors for consideration

In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established—

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

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

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

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

(Pub.L. 93–288, Title II, § 322, as added Pub.L. 106–390, Title I, § 104(a), Oct. 30, 2000, 114 Stat. 1558.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

LIBRARY REFERENCES

American Digest System

United States ⇐26, 82(2, 5).
Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 27 to 28, 122.

§ 5165a. Minimum standards for public and private structures

(a) In general

As a condition of receipt of a disaster loan or grant under this chapter—

(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 chapter shall provide such evidence of compliance with this section as the President may require by regulation.

(Pub.L. 93–288, Title II, § 323, as added Pub.L. 106–390, Title I, § 104(a), Oct. 30, 2000, 114 Stat. 1559.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

References in Text

This chapter, referred to in text, originally read "this Act", meaning the Robert T. Stafford Disaster Relief and Emergency Assistance Act,

is classified principally to this chapter. See Tables for complete classification.

LIBRARY REFERENCES

American Digest System

United States ⇐26, 82(2, 5).
Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 27 to 28, 122.

§ 5165b. Management costs

(a) Definition of management cost

In this section, the term " management cost" includes any indirect cost, any administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.

(b) Establishment of management cost rates

Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation establish management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this chapter 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.

(Pub.L. 93–288, Title II, § 324, as added Pub.L. 106–390, Title II, § 202(a), Oct. 30, 2000, 114 Stat. 1560.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

References in Text

This chapter, referred to in subsec. (b), originally read "this Act", meaning the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub.L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. See Tables for complete classification.

Effective and Applicability Provisions

2000 Acts. Pub.L. 106–390, Title II, § 202(b), Oct. 30, 2000, 114 Stat. 1560, provided that:

"(1) In general.—Subject to paragraph (2), subsections (a) and (b) of section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a) [this section]) shall apply to major disasters declared under that Act [the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub.L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter; see Tables for complete classification] on or after the date of the enactment of this Act [Oct. 30, 2000].

"(2) Interim authority.—Until the date on which the President establishes the management cost rates under section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a) [this section]), section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) (as in effect on the day before the date of the enactment of this Act [Oct. 30, 2000]) shall be used to establish management cost rates."

LIBRARY REFERENCES

American Digest System

United States ⇐26, 82(2, 5).
Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 27 to 28, 122.

§ 5165c. 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 chapter; and

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

(2) Application

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

(b) Consultation concerning interim policies

(1) In general

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

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

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

(2) No legal right of action

Nothing in this subsection confers a legal right of action on any party.

(c) Public access

The President shall promote public access to policies governing the implementation of the public assistance program.

(Pub.L. 93–288, Title II, § 325, as added Pub.L. 106–390, Title II, § 203, Oct. 30, 2000, 114 Stat. 1560.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

References in Text

This chapter, referred to in subsec. (b), originally read "this Act", meaning the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub.L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to this chapter. See Tables for complete classification.

LIBRARY REFERENCES

American Digest System

United States ⇐26, 82(2, 5).
Key Number System Topic No. 393.

Encyclopedias

United States, see C.J.S. § 27 to 28, 122.

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

§ 5170c. 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 5165 of this title and shall be subject to approval by the President. Subject to section 5165 of this title, the total of contributions under this section for a major disaster shall not exceed 15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster.

[See main volume for text of (b)]

(c) Program administration by States

(1) In general

A State desiring to administer the hazard mitigation grant program established by this section with respect to hazard mitigation assistance in the State may submit

to the President an application for the delegation of the authority to administer the program.

(2) Criteria

The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). The criteria shall include, at a minimum—

(A) the demonstrated ability of the State to manage the grant program under this section;

(B) there being in effect an approved mitigation plan under section 5165 of this title; and

(C) a demonstrated commitment to mitigation activities.

(3) Approval

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

(4) Withdrawal of approval

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

(5) Audits

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

(As amended Pub.L. 106–390, Title I, § 104(c)(1), Title II, § 204, Oct. 30, 2000, 114 Stat. 1559, 1561.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

Amendments

2000 Amendments. Subsec. (a). Pub.L. 106–390, § 104(c)(1), struck out "section 5176" and inserted "section 5165"; struck out "The total" and inserted "Subject to section 5165 of this title, the total".

Subsec. (c). Pub.L. 106–390, § 204, added subsec. (c).

§ 5171. Federal facilities

LIBRARY REFERENCES

Encyclopedias

Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

20 Fed Proc L Ed, Internal Revenue § 48:862.

§ 5172. Repair, restoration, and replacement of damaged facilities

(a) Contributions

(1) In general

The President may make contributions—

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

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

(2) Associated expenses

For the purposes of this section, associated expenses shall include—

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

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

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

(3) Conditions for assistance to private nonprofit facilities

(A) In general

The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—

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

(ii) the owner or operator of the facility—

(I) has applied for a disaster loan under section 636(b) of Title 15; and

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

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

(B) Definition of critical services

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

(4) Notification to Congress

Before making any contribution under this section in an amount greater than $20,000,000, the President shall notify—

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

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

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

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

(b) Federal share

(1) Minimum Federal share

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

(2) Reduced Federal share

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

(A) that has been damaged, on more than one occasion within the preceding 10–year period, by the same type of event; and

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

(c) Large in-lieu contributions

(1) For public facilities

(A) In general

In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or

replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) Areas with unstable soil

In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government because soil instability in the disaster area makes repair, restoration, reconstruction, or replacement infeasible, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(C) Use of funds

Funds contributed to a State or local government under this paragraph may be used—

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

(ii) to construct new facilities; or

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

(D) Limitations

Funds made available to a State or local government under this paragraph may not be used for—

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

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

(2) For private nonprofit facilities

(A) In general

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

(B) Use of funds

Funds contributed to a person under this paragraph may be used—

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

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

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

(C) Limitations

Funds made available to a person under this paragraph may not be used for—

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

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

[See main volume for text of (d)]

(e) Eligible cost

(1) Determination

(A) In general

For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and

(ii) in conformity with codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred.

(B) Cost estimation procedures

(i) In general

Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.

(ii) Applicability

The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 5189 of this title.

(2) Modification of eligible cost

(A) Actual cost greater than ceiling percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is greater than the ceiling percentage established under paragraph (3) of the cost estimated under paragraph (1), the President may determine that the eligible cost includes a portion of the actual cost of the repair, restoration, reconstruction, or replacement that exceeds the cost estimated under paragraph (1).

(B) Actual cost less than estimated cost

(i) Greater than or equal to floor percentage of estimated cost

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

(ii) Less than floor percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance

under this section shall reimburse the President in the amount of the difference.

(C) No effect on appeals process

Nothing in this paragraph affects any right of appeal under section 5189a of this title.

(3) Expert panel

(A) Establishment

Not later than 18 months after October 30, 2000, the President, acting through the Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

(B) Duties

The expert panel shall develop recommendations concerning—

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

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

(C) Regulations

Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish—

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

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

(D) Review by President

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

(E) Report to Congress

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

(4) Special rule

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

(f) Repealed. Pub.L. 106–390, Title II, § 205(e), Oct. 30, 2000, 114 Stat. 1566

(As amended Pub.L. 106–390, Title II, § 205(a) to (d)(1), (e), Oct. 30, 2000, 114 Stat. 1562, 1566.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

References in Text

The National Flood Insurance Act of 1968, referred to in text, is Pub.L. 90–448, Title XIII, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to chapter 50 (section 4001 et seq.) of this title. See Tables for complete classification.

Amendments

2000 Amendments. Subsec. (a). Pub.L. 106–390, § 205(a), rewrote subsec. (a), which formerly read:

"(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."

Subsec. (b). Pub.L. 106–390, § 205(b), rewrote subsec. (b), which formerly read:

"(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) of this section; and

"(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5) of this section."

Subsec. (c). Pub.L. 106–390, § 205(c), rewrote subsec. (c), which formerly read:

"(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) of this section, a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures which the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

"(2) For private nonprofit facilities

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

"(3) Restriction on use for State or local contribution

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

Subsec. (e). Pub.L. 106–390, § 205(d)(1), rewrote subsec. (e), which formerly read:

"(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."

Subsec. (f). Pub.L. 106–390, § 205(e), repealed subsec. (f), which formerly read:

"(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

5170c, 5172, 5173, 5192, and 5193 of this title in such State in connection with the major disaster as follows:

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

"(B) If such total amount 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.".

Effective and Applicability Provisions

2000 Acts. Pub.L. 106–390, Title II, § 205(d)(2), Oct. 30, 2000, 114 Stat. 1566, provided that: "The amendment made by paragraph (1) [amending subsec. (e)(1) of this section] takes effect on the date of the enactment of this Act [Oct. 30, 2000] and applies to funds appropriated after the date of the enactment of this Act, except that paragraph (1) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as amended by paragraph (1) [subsec. (e)(1) of this section]) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section [subsec. (e)(3) of this section] take effect."

LIBRARY REFERENCES

Encyclopedias

Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development §§ 44:579-581, 586.

§ 5173. Debris removal

LIBRARY REFERENCES

Encyclopedias

Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

79 Am Jur 2d, Welfare Laws § 44.

§ 5174. Temporary housing assistance

Amendment of Section

Pub.L. 106–390, Title II, § 206(a), (d), Oct. 30, 2000, 114 Stat. 1566, provided that, effective 18 months after October 30, 2000, this section is amended to read as follows:

§ 5174. Federal assistance to individuals and households

(a) In general

(1) Provision of assistance

In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.

(2) Relationship to other assistance

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

(b) Housing assistance

(1) Eligibility

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

(2) Determination of appropriate types of assistance

(A) In general

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

(B) Multiple types of assistance

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

(c) Types of housing assistance

(1) Temporary housing

(A) Financial assistance

(i) In general

The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings.

(ii) Amount

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

(B) Direct assistance

(i) In general

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

(ii) Period of assistance

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

(iii) Collection of rental charges

After the end of the 18–month period referred to in clause (ii), the President may charge fair market rent for each temporary housing unit provided.

(2) Repairs

(A) In general

The President may provide financial assistance for—

(i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and

(ii) eligible hazard mitigation measures that reduce the likelihood of

(B) Relationship to other assistance

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

(C) Maximum amount of assistance

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

(3) Replacement

(A) In general

The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.

(B) Maximum amount of assistance

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

(C) Applicability of flood insurance requirement

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

(4) Permanent housing construction

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

***(A)** no alternative housing resources are available; and*

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

(d) Terms and conditions relating to housing assistance

(1) Sites

(A) In general

Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

***(i)** is complete with utilities; and*

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

(B) Sites provided by the President

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

(2) Disposal of units

(A) Sale to occupants

(i) In general

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

(ii) Sale price

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

(iii) Deposit of proceeds

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

(iv) Hazard and flood insurance

A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.

(v) Use of GSA services

The President may use the services of the General Services Administration to accomplish a sale under clause (i).

(B) Other methods of disposal

If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims—

***(i)** may be sold to any person; or*

***(ii)** may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees—*

***(I)** to comply with the nondiscrimination provisions of section 5151 of this title; and*

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

(e) Financial assistance to address other needs

(1) Medical, dental, and funeral expenses

The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, and funeral expenses.

(2) Personal property, transportation, and other expenses

The President, in consultation with the Governor of a State, may provide financial assistance under this section to an individual or household described in paragraph (1) to address personal property, transportation, and other necessary expenses or serious needs resulting from the major disaster.

(f) State role

(1) Financial assistance to address other needs

(A) Grant to State

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

(B) Administrative costs

A State that receives a grant under subparagraph (A) may expend not more than 5 percent of the amount of the grant for the administrative costs of providing financial assistance to individuals and households in the State under subsection (e).

(2) Access to records

In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, including by providing to the States access to the electronic records of individuals and

make available any additional State and local assistance to the individuals and households.

(g) Cost sharing

(1) Federal share

Except as provided in paragraph (2), the Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.

(2) Financial assistance to address other needs

In the case of financial assistance provided under subsection (e)—

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

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

(h) Maximum amount of assistance

(1) In general

No individual or household shall receive financial assistance greater than $25,000 under this section with respect to a single major disaster.

(2) Adjustment of limit

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

(i) Rules and regulations

The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

Amendments

2000 Amendments. Pub.L. 106–390, § 206(a), rewrote this section, which formerly read:

"§ 5174. 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 5151 of this title requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section 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.".

Effective and Applicability Provisions

2000 Acts. Pub.L. 106–390, Title II, § 206(d), Oct. 30, 2000, 114 Stat. 1571, provided that: "The amendments made by this section [amending this section and section 5192(a)(6) of this title and repealing section 5178 of this title] take effect 18 months after the date of the enactment of this Act [Oct. 30, 2000].

LIBRARY REFERENCES

Encyclopedias

Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

79 Am Jur 2d, Welfare Laws § 44.

Law Review and Journal Commentaries

Helping hands: Aid for natural disaster homeless vs. aid for "ordinary homeless". David W. Sar, 7 Stan. Law & Pol'y Rev. 129 (1995–96).

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:551.

§ 5176. Repealed. Pub.L. 106–390, Title I, § 104(c)(2), Oct. 30, 2000, 114 Stat. 1559

HISTORICAL AND STATUTORY NOTES

Section, Pub.L. 93–288, Title IV, § 409, formerly § 406, May 22, 1974, 88 Stat. 155; renumbered § 409, Pub.L. 100–707, Title I, § 106(e), Nov. 23, 1988, 102 Stat. 4703, related to minimum standards for public and private struc-

Another prior section 409 of Pub.L. 93–288 was renumbered section 412 by Pub.L. 100–707 and is classified to section 5179 of this title.

§ 5177. Unemployment assistance

LIBRARY REFERENCES

Administrative Law

Disaster unemployment assistance, see 20 CFR § 625.1 et seq.

Encyclopedias

Unemployment compensation insurance under social security law generally, see C.J.S. Social Security and Public Welfare § 146 et seq.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

Fed Proc L Ed, Housing and Urban Development § 44:571.
Yannacone, Cohen and Davison, Environmental Rights and Remedies.

§ 5177a. Emergency grants to assist low-income migrant and seasonal farmworkers

CROSS REFERENCES

"Rural development program" defined as in this section for purposes of prohibition or restricting water and waste facility services to electric customers, see 7 USCA § 917.

§ 5178. Individual and family grant programs

Repeal of Section

Pub.L. 106–390, Title II, § 206(c), (d), Oct. 30, 2000, 114 Stat. 1571, provided that, effective 18 months after October 30, 2000, this section is repealed.

HISTORICAL AND STATUTORY NOTES

Amendments

2000 Amendments. Pub.L. 106–390, § 206(c), repealed this section, which formerly read:

"§ 5178. 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 chapter 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) of this section 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.".

Effective Date of Repeal

Repeal by Pub.L. 106–390, Title II, § 206(c), effective 18 months after October 30, 2000, see Pub.L. 106–390, Title II, § 206(d), set out as a note under section 5174 of this title.

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

Fed Proc L Ed, Housing and Urban Development § 44:576.

§ 5179. Food coupons and distribution

LIBRARY REFERENCES

Administrative Law

Donation of foods, see 7 CFR § 250.1 et seq.
Issuance and use of coupons, see 7 CFR § 274.1 et seq.

Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

§ 5180. Food commodities

LIBRARY REFERENCES

Administrative Law

Donation of foods, see 7 CFR § 250.1 et seq.

Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

§ 5181. Relocation assistance

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; relocation assistance and disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

§ 5182. Legal services

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:571.

§ 5183. Crisis counseling assistance and training

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:572.

§ 5184. Community disaster loans

(a) In general

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

(b) Amount

The amount of any such loan shall be based on need, shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed $5,000,000.

(c) Repayment

(1) Cancellation

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

(2) Condition on continuing eligibility

A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.

(d) Effect on other assistance

Any loans Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this chapter.

(As amended Pub.L. 106–390, Title II, § 207, Oct. 30, 2000, 114 Stat. 1571.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

Amendments

2000 Amendments. Pub.L. 106–390, § 207, rewrote this section, which formerly read:

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

"(b) No effect on grants or other assistance

"Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this chapter.".

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:592.

§ 5185. Emergency communications

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

79 Am Jur 2d, Welfare Laws § 44.

§ 5186. Emergency public transportation

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

79 Am Jur 2d, Welfare Laws § 44.

§ 5187. Fire suppression grants

Amendment of Section

Pub.L. 106–390, Title III, § 303, Oct. 30, 2000, 114 Stat. 1572, provided that, effective 1 year after October 30, 2000, this section is amended to read as follows:

§ 5187. Fire management assistance

(a) In general

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

(b) Coordination with State and tribal departments of forestry

In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.

(c) Essential assistance

In providing assistance under this section, the President may use the authority provided under section 5170c of this title.

(d) Rules and regulations

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

Amendments

2000 Amendments. Pub.L. 106–390, § 303(a), rewrote this section, which formerly read:

"§ 5187. Fire suppression grants

"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.".

Effective and Applicability Provisions

2000 Acts. Pub.L. 106–390, Title III, § 303(b), Oct. 30, 2000, 114 Stat. 1573, provided that: "The amendment made by subsection (a) [amending this section] takes effect 1 year after the date of the enactment of this Act [Oct. 30, 2000]."

LIBRARY REFERENCES

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
79 Am Jur 2d, Welfare Laws § 44.

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:596.

§ 5188. Timber sale contracts

LIBRARY REFERENCES

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:601.

§ 5189. Simplified procedure

LIBRARY REFERENCES

Texts and Treatises

18 Fed Proc L Ed, Housing and Urban Development § 44:488.

§ 5189a. Appeals of assistance decisions

NOTES OF DECISIONS

Hearing 2

2. Hearing

Individual states can determine what type of hearing process is to be utilized in FEMA appeals, subject to limitation that judicial review be on record, written or oral, made before agency. Messamaker v. Iowa Dept. of Human Services, Iowa 1996, 545 N.W.2d 566.

SUBCHAPTER IV-A—EMERGENCY ASSISTANCE PROGRAMS

§ 5192. Federal emergency assistance

Amendment of subsec. (a)(6)

Pub.L. 106–390, Title II, § 206(b), (d), Oct. 30, 2000, 114 Stat. 1570, provided that, effective 18 months after October 30, 2000, subsec. (a)(6) is amended by striking "temporary housing".

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2000 Acts. House Report No. 106–40, see 2000 U.S. Code Cong. and Adm. News, p. 1456.

Amendments

2000 Amendments. Subsec. (a)(6). Pub.L. 106–390, § 206(b), struck out "temporary housing" preceeding "assistance".

Effective and Applicability Provisions

Amendment by Pub.L. 106–390, Title II, § 206(b), effective 18 months after October 30, 2000, see Pub.L. 106–390, Title II, § 206(d), set out as a note under section 5174 of this title.

SUBCHAPTER IV–B—EMERGENCY PREPAREDNESS

§ 5195. Declaration of policy

HISTORICAL AND STATUTORY NOTES

Multi-Hazard Preparedness and Mitigation

Pub.L. 106–74, Title III, Oct. 20, 1999, 113 Stat. 1086, provided in part: "That beginning in fiscal year 2000 and each fiscal year thereafter, and notwithstanding any other provision of law, the Director of FEMA is authorized to provide assistance from funds appropriated under this heading [Emergency Management Planning and Assistance (Including Transfer of Funds)], subject to terms and conditions as the Director of FEMA shall establish, to any State for multihazard preparedness and mitigation through consolidated emergency management performance grants".

Abolition of Interstate Commerce Commission and Transfer of Functions

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub.L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub.L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub.L. 104–88, set out as a note under section 701 of Title 49.

Designation of Chair of President's Commission on Critical Infrastructure Protection Under Executive Order No. 12958

For provisions designating the Chair of the President's Commission on Critical Infrastructure Protection, established under Ex. Ord. No. 13010 of July 15, 1996, set out as a note under this section, as an official authorized to classify information originally as "Top Secret", see Order of the President, Feb. 26, 1997, 62 F.R. 9349, set out as a note under section 435 of Title 50, War and National Defense.

Multihazard Research Planning, and Mitigation; Functions, Etc., of Federal Emergency Management Agency

Pub.L. 96–472, Title III, §§ 301, 302, Oct. 19, 1980, 94 Stat. 2260, as amended Pub.L. 97–80, Title III, § 301, Nov. 20, 1981, 95 Stat. 1083, Pub.L. 97–464, Title II, § 201, Jan. 12, 1983, 96 Stat. 2533, provided that:

"Sec. 301. It is recognized that natural and manmade hazards may not be independent of one another in any given disaster, and it is also recognized that emergency personnel are often called upon to meet emergencies outside of their primary field of service. Furthermore, planning for and responding to different hazards have certain common elements. To make maximum use of these commonalities, the Director of the Federal Emergency Management Agency (hereinafter referred to as the 'Director') is authorized and directed to:

"(1) initiate, within one year after the date of enactment of this Act [Oct. 19, 1980], studies with the objective of defining and developing a multihazard research, planning, and implementation process within the Agency;

"(2) develop, within one year after the date of enactment of this Act [Oct. 19, 1980], in cooperation with State and local governments, prototypical multihazard mitigation projects which can be used to evaluate several approaches to the varying hazard mitigation needs of State and local governments and to assess the applicability of these prototypes to other jurisdictions with similar needs;

"(3) investigate and evaluate, within one year after the date of enactment of this Act [Oct. 19, 1980], the effectiveness of a range of incentives for hazard reductions that can be applied at the State and local government levels;

"(4) prepare recommendations as to the need for legislation that will limit the legal liability of those third party persons or groups assistance and advice to public employees, including policemen, firemen, and transportation employees, who are generally the first to respond to a hazardous incident; which recommendations shall be provided to the appropriate committees of Congress within one hundred and eighty days after the date of enactment of this Act [Oct. 19, 1980];

"(5) prepare, within one hundred and eighty days after the date of enactment of this Act [Oct. 19, 1980], a report on the status of the Agency's emergency information and communications systems which will provide recommendations on—

"(A) the advisability of developing a single, unified emergency information and communication system for use by the Agency in carrying out its emergency management activities;

"(B) the potential for using communication and remote sensing satellites as part of the Agency's emergency information and communication system; and

"(C) the type of system to be developed, if needed, including the relationship of the proposed system and its needs to the existing and emerging information and communication systems in other Federal agencies;

"(6) conduct a program of multihazard research, planning, and mitigation in coordination with those studies and evaluations authorized in paragraphs (1) through (5), as well as other hazard research, planning, and mitigation deemed necessary by the Director;

"(7) conduct emergency first response programs so as to better train and prepare emergency personnel to meet emergencies outside of their primary field of service; and

"(8) conduct a program of planning, preparedness, and mitigation related to the multiple direct and indirect hazards resulting from the occurrence of large earthquakes.

"Sec. 302. (a) For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Director $1,000,000 to carry out paragraphs (1) through (5) of section 301 and such sums as may be necessary to carry out paragraph (6) of such section.

"(b) For the fiscal year ending September 30, 1982, there are authorized to be appropriated to the Director—

"(1) $4,939,000 to carry out section 301, which amount shall include—

"(A) not less than $700,000 to carry out the purposes of paragraphs (1) through (6) of such section;

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

"(C) not less than $3,300,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earthquake; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection."

"(c) For the fiscal year ending September 30, 1983, there are authorized to be appropriated to the Director—

"(1) $2,774,000 to carry out section 301, which amount shall include—

"(A) not less than $300,000 to carry out the purposes of paragraphs (1) through (6) of such section;

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

"(C) not less than $1,535,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earthquake and with respect to other high seismic risk areas in the United States; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection."

REORGANIZATION PLANS

REORGANIZATION PLAN NO. 1 OF 1958

Eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended Pub.L. 85–763, Aug. 26, 1958, 72 Stat. 861; Pub.L. 87–296, § 1, Sept. 22, 1961, 75 Stat. 630; Pub.L. 87–367, Title I, § 103(10), Oct. 4, 1961, 75 Stat. 788; Pub.L. 88–426, Title III, § 305(11), Aug. 14, 1964, 78 Stat. 423; Pub.L. 90–608, Title IV, § 402, Oct. 21, 1968, 82 Stat. 1194; Reorg. Plan No. 1 of 1973, § 3(a), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 24, 1958, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C.A.

CIVILIAN MOBILIZATION

Section 1. Transfer of Functions to the President.—

(a) There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the following: The Office of Defense Mobilization, the Director of the Office of Defense Mobilization, the Federal Civil Defense Administration, and the Federal Civil Defense Administrator.

(b) The President may from time to time delegate any of the functions transferred to him by subsection (a) of this section to any officer, agency, or employee of the executive branch of the Government, and may authorize such officer, agency, or employee to redelegate any of such functions delegated to him.

Sec. 2. Office of Emergency Preparedness.

[The Office of Emergency Preparedness including the offices of Director and Deputy Director, and all offices of Assistant Director, were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out under this section.]

Sec. 3. Regional Directors.

[All offices of Regional Director of the Office of Emergency Preparedness were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out under this section.]

Sec. 4. Membership on National Security Council.

[The functions of the Director of the Office of Emergency Preparedness as a member of the National Security Council were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(2), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out under this section.]

Sec. 5. Civil Defense Advisory Council.

[The Civil Defense Advisory Council, together with its functions, was abolished by Reorg. Plan No. 1 of 1973, § 3(a)(3), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out under this section.]

Sec. 6. Abolitions.

The offices of Federal Civil Defense Administrator and Deputy Administrator provided for in section 101 of the Federal Civil Defense Act (50 U.S.C.App. 2271) and the offices of the Director of the Office of Defense Mobilization and Deputy Director of the Office of Defense Mobilization provided for in section 1 of Reorganization Plan Numbered 3 of 1953 (67 Stat. 634) are hereby abolished. The Director of the Office of Emergency Preparedness shall make such provisions as may be necessary in order to wind up any outstanding affairs of the offices abolished by this section which are not otherwise provided for in this reorganization plan [As amended by Pub.L. 90–608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194].

Sec. 7. Records, Property, Personnel, and Funds.

(a) The records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of the Office of Defense Mobilization and of the Federal Civil Defense Administration shall, upon the taking effect of the provisions of this reorganization plan, become records, property, personnel, and unexpended balances of the Office of Emergency Preparedness.

(b) Records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of any agency (including the Office of Emergency Preparedness), relating to functions vested in or delegated or assigned to the office of Defense Mobilization or the Federal Civil Defense Administration immediately prior to the taking effect of the provisions of this reorganization plan, may be transferred from time to time to any other agency of the Government by the Director of the Bureau of the Budget under authority of this subsection for use, subject to the provisions of the Reorganization Act of 1949, as amended, in connection with any of the said functions authorized at time of transfer under this subsection to be performed by the transferee agency.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in connection with the provisions of subsections (a) and (b) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate [As amended by Pub.L. 90–608, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1194].

Sec. 8. Interim Provisions.—

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds an office abolished by section 6 hereof to hold any office established by section 2 of this reorganization plan until the latter office is filled pursuant to the said section 2 or by recess appointment, as the case may be, but in no event for any period extending more than 120 days after the said effective date.

Sec. 9. Effective Date.—

The provisions of this reorganization plan shall take effect at the time determined under the provisions of section 6(a) of the Reorganization Act of 1949, as amended, or on July 1, 1958, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1958, prepared in accordance with the Reorganization Act of 1949, as amended. The reorganization plan provides new arrangements for the conduct of Federal defense mobilization and civil defense functions.

In formulating Reorganization Plan No. 1, I have had the benefit of several studies made by the executive branch as well as those conducted by the Congress. The reorganization plan will overcome the major difficulties revealed by those studies and mentioned in my 1959 budget message where I made the following statement:

The structure of Federal organization for the planning, coordination, and conduct of our nonmilitary defense programs has been reviewed, and I have concluded that the existing statutes assigning responsibilities for the central coordination and direction of these programs are out of date. The rapid technical advances of military science have led to a serious overlap among agencies carrying on these leadership and planning functions. Because the situation will continue to change and because these functions transcend the responsibility of any single department or agency, I have concluded that they should be vested in no one short of the President. I will make recommendations to the Congress on this subject.

The principal effects of the organization plan are:

First, it transfers to the President the functions vested by law in the Federal Civil Defense Administration and those so vested in the Office of Defense Mobilization. The result is to establish a single pattern with respect to the vesting of defense mobilization and civil defense functions. At the present time disparity exists in that civil defense functions are vested in the President only to a limited degree while a major part of the functions administered by the Office of Defense Mobilization are vested by law in the President and delegated by him to that Office. Under the plan, the broad program responsibilities for coordinating and conducting the interrelated defense mobilization and civil defense functions will be vested in the President for appropriate delegation as the rapidly changing character of the nonmilitary preparedness program warrants.

Second, the reorganization plan consolidates the Office of Defense Mobilization and the Federal Civil Defense Administration to form a new Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization] in the Executive Office of the President. I have concluded that, in many instances, the interests and activities of the Office of Defense Mobilization and the Federal Civil Defense Administration overlap to such a degree that it is not possible to work out a satisfactory division of those activities and interests between the two agencies. I have also concluded that a single civilian mobilization agency of appropriate stature and authority is needed and that such an agency will ensue from the consolidation and from the granting of suitable authority to that agency for directing and coordinating the preparedness activities of the Federal departments and agencies and for providing unified guidance and assistance to the State and local governments.

Third, the reorganization plan transfers the membership of the Director of the Office of Defense Mobilization on the National Security Council to the Director of the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization] and also transfers the Civil Defense Advisory Council to the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization].

Initially, the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization] will perform the civil defense and defense mobilization functions now performed by the Office of Defense Mobilization and the Federal Civil Defense Administration. One of its first tasks will be to advise me with respect to the actions to be taken to clarify and expand the roles of the Federal departments and agencies in carrying out nonmilitary defense preparedness functions. After such actions are taken, the direction and coordination of the civil defense and defense mobilization activities assigned to the departments and agencies will comprise a principal remaining responsibility of the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization].

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1958 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of new officers specified in sections 2 and 3 of the plan. The rates of compensation fixed for these officers are, respectively those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 1 of 1958 will immediately reduce the number of Federal agencies by one and, by providing sounder organizational arrangements for the administration of the affected functions, should promote the increased economy and effectiveness of the Federal expenditures concerned. It is, however, impracticable to itemize at this time the reduction of expenditures which it is probable will be brought about by such taking effect.

I urge that the Congress allow the reorganization plan to become effective.

DWIGHT D. EISENHOWER

The White House, April 24, 1958.

REORGANIZATION PLAN NO. 1 of 1973

Eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, as amended May 11, 1976, Pub.L. 94–282, Title V, § 502, 90 Stat. 472

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, January 26, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code [5 U.S.C.A. ch. 9 (§§ 500 to 576)].

EXECUTIVE OFFICE OF THE PRESIDENT

Section 1. Transfer of functions to the President.— Except as provided in section 3(a)(2) of this reorganization plan, there are hereby transferred to the President of the United States all functions vested by law in the Office of Emergency Preparedness or the Di-

rector of the Office of Emergency Preparedness after the effective date of Reorganization Plan No. 1 of 1958.

Sec. 2. [Repealed. Pub.L. 94–282, Title V, § 502, May 11, 1976, 90 Stat. 472. Section transferred to the Director of the National Science Foundation all functions vested by law in the Office of Science and Technology or the Director or Deputy Director of the Office of Science and Technology.]

Sec. 3. **Abolitions.** (a) The following are hereby abolished:

(1) The Office of Emergency Preparedness including the offices of Director, Deputy Director, and all offices of Assistant Director, and Regional Director of the Office of Emergency Preparedness provided for by sections 2 and 3 of Reorganization Plan No. 1 of 1958 (5 U.S.C., App.).

(2) The functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council.

(3) The Civil Defense Advisory Council, created by section 102(a) of the Federal Civil Defense Act of 1950 (50 U.S.C.App. 2272(a)), together with its functions.

(4) The National Aeronautics and Space Council, created by section 201 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2471), including the office of Executive Secretary of the Council, together with its functions.

(5) The Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorganization Plan No. 2 of 1962 (5 U.S.C., App.).

(b) The Director of the Office of Management and Budget shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

Sec. 4. **Incidental transfers.** (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred by sections 1 and 2 of this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred at such time or times as he shall direct for use in connection with the functions transferred.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

Sec. 5. **Effective date.** The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code [section 906(a) of Title 5], or on July 1, 1973, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

On January 5 I announced a three-part program to streamline the executive branch of the Federal Government. By concentrating less responsibility in the President's immediate staff and more in the hands of the departments and agencies, this program should significantly improve the services of the Government. I believe these reforms have become so urgently necessary that I intend, with the cooperation of the Congress, to pursue them with all of the resources of my office during the coming year.

The first part of this program is a renewed drive to achieve passage of my legislative proposals to overhaul the Cabinet departments. Secondly, I have appointed three Cabinet Secretaries as Counsellors to the President with coordinating responsibilities in the broad areas of human resources, natural resources, and community development, and five Assistants to the President with special responsibilities in the areas of domestic affairs, economic affairs, foreign affairs, executive management, and operations of the White House.

The third part of this program is a sharp reduction in the overall size of the Executive Office of the President and a reorientation of that office back to its original mission as a staff for top-level policy formation and monitoring of policy execution in broad functional areas. The Executive Office of the President should no longer be encumbered with the task of managing or administering programs which can be run more effectively by the departments and agencies. I have therefore concluded that a number of specialized operational and program functions should be shifted out of the Executive Office into the line departments and agencies of the Government. Reorganization Plan No. 1 of 1973, transmitted herewith, would effect such changes with respect to emergency preparedness functions and scientific and technological affairs.

STREAMLINING THE FEDERAL SCIENCE ESTABLISHMENT

When the National Science Foundation was established by an act of the Congress in 1950, its statutory responsibilities included evaluation of the Government's scientific research programs and development of basic science policy. In the late 1950's, however, with the effectiveness of the U.S. science effort under serious scrutiny as a result of Sputnik, the post of Science Adviser to the President was established. The White House became increasingly involved in the evaluation and coordination of research and development programs and in science policy matters, and that involvement was institutionalized in 1962 when a reorganization plan established the Office of Science and Technology within the Executive Office of the President, through transfer of authorities formerly vested in the National Science Foundation.

With advice and assistance from OST during the past decade, the scientific and technological capability of the Government has been markedly strengthened. This administration is firmly committed to a sustained, broadbased national effort in science and technology, as I made plain last year in the first special message on the subject ever sent by a President to the Congress. The research and development capability of the various executive departments and agencies, civilian as well as defense, has been upgraded. The National Science Foundation has broadened from its earlier concentration on basic research support to take on a significant role in applied research as well. It has matured in its ability to play a coordinating and evaluative role within the Government and between the public and private sectors.

I have therefore concluded that it is timely and appropriate to transfer to the Director of the National Science Foundation all functions presently vested in the Office of Science and Technology, and to abolish that office. Reorganization Plan No. 1 would effect these changes.

The multi-disciplinary staff resources of the Foundation will provide analytic capabilities for performance of the transferred functions. In addition, the Director of the Foundation will be able to draw on expertise from all of the Federal agencies, as well as from outside the Government, for assistance in carrying out his new responsibilities.

It is also my intention, after the transfer of responsibilities is effected, to ask Dr. H. Guyford Stever, the current Director of the Foundation, to take on the additional post of Science Adviser. In this capacity, he would advise and assist the White House, Office of Management and Budget, Domestic Council, and other entities within the Executive Office of the President on matters where scientific and technological expertise is called for, and would act as the President's representative in selected cooperative programs in international scientific affairs, including chairing such joint bodies as the U.S.–U.S.S.R. Joint Commission on Scientific and Technical Cooperation.

In the case of national security, the Department of Defense has strong capabilities for assessing weapons needs and for undertaking new weapons development, and the President will continue to draw primarily on this source for advice regarding military technology. The President in special situations also may seek independent studies or assessments concerning military technology from within or outside the Federal establishment using the machinery of the National Security Council for this purpose, as well as the Science Adviser when appropriate.

In one special area of technology—space and aeronautics—a coordinating council has existed within the Executive Office of the President since 1958. This body, the National Aeronautics and Space Council, met a major need during the evolution of our nation's space program. Vice President Agnew has served with distinction as its chairman for the past four years. At my request, beginning in 1969, the Vice President also chaired a special Space Task Group charged with developing strategy alternatives for a balanced U.S. space program in the coming years.

As a result of this work, basic policy issues in the United States space effort have been resolved, and the necessary interagency relationships have been established. I have therefore concluded, with the Vice President's concurrence, that the Council can be discontinued. Needed policy coordination can now be achieved through the resources of the executive departments and agencies, such as the National Aeronautics and Space Administration, augmented by some of the former Council staff. Accordingly, my reorganization plan proposes the abolition of the National Aeronautics and Space Council.

A NEW APPROACH TO EMERGENCY PREPAREDNESS

The organization within the Executive Office of the President which has been known in recent years as the Office of Emergency Preparedness dates back, through its numerous predecessor agencies, more than 20 years. It has performed valuable functions in developing plans for emergency preparedness, in administering Federal disaster relief, and in overseeing and assisting the agencies in this area.

OEP's work as a coordinating and supervisory authority in this field has in fact been so effective—particularly under the leadership of General George A. Lincoln, its director for the past four years, who retired earlier this month after an exceptional military and public service career—that the line departments and agencies which in the past have shared in the performance of the various preparedness functions now possess the capability to assume full responsibility for those functions. In the interest of efficiency and economy, we can now further streamline the Executive Office of the President by formally relocating those responsibilities and closing the Office of Emergency Preparedness.

I propose to accomplish this reform in two steps. First, Reorganization Plan No. 1 would transfer to the President all functions previously vested by law in the Office or its Director, except the Director's role as a member of the National Security Council, which would be abolished; and it would abolish the Office of Emergency Preparedness.

The functions to be transferred to the President from OEP are largely incidental to emergency authorities already vested in him. They include functions under the Disaster Relief Act of 1970 [42 U.S.C.A. § 4401 et seq.]; the function of determining whether a major disaster has occurred within the meaning of (1) Section 7 of the Act of September 30, 1950, as amended, 20 U.S.C. 241–1, or (2) Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, Public Law 92–318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes) [20 U.S.C.A. § 1132d–1]; and functions under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), with respect to the conduct of investigations to determine the effects on national security of the importation of certain articles.

The Civil Defense Advisory Council within OEP would also be abolished by this plan, as changes in domestic and international conditions since its establishment in 1950 have now obviated the need for a standing council of this type. Should advice of the kind the Council has provided be required again in the future, State and local officials and experts in the field can be consulted on an ad hoc basis.

Second, as soon as the plan became effective, I would delegate OEP's former functions as follows:

All OEP responsibilities having to do with preparedness for and relief of civil emergencies and disasters would be transferred to the Department of Housing and Urban Development. This would provide greater field capabilities for coordination of Federal disaster assistance with that provided by States and local communities, and would be in keeping with the objective of creating a broad, new Department of Community Development.

OEP's responsibilities for measures to ensure the continuity of civil government operations in the event of major military attack would be reassigned to the General Services Administration, as would responsibility for resource mobilization including the management of national security stockpiles, with policy guidance in both cases to be provided by the National Security Council, and with economic considerations relating to changes in stockpile levels to be coordinated by the Council on Economic Policy.

Investigations of imports which might threaten the national security—assigned to OEP by Section 232 [19 U.S.C.A. § 1862] of the Trade Expansion Act of 1962 [19 U.S.C.A. § 1862]—would be reassigned to the Treasury Department, whose other trade studies give it a readymade capability in this field; the National Security Council would maintain its supervisory role over strategic imports.

Those disaster relief authorities which have been reserved to the President in the past, such as the authority to declare major disasters, will continue to be exercised by him under these new arrangements. In emergency situations calling for rapid interagency coordination, the Federal response will be coordinated by the Executive Office of the President under the general supervision of the Assistant to the President in charge of executive management.

The Oil Policy Committee will continue to function as in the past, unaffected by this reorganization, except that I will designate the Deputy Secretary of the Treasury as chairman in place of the Director of OEP. The Committee will operate under the general supervision of the Assistant to the President in charge of economic affairs.

DECLARATIONS

After investigation, I have found that each action included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in Section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a)(1), "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" and in Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable;" and in Section 901(a)(5), "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government."

While it is not practicable to specify all of the expenditure reductions and other economies which will result from the actions proposed, personnel and budget savings from abolition of the National Aeronautics and Space Council and the Office of Science and Technology alone will exceed $2 million annually, and additional savings should result from a reduction of Executive Pay Schedule positions now associated with other transferred and delegated functions.

The plan has as its one logically consistent subject matter the streamlining of the Executive Office of the President and the disposition of major responsibilities currently conducted in the Executive Office of the President, which can better be performed elsewhere or abolished.

The functions which would be abolished by this plan, and the statutory authorities for each, are:

(1) the functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council (Sec. 101, National Security Act of 1947, as amended, 50 U.S.C. 402; and Sec. 4, Reorganization Plan No. 1 of 1958);

(2) the functions of the Civil Defense Advisory Council (Sec. 102(a), Federal Civil Defense Act of 1950; 50 U.S.C.App. 2272(a)); and

(3) the functions of the National Aeronautics and Space Council (Sec. 201, National Aeronautics and Space Act of 1958; 42 U.S.C. 2471).

The proposed reorganization is a necessary part of the restructuring of the Executive Office of the President. It would provide through the Director of the National Science Foundation a strong focus for Federal efforts to encourage the development and application of science and technology to meet national needs. It would mean better preparedness for and swifter response to civil emergencies, and more reliable precautions against threats to the national security. The leaner and less diffuse Presidential staff structure which would result would enhance the President's ability to do his job and would advance the interests of the Congress as well.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON

THE WHITE HOUSE,
January 26, 1973.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 10186

Ex. Ord. No. 10186, Dec. 1, 1950, 15 F.R. 8557, established the Federal Civil Defense Administration in the Office for Emergency Management of the Executive Office of the President, provided for the appointment of an Administrator and a Deputy Administrator, and delineated the purposes, functions, and authority of the Administration and the Administrator.

EXECUTIVE ORDER NO. 10222

Ex. Ord. No. 10222, Mar. 8, 1951, 16 F.R. 2247, which transferred to Federal Civil Defense Administration functions of Health Resources Office of National Security Resources Board, was revoked by section 904(a)(2) of Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29533, set out as a note under section 2153 of Title 50, Appendix, War and National Defense.

EXECUTIVE ORDER NO. 10346

Ex. Ord. No. 10346, Apr. 17, 1952, 17 F.R. 3477, as amended by Ex. Ord. No. 10438, Mar. 13, 1953, 18 F.R. 1491; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, formerly set out as a note under section 2292 of this Appendix, related to the preparation by Federal agencies of civil defense emergency plans, and was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 10529

Ex. Ord. No. 10529, Apr. 22, 1954, 19 F.R. 2397, as amended by Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 6, 1958, 23 F.R. 6971; Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which related to Federal employee participation in State and local civil defense programs, was revoked by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out below.

EXECUTIVE ORDER NO. 10611

Ex. Ord. No. 10611, May 11, 1955, 20 F.R. 3245, which related to establishment of the Civil Defense Coordinating Board, was revoked by section 7(7) of Ex. Ord. No. 10773.

EXECUTIVE ORDER NO. 10773

Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061, as amended by Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971, which related to the delegation and transfer of functions to the Office of Civil and Defense Mobilization, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, see below.

EXECUTIVE ORDER NO. 10902

Ex. Ord. No. 10902, Jan. 11, 1961, 26 F.R. 217, which related to the issuance of emergency preparedness orders, was superseded by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, see below.

EXECUTIVE ORDER NO. 10952

Ex. Ord. No. 10952, July 20, 1961, 26 F.R. 6577, as amended by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which related to the assignment of civil defense responsibilities, was revoked by section 5–108 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out below.

EXECUTIVE ORDER NO. 10958

Ex. Ord. No. 10958, Aug. 14, 1961, 26 F.R. 7571, as amended by Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, which provided for the delegation of functions respecting stockpiles of medical supplies and equipment and food, was revoked by Ex. Ord. No. 11794, July 11, 1974, 39 F.R. 25937.

EXECUTIVE ORDER NO. 10997

Ex. Ord. No. 10997, Feb. 16, 1962, 27 F.R. 1522, which related to assignment of emergency preparedness functions to Secretary of the Interior, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 10998

Ex. Ord. No. 10998, Feb. 16, 1962, 27 F.R. 1524, which related to assignment of emergency preparedness functions to Secretary of Agriculture, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 10999

Ex. Ord. No. 10999, Feb. 16, 1962, 27 F.R. 1527, which related to assignment of emergency preparedness functions to Secretary of Commerce, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11000

Ex. Ord. No. 11000, Feb. 16, 1962, 27 F.R. 1532, which related to assignment of emergency preparedness functions to Secretary of Labor, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11001

Ex. Ord. No. 11001, Feb. 16, 1962, 27 F.R. 1534, which related to assignment of emergency preparedness functions to Secretary of Health, Education, and Welfare, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11002

Ex. Ord. No. 11002, Feb. 16, 1962, 27 F.R. 1539, which related to assignment of emergency preparedness functions to Postmaster General, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11003

Ex. Ord. No. 11003, Feb. 16, 1962, 27 F.R. 1540, which related to assignment of emergency preparedness functions to Administrator of Federal Aviation Agency, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11004

Ex. Ord. No. 11004, Feb. 16, 1962, 27 F.R. 1542, which related to assignment of emergency preparedness functions to Housing and Home Finance Administrator, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11005

Ex. Ord. No. 11005, Feb. 16, 1962, 27 F.R. 1544, which related to assignment of emergency preparedness functions to Interstate Commerce Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11051

Ex. Ord. No. 11051, Sept. 27, 1962, 27 F.R. 9683, as amended by Ex. Ord. No. 11075, Jan. 16, 1963, 28 F.R. 473; Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193; Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175; Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, which related to responsibility of the Office of Emergency Preparedness, was revoked by section 5–109 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out below.

EXECUTIVE ORDER NO. 11087

Ex. Ord. No. 11087, Feb. 26, 1963, 28 F.R. 1835, which related to assignment of emergency preparedness functions to Secretary of State, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11088

Ex. Ord. No. 11088, Feb. 26, 1963, 28 F.R. 1837, which related to assignment of emergency preparedness functions to Secretary of the Treasury, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11089

Ex. Ord. No. 11089, Feb. 26, 1963, 28 F.R. 1839, which related to assignment of emergency preparedness functions to Atomic Energy Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11090

Ex. Ord. No. 11090, Feb. 26, 1963, 28 F.R. 1841, which related to assignment of emergency preparedness functions to Civil Aeronautics Board, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11091

Ex. Ord. No. 11091, Feb. 26, 1963, 28 F.R. 1843, which related to assignment of emergency preparedness functions to Civil Service Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11092

Ex. Ord. No. 11092, Feb. 11092, Feb. 26, 1963, 28 F.R. 1847, which related to assignment of Communications Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567,

EXECUTIVE ORDER NO. 11093

Ex. Ord. No. 11093, Feb. 26, 1963, 28 F.R. 1851, which related to assignment of emergency preparedness functions to Administrator of General Services, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11094

Ex. Ord. No. 11094, Feb. 26, 1963, 28 F.R. 1855, which related to assignment of emergency preparedness functions to Board of Governors of Federal Reserve System, Federal Home Loan Bank Board, Farm Credit Administration, Export-Import Bank of Washington, Board of Directors of Federal Deposit Insurance Corporation, Securities and Exchange Commission, Administrator of Small Business Administration, and Administrator of Veterans Affairs, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11095

Ex. Ord. No. 11095, Feb. 26, 1963, 28 F.R. 1859, which related to assignment of emergency preparedness functions to Board of Directors of Tennessee Valley Authority, Railroad Retirement Board, Administrator of National Aeronautics and Space Administration, Federal Power Commission, and Director of National Science Foundation, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

EXECUTIVE ORDER NO. 11426

Ex. Ord. No. 11426, Aug. 31, 1968, 33 F.R. 12615, which provided for Federal-State liaison and cooperation, was superseded by Ex. Ord. No. 11455, Feb. 14, 1969, 34 F.R. 2299.

EXECUTIVE ORDER NO. 11490

Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, as amended by Ex. Ord. No. 11522, Apr. 6, 1970, 35 F.R. 5659; Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193; Ex. Ord. No. 11746, Nov. 7, 1973, 38 F.R. 30991; Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 24294; Ex. Ord. No. 11953, Jan. 7, 1977, 42 F.R. 2492; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957; Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12657, Nov. 18, 1988, 53 F.R. 47513, which related to assignment of emergency preparedness functions to Federal agencies and departments, was revoked by section 2901 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out below.

EXECUTIVE ORDER NO. 11522

Ex. Ord. No. 11522, Apr. 6, 1970, 35 F.R. 5659, which related to the assignment of emergency preparedness functions to the United States Information Agency, was superseded by Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 24294.

EXECUTIVE ORDER NO. 11725

Ex. Ord. No. 11725, June 27, 1973, 38 F.R. 17175, as amended by Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177; Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, which related to transfer of certain functions of the Office of Emergency Preparedness, was revoked by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, set out below.

EXECUTIVE ORDER NO. 11746

Ex. Ord. No. 11746, Nov. 7, 1973, 38 F.R. 30991, which related to the assignment of emergency preparedness functions to the Department of the Treasury, was superseded by Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 24294.

EXECUTIVE ORDER NO. 12148

July 20, 1979, 44 F.R. 43239, as amended by Ex. Ord. No. 12155, Sept. 10, 1979, 44 F.R. 53071; Ex. Ord. No. 12156, Sept. 10, 1979, 44 F.R. 53073; Ex. Ord. No. 12381, Sept. 8, 1982, 47 F.R. 39795; Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571; Ex. Ord. No. 12919, June 3, 1994, 59 F.R. 29525

FEDERAL EMERGENCY MANAGEMENT

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App. 2251 et seq.) the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note) (88 Stat. 143; 42 U.S.C. 5121 et seq.) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) Section 4 of Public Law 92-385 (86 Stat. 56), amended (50 U.S.C.App. 2285), the National Security Act of 1947, as amended [see Short Title note under 50 U.S.C.A. § 401], the Defense Production Act of 1950, as amended (50 U.S.C.App. 2061 et seq.), Reorganization Plan No. 1 of 1958 [set out as a note above], Reorganization Plan No. 1 of 1973 [set out as a note above], the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), Section

Act of 1950 (31 U.S.C. 581c) [31 U.S.C.A. § 1531], and Section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], and in order to transfer emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:

1-1. Transfer or Reassignment of Existing Functions.

1-101. All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-102. All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, are transferred or reassigned to the Director of the Federal Emergency Management Agency, including any of those functions redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

1-103. All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) [section 7701 et seq. of this title], including those functions performed by the Office of Science and Technology Policy, are delegated, transferred, or reassigned to the Director of the Federal Emergency Management Agency.

1-2. Transfer or Reassignment of Resources.

1-201. The records, property, personnel and positions, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or redelegated by this Order are hereby transferred to the Director of the Federal Emergency Management Agency.

1-202. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

2-1. General.

2-101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all civil defense and civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2-102. The Director shall periodically review and evaluate the civil defense and civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The Director shall be responsible for the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents.

2-104. The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response, and recovery programs.

2-105. The Director shall provide an annual report to the President for subsequent transmittal to the Congress on the functions of the Federal Emergency Management Agency. The report shall assess the current overall state of effectiveness of Federal civil defense and civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

2-2. Implementation.

2-201. In executing the functions under this Order, the Director shall develop policies which provide that all civil defense and civil emergency functions, resources, and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions), of the regular missions of the Executive agencies.

2-203. For purposes of this Order, "civil emergency" means any accidental, natural, man-caused, or wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil defense planning continues to be fully compatible with the Nation's overall strategic policy, and in order to maintain an effective link between strategic nuclear planning and nuclear attack preparedness planning, the development of civil defense policies and programs by the Director of the Federal Emergency Management Agency shall be subject to oversight by the Secretary of Defense and the National Security Council.

2-205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director of the Federal Emergency Management Agency with support for civil defense programs in the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2-206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

2-3. Transition Provisions.

2-301. The functions which have been transferred, reassigned, or redelegated by Section 1 of this Order are recodified and revised as set forth in this Order at Section 4, and as provided by the amendments made at Section 5 to the provisions of other Orders.

2-302. Notwithstanding the revocations, revisions, codifications, and amendments made by this Order, the Director may continue to perform the functions transferred to him by Section 1 of this Order, except where they may otherwise be inconsistent with the provisions of this Order.

4-1. Delegation of Functions Transferred to the President.

4-101. [Revoked by Ex. Ord. No. 12155, Sept. 10, 1979, 44 F.R. 53071.]

4-102. The functions vested in the Director of the Office of Defense Mobilization by Sections 103 and 303 of the National Security Act of 1947, as amended by Sections 8 and 50 of the Act of September 3, 1954 (Public Law 779; 68 Stat. 1228 and 1244) (50 U.S.C. 404 and 405) [sections 404 and 405 of Title 50, War and National Defense], were transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C.App. 2271 note) [set out above], and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-103. (a) The functions vested in the Federal Civil Defense Administration or its Administrator by the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App. 2251 et seq.), were transferred to the President by Reorganization Plan No. 1 of 1958, and they are hereby delegated to the Director of the Federal Emergency Management Agency.

(b) Excluded from the delegation in subsection (a) is the function under Section 205(a)(4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App. 2286(a)(4)), relating to the establishment and maintenance of personnel standards on the merit basis that was delegated to the Director of the Office of Personnel Management by Section 1(b) of Executive Order No. 11589, as amended (Section 2-101(b) of Executive Order No. 12107) [set out as a note under section 3376 of Title 5, Government Organization and Employees].

4-104. The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C.App. 2271 note) [now set out above], any of the functions delegated by Sections 4-101, 4-102 and 4-103 of this Order.

4-105. The functions vested in the Administrator of the Federal Civil Defense Administration by Section 43 of the Act of August 10, 1956 (70A Stat. 636) [section 2285 of the appendix to Title 50] were transferred to the President by Reorganization Plan No. 1 of 1958, as amended (50 U.S.C.App. 271 note) [now set out above], were subsequently revested in the Director of the Office of Civil and Defense Mobilization by Section 512 of Public Law 86-500 (50 U.S.C.App. 2285) [section 2285 of the Appendix to Title 50] [the office was changed to Office of Emergency Planning by Public Law 87-296 (75 Stat. 630) and then to the Office of Emergency Preparedness by Section 402 of Public Law 90-608 (82 Stat. 1194)], were again transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C.App. 2271 note) [now set out above], and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-106. The functions vested in the Director of the Office of Emergency Preparedness by Section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646) [section 646 of Title 20, Education], and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241-1) [section 241-1 of Title 20], were transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C.App. 2271 note) [now set out above], and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-107. That function vested in the Director of the Office of Emergency Preparedness by Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, and as further amended (20 U.S.C. 1132d-1(a)) [section 1132d-1(a) of Title 20, Education], to the extent transferred to the President by Reorganization Plan No. 1 of 1973 (50 U.S.C.App. 2271 note) [now set out above], is hereby delegated to the Director of the Federal Emergency Management Agency.

4-2. Delegation of Functions Vested in the President.

4-201. The functions vested in the President by the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), are hereby delegated to the Director of the Federal Emergency Management Agency.

4-202. The functions (related to grants for damages resulting from hurricane and tropical storm Agnes) vested in the President by Section 4 of Public Law 92-385 (86 Stat. 556) are hereby delegated to the Director of the Federal Emergency Management Agency.

Section 4-203. The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except those functions vested in the President by Section 401 (relating to the declaration of major disasters and emergencies) [section 5170 of this title], Section 501 (relating to the declaration of emergencies) [section 5191 of this title], Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities) [section 5171 of this title], and Section 412 (relating to food coupons and distribution) [section 5179 of this title], are hereby delegated to the Director of the Federal Emergency Management Agency.

4-204. The functions vested in the President by the Earthquake Hazards Reduction Act of

1977, as amended (42 U.S.C. 7701 et seq.) [section 7701 et seq. of this title], are delegated to the Director of the Federal Emergency Management Agency.

4–205. Effective July 30, 1979, the functions vested in the President by Section 4(h) of the Commodity Credit Corporation (Charter Act, as amended (15 U.S.C. 714b(h)) [section 714b(h) of Title 15, Commerce and Trade], are hereby delegated to the Director of the Federal Emergency Management Agency.

4–206. Effective July 30, 1979, the functions vested in the President by Section 204(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)) [section 485(f) of Title 40, Public Buildings, Property, and Works], are hereby delegated to the Director of the Federal Emergency Management Agency.

Sec. 4–207. The functions vested in the President by Section 502 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2302) [section 2302 of the Appendix to Title 50], are delegated to the Director of the Federal Emergency Management Agency.

5–1. Revocations.

5–101. Executive Order No. 10242, as amended, entitled "Prescribing Regulations Governing the Exercise by the Federal Civil Defense Administrator of Certain Administrative Authority Granted by the Federal Civil Defense Act of 1950" [50 U.S.C.A.App. § 2253 note], is revoked.

5–102. Sections 1 and 2 of Executive Order No. 10296, as amended [42 U.S.C.A. § 1592m note], entitled "Providing for the Performance of Certain Defense Housing and Community Facilities and Service Functions", are revoked.

5–103. Executive Order No. 10494, as amended [50 U.S.C.A.App. § 2101 note], relating to the disposition of remaining functions, is revoked.

5–104. Executive Order No. 10529, as amended, relating to federal employee participation in State and local civil defense programs, is revoked.

5–105. Section 3 of Executive Order No. 10601, as amended [7 U.S.C.A. § 1743 note], which concerns the Commodity Set Aside, is revoked.

5–106. Executive Order No. 10634, as amended [50 U.S.C.A.App. § 2092 note], relating to loans for facilities destroyed or damaged by a major disaster, is revoked.

5–107. Section 4(d)(2) of Executive Order No. 10900, as amended [7 U.S.C.A. § 1691 note], which concerns foreign currencies made available to make purchases for the supplemental stockpile, is revoked.

5–108. Executive Order No. 10952, as amended, entitled "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others", is revoked.

5–109. Executive Order No. 11051, as amended, relating to responsibilities of the Office of Emergency Preparedness, is revoked.

5–110. Executive Order No. 11415, as amended [50 U.S.C.A.App. § 454 note], relating to the Health Resources Advisory Committee, is revoked.

5–111. Executive Order No. 11795, as amended [42 U.S.C.A. § 5121 note], entitled "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974", is revoked, except for Section 3 thereof.

5–112. Executive Order No. 11725, as amended, entitled "Transfer of Certain Functions of the Office of Emergency Preparedness", is revoked.

5–113. Executive Order No. 11749, as amended [42 U.S.C.A. § 5121 note], entitled "Consolidating Disaster Relief Functions Assigned to the Secretary of Housing and Urban Development" is revoked.

5–2. Amendments.

5–201. Executive Order No. 10421, as amended [50 U.S.C.A. former § 404 note], relating to physical security of defense facilities is further amended by (a) substituting the "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 1(a), 1(c), and 6(b); and, (b) substituting "Federal Emergency Management Agency" for "Office of Emergency Planning" in Sections 6(b) and 7(b).

5–202. Executive Order No. 10480, as amended [50 U.S.C.A. App. § 2153 note], is further amended by (a) substituting "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 101(a), 101(b), 201(a), 201(b), 301, 304, 307, 308, 310(b), 311(b), 312, 313, 401(b), 401(e), and 605; and (b) substituting "Director of the Federal Emergency Management Agency" for "Administrator of General Services" in Sections 305, 501, and 610.

5–203. Section 3(d) of Executive Order No. 10582 [41 U.S.C.A. § 10d note], as amended, which relates to determinations under the Buy American Act is amended by deleting "Director of the Office of Emergency Planning" and substituting therefor "Director of the Federal Emergency Management Agency".

5–204. Paragraph 21 of Executive Order No. 10789, as amended [50 U.S.C.A. § 1431 note], is further amended by adding "The Federal Emergency Management Agency" after "Government Printing Office".

5–205. Executive Order No. 11179, as amended [50 U.S.C.A.App. § 2153 note], concerning the National Defense Executive Reserve, is further amended by deleting "Director of the Office of Emergency Planning" in Section 2 and substituting therefor "Director of the Federal Emergency Management Agency".

5–206. Section 7 of Executive Order No. 11912, as amended [42 U.S.C.A. § 6201 note], concerning energy policy and conservation, is further amended by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5–207. Section 2(d) of Executive Order No. 11988 [42 U.S.C.A. § 4321 note], entitled "Floodplain Management" is amended by deleting "Federal Insurance Administration" and substituting therefor "Director of the Federal Emergency Management Agency".

5–208. Section 5–3 of Executive Order No. 12046 of March 29, 1978 [47 U.S.C.A. § 305 note], is amended by deleting "General Services Administration" and substituting therefor "Federal Emergency Management Agency" and by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5–209. Section 1–201 of Executive Order No. 12065 [50 U.S.C.A. § 401 note], is amended by adding "The Director of the Federal Emergency Management Agency" after "The Administrator, National Aeronautics and Space Administration" and by deleting "Director, Federal Preparedness Agency and to the" from the parentheses after "The Administrator of General Services".

5–210. Section 1–102 of Executive Order No. 12075 of August 16, 1978 [42 U.S.C.A. § 1450 note], is amended by adding in alphabetical order "(p) Federal Emergency Management Agency".

5–211. Section 1–102 of Executive Order No. 12083 of September 27, 1978 [42 U.S.C.A. § 7101 note], is amended by adding in alphabetical order "(z) the Director of the Federal Emergency Management Agency".

5–212. Section 9.11(b) of Civil Service Rule IX (5 CFR Part 9) [5 U.S.C.A. § 3301 note], is amended by deleting "the Defense Civil preparedness Agency and".

5–213. [Revoked by Ex. Ord. No. 12381, Sept. 8, 1982, 47 F.R. 39795.]

5–214. Executive Order No. 11490, as amended [set out as a note under this section], is further amended as follows:

(a) Delete the last sentence of Section 102(a) and substitute therefor the following: "The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance with guidance provided by, and subject to, evaluation by the Director of the Federal Emergency Management Agency.".

(b) Delete Section 103 entitled "Presidential Assistance" and substitute the following new Section 103: "Sec. 103 General Coordination. The Director of the Federal Emergency Management Agency (FEMA) shall determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs.".

(c) Delete the portion of the first sentence of Section 401 prior to the colon and insert the following: "The Secretary of Defense shall perform the following emergency preparedness functions".

(d) Delete "Director of the Federal Preparedness Agency (GSA)" or "the Federal Preparedness Agency (GSA)" and substitute therefor "Director, FEMA", in Sections 401(3), 401(4), 401(5), 401(9), 401(10), 401(14), 401(15), 401(16), 401(19), 401(21), 401(22), 501(8), 601(2), 904(2), 1102(2), 1204(2), 1401(a), 1701, 1702, 2003, 2004, 2801(5), 3001, 3002(2), 3004, 3005, 3006, 3008, 3010, and 3013.

(e) The number assigned to this Order shall be substituted for "11051 of September 27, 1962" in Section 3001, and for "11051" in Sections 1802, 2002(3), 3002 and 3008(1).

(f) The number assigned to this Order shall be substituted for "10952" in Sections 1103, 1104, 1205, and 3002.

(g) Delete "Department of Defense" in Sections 502, 601(1), 804, 905, 1103, 1104, 1106(4), 1205, 2002(8), the first sentence of Section 3002, and Sections 3008(1) and 3010 and substitute therefor "Director of the Federal Emergency Management Agency.".

Section 6. This Order is effective July 15, 1979.

[Section 1–106 of Ex. Ord. No. 12155, which enacted sections 4–205 and 4–206 of Ex. Ord. No. 12148, was revoked by Pub.L. 100–180, Div. C, Title II, § 3203(b), Dec. 4, 1987, 101 Stat. 1247.]

EXECUTIVE ORDER NO. 12472

Apr. 3, 1984, 49 F.R. 13471

ASSIGNMENT OF NATIONAL SECURITY AND EMERGENCY PREPAREDNESS TELECOMMUNICATIONS FUNCTIONS

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Communications Act of 1934, as amended (47 U.S.C. 151) [47 U.S.C.A. §§ 151 et seq., 609], the National Security Act of 1947, as amended [50 U.S.C.A. § 401 note], the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061) [50 U.S.C.A. App. § 2061 et seq.], the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251) [50 U.S.C.A. App. § 2251 et seq.], the Disaster Relief Act of 1974 (42 U.S.C. 5121) [42 U.S.C.A. § 5121], Section 5 of Reorganization Plan No. 1 of 1977 (3 C.F.R. 197, 1978 Comp.) [see Appendix to Title 5, Government Organization and Employees], and Section 203 of Reorganization Plan No. 3 of 1978 (3 C.F.R. 389, 1978 Comp.) [see 5 U.S.C.A. App.], and in order to provide increased responsibility for improved execution of national security and emergency preparedness telecommunications functions, it is hereby ordered as follows:

Section 1. The National Communications System. (a) There is hereby established the National Communications System (NCS). The NCS shall consist of the telecommunications assets of the entities represented on the NCS Committee of Principals and an administrative structure consisting of the Executive Agent, the NCS Committee of Principals and the Manager. The NCS Committee of Principals shall consist of representatives from those Federal departments, agencies or entities, designated by the President, which lease or own telecommunications facilities or services of significance to national security or emergency preparedness, and

entities which bear policy, regulatory or enforcement responsibilities of importance to national security or emergency preparedness telecommunications capabilities.

(b) The mission of the NCS shall be to assist the President, the National Security Council, the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget in:

(1) the exercise of the telecommunications functions and responsibilities set forth in Section 2 of this Order; and

(2) the coordination of the planning for and provision of national security and emergency preparedness communications for the Federal government under all circumstances, including crisis or emergency, attack, recovery and reconstitution.

(c) The NCS shall seek to ensure that a national telecommunications infrastructure is developed which:

(1) Is responsive to the national security and emergency preparedness needs of the President and the Federal departments, agencies and other entities, including telecommunications in support of national security leadership and continuity of government;

(2) Is capable of satisfying priority telecommunications requirements under all circumstances through use of commercial, government and privately owned telecommunications resources;

(3) Incorporates the necessary combination of hardness, redundancy, mobility, connectivity, interoperability, restorability and security to obtain, to the maximum extent practicable, the survivability of national security and emergency preparedness telecommunications in all circumstances, including conditions of crisis or emergency; and

(4) Is consistent, to the maximum extent practicable, with other national telecommunications policies.

(d) To assist in accomplishing its mission, the NCS shall:

(1) serve as a focal point for joint industry-government national security and emergency preparedness telecommunications planning; and

(2) establish a joint industry-government National Coordinating Center which is capable of assisting in the initiation, coordination, restoration and reconstitution of national security or emergency preparedness telecommunications services or facilities under all conditions of crisis or emergency.

(e) The Secretary of Defense is designated as the Executive Agent for the NCS. The Executive Agent shall:

(1) Designate the Manager of the NCS;

(2) Ensure that the NCS conducts unified planning and operations, in order to coordinate the development and maintenance of an effective and responsive capability for meeting the domestic and international national security and emergency preparedness telecommunications needs of the Federal government; to

(3) Ensure that the activities of the NCS are conducted in [illegible]

gency management activities of the Federal Emergency Management Agency;

(4) Recommend, in consultation with the NCS Committee of Principals, to the National Security Council, the Director of the Office of Science and Technology Policy, or the Director of the Office of Management and Budget, as appropriate:

a. The assignment of implementation or other responsibilities to NCS member entities;

b. New initiatives to assist in the exercise of the functions specified in Section 2; and

c. Changes in the composition or structure of the NCS;

(5) Oversee the activities of and provide personnel and administrative support to the Manager of the NCS;

(6) Provide staff support and technical assistance to the National Security Telecommunications Advisory Committee established by Executive Order No. 12382, as amended; and

(7) Perform such other duties as are from time to time assigned by the President or his authorized designee.

(f) The NCS Committee of Principals shall:

(1) Serve as the forum in which each member of the Committee may review, evaluate, and present views, information and recommendations concerning ongoing or prospective national security or emergency preparedness telecommunications programs or activities of the NCS and the entities represented on the Committee;

(2) Serve as the forum in which each member of the Committee shall report on and explain ongoing or prospective telecommunications plans and programs developed or designed to achieve national security or emergency preparedness telecommunications objectives;

(3) Provide comments or recommendations, as appropriate, to the National Security Council, the Director of the Office of Science and Technology Policy, the Director of the Office of Management and Budget, the Executive Agent, or the Manager of the NCS, regarding ongoing or prospective activities of the NCS; and

(4) Perform such other duties as are from time to time assigned by the President or his authorized designee.

(g) The Manager of the NCS shall:

(1) Develop for consideration by the NCS Committee of Principals and the Executive Agent:

a. A recommended evolutionary telecommunications architecture designed to meet current and future Federal government national security and emergency preparedness telecommunications requirements;

b. Plans and procedures for the management, allocation and use, including the establishment of priorities or preferences, of Federally owned or leased telecommunications assets under all conditions of crisis

c. Plans, procedures and standards for minimizing or removing technical impediments to the interoperability of government-owned and/or commercially-provided telecommunications systems;

d. Test and exercise programs and procedures for the evaluation of the capability of the Nation's telecommunications resources to meet national security or emergency preparedness telecommunications requirements; and

e. Alternative mechanisms for funding, through the budget review process, national security or emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities. Those mechanisms recommended by the NCS Committee of Principals and the Executive Agent shall be submitted to the Director of the Office of Management and Budget.

(2) Implement and administer any approved plans or programs as assigned, including any system of priorities and preferences for the provision of communications service, in consultation with the NCS Committee of Principals and the Federal Communications Commission, to the extent practicable or otherwise required by law or regulation;

(3) Chair the NCS Committee of Principals and provide staff support and technical assistance thereto;

(4) Serve as a focal point for joint industry-government planning, including the dissemination of technical information, concerning the national security or emergency preparedness telecommunications requirements of the Federal government;

(5) Conduct technical studies or analyses, and examine research and development programs, for the purpose of identifying, for consideration by the NCS Committee of Principals and the Executive Agent, improved approaches which may assist Federal entities in fulfilling national security or emergency preparedness telecommunications objectives;

(6) Pursuant to the Federal Standardization Program of the General Services Administration, and in consultation with other appropriate entities of the Federal government including the NCS Committee of Principals, manage the Federal Telecommunications Standards Program, ensuring wherever feasible that existing or evolving industry, national, and international standards are used as the basis for Federal telecommunications standards; and

(7) Provide such reports and perform such other duties as are from time to time assigned by the President or his authorized designee, the Executive Agent, or the NCS Committee of Principals. Any such assignments of responsibility to, or reports made by, the Manager shall be transmitted through the Executive Agent.

Sec. 2. Executive Office Responsibilities. (a) **Wartime Emergency Functions.** (1) The National Security Council shall provide policy direction for the exercise of the war power functions of the President under the Communications Act of 1934, as amended (47 U.S.C. 606) [section 606 of Title 47, Telegraphs, Telephones and Radiotelegraphs], should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601) [section 1601 et seq. of Title 50, War and National Defense].

(2) The Director of the Office of Science and Technology Policy shall direct the exercise of the war power functions of the President under Section 606(a), (c)–(e), of the Communications Act of 1934, as amended (47 U.S.C. 606) [section 606 of Title 47], should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601) [section 1601 et seq. of Title 50].

(b) **Non-Wartime Emergency Functions.** (1) The National Security Council shall:

a. Advise and assist the President in coordinating the development of policy, plans, programs and standards within the Federal government for the identification, allocation, and use of the Nation's telecommunications resources by the Federal government, and by State and local governments, private industry and volunteer organizations upon request, to the extent practicable and otherwise consistent with law, during those crises or emergencies in which the exercise of the President's war power functions is not required or permitted by law; and

b. Provide policy direction for the exercise of the President's non-wartime emergency telecommunications functions, should the President so instruct.

(2) The Director of the Office of Science and Technology Policy shall provide information, advice, guidance and assistance, as appropriate, to the President and to those Federal departments and agencies with responsibilities for the provision, management, or allocation of telecommunications resources, during those crises or emergencies in which the exercise of the President's war power functions is not required or permitted by law;

(3) The Director of the Office of Science and Technology Policy shall establish a Joint Telecommunications Resources Board (JTRB) to assist him in the exercise of the functions specified in this subsection. The Director of the Office of Science and Technology Policy shall serve as chairman of the JTRB; select those Federal departments, agencies, or entities which shall be members of the JTRB; and specify the functions it shall perform.

(c) **Planning and Oversight Responsibilities.** (1) The National Security Council shall advise and assist the President in:

a. Coordinating the development of policy, plans, programs and standards for the mobilization and use of the Nation's commercial, government, and privately owned telecommunications resources, in order to meet national security or emergency preparedness requirements;

b. Providing policy oversight and direction of the activities of the NCS; and

c. Providing policy oversight and guidance

signed to the Federal departments and agencies by this Order.

(2) The Director of the Office of Science and Technology Policy shall make recommendations to the President with respect to the test, exercise and evaluation of the capability of existing and planned communications systems, networks or facilities to meet national security or emergency preparedness requirements and report the results of any such tests or evaluations and any recommended remedial actions to the President and to the National Security Council;

(3) The Director of the Office of Science and Technology Policy or his designee shall advise and assist the President in the administration of a system of radio spectrum priorities for those spectrum dependent telecommunications resources of the Federal government which support national security or emergency preparedness functions. The Director also shall certify or approve priorities for radio spectrum use by the Federal government, including the resolution of any conflicts in or among priorities, under all conditions of crisis or emergency; and

(4) The National Security Council, the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget shall, in consultation with the Executive Agent for the NCS and the NCS Committee of Principals, determine what constitutes national security and emergency preparedness telecommunications requirements.

(d) Consultation with Federal Departments and Agencies. In performing the functions assigned under this Order, the National Security Council and the Director of the Office of Science and Technology Policy, in consultation with each other, shall:

(1) Consult, as appropriate, with the Director of the Office of Management and Budget; the Director of the Federal Emergency Management Agency with respect to the emergency management responsibilities assigned pursuant to Executive Order No. 12148, as amended [set out as a note under this section]; the Secretary of Commerce, with respect to responsibilities assigned pursuant to Executive Order No. 12046 [47 U.S.C.A. § 305 note]; the Secretary of Defense, with respect to communications security responsibilities assigned pursuant to Executive Order No. 12333 [50 U.S.C.A. § 401 note]; and the Chairman of the Federal Communications Commission or his authorized designee; and

(2) Establish arrangements for consultation among all interested Federal departments, agencies or entities to ensure that the national security and emergency preparedness communications needs of all Federal government entities are identified; that mechanisms to address such needs are incorporated into pertinent plans and procedures; and that such needs are met in a manner consistent, to the maximum extent practicable, with other national telecommunications policies.

(e) Budgetary Guidelines. The Director of the Office of Management and Budget, in consultation with the National Security Council and the NCS, will prescribe general guidelines and procedures for reviewing the financing of the NCS within the budgetary process and for preparation of budget estimates by participating agencies. These guidelines and procedures may provide for mechanisms for funding, through the budget review process, national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities.

Sec. 3. Assignment of Responsibilities to Other Departments and Agencies. In order to support and enhance the capability to satisfy the national security and emergency preparedness telecommunications needs of the Federal government, State and local governments, private industry and volunteer organizations, under all circumstances including those of crisis or emergency, the Federal departments and agencies shall perform the following functions:

(a) Department of Commerce. The Secretary of Commerce shall, for all conditions of crisis or emergency: (1) Develop plans and procedures concerning radio spectrum assignments, priorities and allocations for use by Federal departments, agencies and entities; and

(2) Develop, maintain and publish policy, plans, and procedures for the control and allocation of frequency assignments, including the authority to amend, modify or revoke such assignments, in those parts of the electromagnetic spectrum assigned to the Federal government.

(b) Federal Emergency Management Agency. The Director of the Federal Emergency Management Agency shall:

(1) Plan for and provide, operate and maintain telecommunications services and facilities, as part of its National Emergency Management System, adequate to support its assigned emergency management responsibilities;

(2) Advise and assist State and local governments and volunteer organizations, upon request and to the extent consistent with law, in developing plans and procedures for identifying and satisfying their national security or emergency preparedness telecommunications requirements;

(3) Ensure, to the maximum extent practicable, that national security and emergency preparedness telecommunications planning by State and local governments and volunteer organizations is mutually supportive and consistent with the planning of the Federal government; and

(4) Develop, upon request and to the extent consistent with law and in consonance with regulations promulgated by and agreements with the Federal Communications Commission, plans and capabilities for, and provide policy and management oversight of, the Emergency Broadcast System, and advise and assist private radio licensees of the Commission in developing emergency communications plans, procedures and capabilities.

(c) Department of State. The Secretary of State, in accordance with assigned responsibilities within the Diplomatic Telecommunications System, shall plan for and provide, operate and maintain rapid, reliable and secure telecommunications services to those Federal entities represented at United States diplomatic missions and consular offices overseas. This responsibility shall include the provision and operation of domestic telecommunications in support of assigned national security or emergency preparedness responsibilities.

(d) Department of Defense. In addition to the other responsibilities assigned by this Order, the Secretary of Defense shall:

(1) Plan for and provide, operate and maintain telecommunications services and facilities adequate to support the National Command Authorities and to execute the responsibilities assigned by Executive Order No. 12333 [50 U.S.C.A. § 401 note]; and

(2) Ensure that the Director of the National Security Agency provides the technical support necessary to develop and maintain plans adequate to provide for the security and protection of national security and emergency preparedness telecommunications.

(e) Department of Justice. The Attorney General shall, as necessary, review for legal sufficiency, including consistency with the antitrust laws, all policies, plans or procedures developed pursuant to responsibilities assigned by this Order.

(f) Central Intelligence Agency. The Director of Central Intelligence shall plan for and provide, operate, and maintain telecommunications services adequate to support its assigned responsibilities, including the dissemination if intelligence within the Federal government.

(g) General Services Administration. Except as otherwise assigned by this Order, the Administrator of General Services, consistent with policy guidance provided by the Director of the Office of Management and Budget, shall ensure that Federally owned or managed domestic communications facilities and services meet the national security and emergency preparedness requirements of the Federal Civilian departments, agencies and entities.

(h) Federal Communications Commission. The Federal Communications Commission shall, consistent with Section 4(c) of this Order:

(1) Review the policies, plans and procedures of all entities licensed or regulated by the Commission that are developed to provide national security or emergency preparedness communications services, in order to ensure that such policies, plans and procedures are consistent with the public interest, convenience and necessity;

(2) Perform such functions as required by law with respect to all entities licensed or regulated by the Commission, including (but not limited to) the extension, discontinuance or reduction of common carrier facilities or services; the control of common carrier rates, charges, practices and classifications; the construction, authorization, activation, deactivation or closing of radio stations, services and facilities; the assignment of radio frequencies to Commission licensees; the investigation of violations of pertinent law and regulation; and the initiation of appropriate enforcement actions;

(3) Develop policy, plans and procedures signed in this Order under all conditions or crisis or emergency; and

(4) Consult as appropriate with the Executive Agent for the NCS and the NCS Committee of Principals to ensure continued coordination of their respective national security and emergency preparedness activities.

(i) All Federal departments and agencies, to the extent consistent with law (including those authorities and responsibilities set forth in Section 4(c) of this Order), shall:

(1) Determine their national security and emergency preparedness telecommunications requirements, and provide information regarding such requirements to the Manager of the NCS;

(2) Prepare policies, plans and procedures concerning telecommunications facilities, services or equipment under their management or operational control to maximize their capability of responding to the national security or emergency preparedness needs of the Federal government;

(3) Provide, after consultation with the Director of the Office of Management and Budget, resources to support their respective requirements for national security and emergency preparedness telecommunications; and provide personnel and staff support to the Manager of the NCS as required by the President;

(4) Make information available to, and consult with, the Manager of the NCS regarding agency telecommunications activities in support of national security or emergency preparedness;

(5) Consult, consistent with the provisions of Executive Order No. 12046, as amended [47 U.S.C.A. § 305 note], and in conjunction with the Manager of the NCS, with the Federal Communications Commission regarding execution of responsibilities assigned by this Order;

(6) Submit reports annually, or as otherwise requested, to the Manager of the NCS, regarding agency national security or emergency preparedness telecommunications activities; and

(7) Cooperate with and assist the Executive Agent for the NCS, the NCS Committee of Principals, the Manager of the NCS, and other departments and agencies in the execution of the functions set forth in this Order, furnishing them such information, support and assistance as may be required.

(j) Each Federal department or agency shall execute the responsibilities assigned by this Order in conjunction with the emergency management activities of the Federal Emergency Management Agency, and in regular consultation with the Executive Agent for the NCS and the NCS Committee of Principals to ensure continued coordination of NCS and individual agency telecommunications activities.

Sec. 4. General Provisions. (a) All Executive departments and agencies may issue such rules and regulations as may be necessary to carry out the functions assigned under this Or-

(b) In order to reflect the assignments of responsibility provided by this Order,

(1) Sections 2–414, 4–102, 4–103, 4–202, 4–302, 5–3, and 6–101 of Executive Order No. 12046, as amended [47 U.S.C.A. § 305 note], are revoked;

(2) The Presidential Memorandum of August 21, 1963, as amended, entitled "Establishment of the National Communications System", is hereby superseded; and

(3) Section 2–411 of Executive Order No. 12046, as amended [47 U.S.C.A. § 305 note], is further amended by deleting the period and inserting ", except as otherwise provided by Executive Order No." and inserting the number assigned to this Order.

(c) Nothing in this Order shall be deemed to affect the authorities or responsibilities of the Director of the Office of Management and Budget, or any Office or official thereof; or reassign any function assigned any agency under the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C.A. § 471 note]; or under any other law; or any function vested by law in the Federal Communications Commission.

Sec. 5. This Order shall be effective upon publication in the Federal Register.

RONALD REAGAN

EXECUTIVE ORDER NO. 12656

Nov. 18, 1988, 53 F.R. 47491, as amended Ex. Ord. No. 13074, Feb. 9, 1998, 63 F.R. 7277

ASSIGNMENT OF EMERGENCY PREPAREDNESS RESPONSIBILITIES

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national security emergency situation that might confront the Nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national security emergency preparedness plans and has provided funds for the accomplishment thereof;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out above], the National Security Act of 1947, as amended [50 U.S.C.A. § 401 et seq.], the Defense Production Act of 1950, as amended [50 U.S.C.A. § 2061 et seq.], and the Federal Civil Defense Act, as amended, it is hereby ordered that the responsibilities of the Federal departments and agencies in national security emergencies shall be as follows:

PART 1—PREAMBLE

Section 101. National Security Emergency Preparedness Policy.

(a) The policy of the United States is to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. A national security emergency is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. Policy for national security emergency preparedness shall be established by the President. Pursuant to the President's direction, the National Security Council shall be responsible for developing and administering such policy. All national security emergency preparedness activities shall be consistent with the Constitution and laws of the United States and with preservation of the constitutional government of the United States.

(b) Effective national security emergency preparedness planning requires: identification of functions that would have to be performed during such an emergency; development of plans for performing these functions; and development of the capability to execute those plans.

Sec. 102. Purpose.

(a) The purpose of this Order is to assign national security emergency preparedness responsibilities to Federal departments and agencies. These assignments are based, whenever possible, on extensions of the regular missions of the departments and agencies.

(b) This Order does not constitute authority to implement the plans prepared pursuant to this Order. Plans so developed may be executed only in the event that authority for such execution is authorized by law.

Sec. 103. Scope.

(a) This Order addresses national security emergency preparedness functions and activities. As used in this Order, preparedness functions and activities include, as appropriate, policies, plans, procedures, and readiness measures that enhance the ability of the United States Government to mobilize for, respond to, and recover from a national security emergency.

(b) This Order does not apply to those natural disasters, technological emergencies, or other emergencies, the alleviation of which is normally the responsibility of individuals, the private sector, volunteer organizations, State and local governments, and Federal departments and agencies unless such situations also constitute a national security emergency.

(c) This Order does not require the provision of information concerning, or evaluation of, military policies, plans, programs, or states of military readiness.

(d) This Order does not apply to national security emergency preparedness telecommunications functions and responsibilities that are otherwise assigned by Executive Order 12472 [set out as a note under this section].

Sec. 104. Management of National Security Emergency Preparedness.

(a) The National Security Council is the principal forum for consideration of national security emergency preparedness policy.

(b) The National Security Council shall arrange for Executive branch liaison with, and assistance to, the Congress and the Federal judiciary on national security-emergency preparedness matters.

(c) The Director of the Federal Emergency Management Agency shall serve as an advisor to the National Security Council on issues of national security emergency preparedness, including mobilization preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate. Pursuant to such procedures for the organization and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council on implementation of national security emergency preparedness policy.

(d) National security emergency preparedness functions that are shared by more than one agency shall be coordinated by the head of the Federal department or agency having primary responsibility and shall be supported by the heads of other departments and agencies having related responsibilities.

(e) There shall be a national security emergency exercise program that shall be supported by the heads of all appropriate Federal departments and agencies.

(f) Plans and procedures will be designed and developed to provide maximum flexibility to the President for his implementation of emergency actions.

Sec. 105. Interagency Coordination.

(a) All appropriate Cabinet members and agency heads shall be consulted regarding national security emergency preparedness programs and policy issues. Each department and agency shall support interagency coordination to improve preparedness and response to a national security emergency and shall develop and maintain decentralized capabilities wherever feasible and appropriate.

(b) Each Federal department and agency shall work within the framework established by, and cooperate with those organizations assigned responsibility in, Executive Order No. 12472 [set out as a note under this section], to ensure adequate national security emergency preparedness telecommunications in support of the functions and activities addressed by this Order.

PART 2—GENERAL PROVISIONS

Sec. 201. General. The head of each Federal department and agency, as appropriate, shall:

(1) Be prepared to respond adequately to all national security emergencies, including those that are international in scope, and those that may occur within any region of the Nation;

(2) Consider national security emergency preparedness factors in the conduct of his or her regular functions, particularly those functions essential in time of emergency. Emergency plans and programs, and an appropriate state of readiness, including organizational infrastructure, shall be developed as an integral part of the continuing activities of each Federal department and agency;

(3) Appoint a senior policy official as Emergency Coordinator, responsible for developing and maintaining a multi-year, national security emergency preparedness plan for the department or agency to include objectives, programs, and budgetary requirements;

(4) Design preparedness measures to permit a rapid and effective transition from routine to emergency operations, and to make effective use of the period following initial indication of a probable national security emergency. This will include:

(a) Development of a system of emergency actions that defines alternatives, processes, and issues to be considered during various stages of national security emergencies;

(b) Identification of actions that could be taken in the early stages of a national security emergency or pending national security emergency to mitigate the impact of or reduce significantly the lead times associated with full emergency action implementation;

(5) Base national security emergency preparedness measures on the use of existing authorities, organizations, resources, and systems to the maximum extent practicable;

(6) Identify areas where additional legal authorities may be needed to assist management and, consistent with applicable Executive orders, take appropriate measures toward acquiring those authorities;

(7) Make policy recommendations to the National Security Council regarding national security emergency preparedness activities and functions of the Federal Government;

(8) Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies;

(9) Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response;

(10) Cooperate, to the extent appropriate, in compiling, evaluating, and exchanging relevant data related to all aspects of national security emergency preparedness;

(11) Develop programs regarding congressional relations and public information that could be used during national security emergencies;

(12) Ensure a capability to provide, during a national security emergency, information concerning Acts of Congress, presidential proclamations, Executive orders, regulations, and notices of other actions to the Archivist of the United States, for publication in the *Federal Register*, or to each agency designated to maintain the *Federal Register* in an emergency;

(13) Develop and conduct training and education programs that incorporate emergency preparedness and civil defense information necessary to ensure an effective national response;

(14) Ensure that plans consider the consequences for essential services provided by State and local governments, and by the private sector, if the flow of Federal funds is disrupted;

(15) Consult and coordinate with the Director of the Federal Emergency Management Agency to ensure that those activities and plans are consistent with current National Security Council guidelines and policies.

Sec. 202. Continuity of Government. The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.

Sec. 203. Resource Management. The head of each Federal department and agency, as appropriate within assigned areas of responsibility, shall:

(1) Develop plans and programs to mobilize personnel (including reservist programs), equipment, facilities, and other resources;

(2) Assess essential emergency requirements and plan for the possible use of alternative resources to meet essential demands during and following national security emergencies;

(3) Prepare plans and procedures to share between and among the responsible agencies resources such as energy, equipment, food, land, materials, minerals, services, supplies, transportation, water, and workforce needed to carry out assigned responsibilities and other essential functions, and cooperate with other agencies in developing programs to ensure availability of such resources in a national security emergency;

(4) Develop plans to set priorities and allocate resources among civilian and military claimants;

(5) Identify occupations and skills for which there may be a critical need in the event of a national security emergency.

Sec. 204. Protection of Essential Resources and Facilities. The head of each Federal department and agency, within assigned areas of responsibility, shall:

(1) Identify facilities and resources, both government and private, essential to the national defense and national welfare, and assess their vulnerabilities and develop strategies, plans, and programs to provide for the security of such facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency;

(2) Participate in interagency activities to assess the relative importance of various facilities and resources to essential military and civilian needs and to integrate preparedness and response strategies and procedures;

(3) Maintain a capability to assess promptly the effect of attack and other disruptions during national security emergencies.

Sec. 205. Federal Benefit, Insurance, and Loan Programs. The head of each Federal department and agency that administers a loan, insurance, or benefit program that relies upon the Federal Government payment system shall coordinate with the Secretary of the Treasury in developing plans for the continuation or restoration, to the extent feasible, of such programs in national security emergencies.

Sec. 206. Research. The Director of the Office of Science and Technology Policy and the heads of Federal departments and agencies having significant research and development programs shall advise the National Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

Sec. 207. Redelegation. The head of each Federal department and agency is hereby authorized, to the extent otherwise permitted by law, to redelegate the functions assigned by this Order, and to authorize successive redelegations to organizations, officers, or employees within the department or agency.

Sec. 208. Transfer of Functions. Recommendations for interagency transfer of any emergency preparedness function assigned under this Order or for assignment of any new emergency preparedness function shall be coordinated with all affected Federal departments and agencies before submission to the National Security Council.

Sec. 209. Retention of Existing Authority. Nothing in this Order shall be deemed to derogate from assignments of functions to any Federal department or agency or officer thereof made by law.

PART 3—DEPARTMENT OF AGRICULTURE

Sec. 301. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Agriculture shall:

(1) Develop plans to provide for the continuation of agricultural production, food processing, storage, and distribution through the wholesale level in national security emergencies, and to provide for the domestic distribution of seed, feed, fertilizer, and farm equipment to agricultural producers;

(2) Develop plans to provide food and agricultural products to meet international responsibilities in national security emergencies;

(3) Develop plans and procedures for administration and use of Commodity Credit Corporation inventories of food and fiber resources in national security emergencies;

(4) Develop plans for the use of resources under the jurisdiction of the Secretary of Agriculture and, in consultation with the Secretaries of Commerce, Defense, and the Interior, the Board of Directors of the Tennessee Valley Authority, and the heads of other government entities, plan for the national security emergency management, production, and processing of forest products;

(5) Develop, in coordination with the Secretary of Defense, plans and programs for water to be used in agricultural production and food processing in national security emergencies;

(6) In cooperation with Federal, State, and local agencies, develop plans for a national program relating to the prevention and control of fires in rural areas of the United States caused by the effects of enemy attack or other national security emergencies;

(7) Develop plans to help provide the Nation's farmers with production resources, including national security emergency financing capabilities;

(8) Develop plans, in consonance with those of the Department of Health and Human Services, the Department of the Interior, and the Environmental Protection Agency, for national security emergency agricultural health services and forestry, including:

(a) Diagnosis and control or eradication of diseases, pests, or hazardous agents (biological, chemical, or radiological) against animals, crops, timber, or products thereof;

(b) Protection, treatment, and handling of livestock and poultry, or products thereof, that have been exposed to or affected by hazardous agents;

(c) Use and handling of crops, agricultural commodities, timber, and agricultural lands that have been exposed to or affected by hazardous agents; and

(d) Assuring the safety and wholesomeness, and minimizing losses from hazards, of animals and animal products and agricultural commodities and products subject to continuous inspection by the Department of Agriculture or owned by the Commodity Credit Corporation or by the Department of Agriculture;

(9) In consultation with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in agriculture-related international civil emergency preparedness planning and related activities.

Sec. 302. Support Responsibility. The Secretary of Agriculture shall assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical agricultural materials.

PART 4—DEPARTMENT OF COMMERCE

Sec. 401. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Commerce shall:

(1) Develop control systems for priorities, allocation, production, and distribution of materials and other resources that will be available to support both national defense and essential civilian programs in a national security emergency;

(2) In cooperation with the Secretary of Defense and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national

(3) In cooperation with the Secretary of Defense and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;

(4) In cooperation with the Secretary of Defense, perform industry analyses to assess capabilities of the commercial industrial base to support the national defense, and develop policy alternatives to improve the international competitiveness of specific domestic industries and their abilities to meet defense program needs;

(5) In cooperation with the Secretary of the Treasury, develop plans for providing emergency assistance to the private sector through direct or participation loans for the financing of production facilities and equipment;

(6) In cooperation with the Secretaries of State, Defense, Transportation, and the Treasury, prepare plans to regulate and control exports and imports in national security emergencies;

(7) Provide for the collection and reporting of census information on human and economic resources, and maintain a capability to conduct emergency surveys to provide information on the status of these resources as required for national security purposes;

(8) Develop overall plans and programs to ensure that the fishing industry continues to produce and process essential protein in national security emergencies;

(9) Develop plans to provide meteorological, hydrologic, marine weather, geodetic, hydrographic, climatic, seismic, and oceanographic data and services to Federal, State, and local agencies, as appropriate;

(10) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in industry-related international (NATO and allied) civil emergency preparedness planning and related activities.

Sec. 402. Support Responsibilities. The Secretary of Commerce shall:

(1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical materials;

(2) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest and fishery products;

(3) Assist, in consultation with the Secretaries of State and Defense, the Secretary of the Treasury in the formulation and execution of economic measures affecting other nations.

[See pocket part for text of Secs. 101 to 402]

PART 5—DEPARTMENT OF DEFENSE

Sec. 501. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Defense shall:

(1) Ensure military preparedness and readi-

(2) In coordination with the Secretary of Commerce, develop, with industry, government, and the private sector, reliable capabilities for the rapid increase of defense production to include industrial resources required for that production;

(3) Develop and maintain, in cooperation with the heads of other departments and agencies, national security emergency plans, programs, and mechanisms to ensure effective mutual support between and among the military, civil government, and the private sector;

(4) Develop and maintain damage assessment capabilities and assist the Director of the Federal Emergency Management Agency and the heads of other departments and agencies in developing and maintaining capabilities to assess attack damage and to estimate the effects of potential attack on the Nation;

(5) Arrange, through agreements with the heads of other Federal departments and agencies, for the transfer of certain Federal resources to the jurisdiction and/or operational control of the Department of Defense in national security emergencies;

(6) Acting through the Secretary of the Army, develop, with the concurrence of the heads of all affected departments and agencies, overall plans for the management, control, and allocation of all usable waters from all sources within the jurisdiction of the United States. This includes:

(a) Coordination of national security emergency water resource planning at the national, regional, State, and local levels;

(b) Development of plans to assure emergency provision of water from public works projects under the jurisdiction of the Secretary of the Army to public water supply utilities and critical defense production facilities during national security emergencies;

(c) Development of plans to assure emergency operation of waterways and harbors; and

(d) Development of plans to assure the provision of potable water;

(7) In consultation with the Secretaries of State and Energy, the Director of the Federal Emergency Management Agency, and others, as required, develop plans and capabilities for identifying, analyzing, mitigating, and responding to hazards related to nuclear weapons, materials, and devices; and maintain liaison, as appropriate, with the Secretary of Energy and the Members of the Nuclear Regulatory Commission to ensure the continuity of nuclear weapons production and the appropriate allocation of scarce resources, including the recapture of special nuclear materials from Nuclear Regulatory Commission licensees when appropriate;

(8) Coordinate with the Administrator of the National Aeronautics and Space Adminstration [sic] and the Secretary of Energy, as appropriate, to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies;

(9) Develop, in coordination with the Secretary of Veterans Affairs, the Director of the Federal Service System, the Office of Personnel Management, and the Federal Emergency Management Agency, plans and systems to ensure that the Nation's human resources are available to meet essential military and civilian needs in national security emergencies;

(10) Develop national security emergency operational procedures, and coordinate with the Secretary of Housing and Urban Development with respect to residential property, for the control, acquisition, leasing, assignment and priority of occupancy of real property within the jurisdiction of the Department of Defense;

(11) Review the priorities and allocations systems developed by other departments and agencies to ensure that they meet Department of Defense needs in a national security emergency; and develop and maintain the Department of Defense programs necessary for effective utilization of all priorities and allocations systems;

(12) Develop, in coordination with the Attorney General of the United States, specific procedures by which military assistance to civilian law enforcement authorities may be requested, considered, and provided;

(13) In cooperation with the Secretary of Commerce and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;

(14) In cooperation with the Secretary of Commerce and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;

(15) With the assistance of the heads of other Federal departments and agencies, provide management direction for the stockpiling of strategic and critical materials, conduct storage, maintenance, and quality assurance operations for the stockpile of strategic and critical materials, and formulate plans, programs, and reports relating to the stockpiling of strategic and critical materials.

(16) Subject to the direction of the President, and pursuant to procedures to be developed jointly by the Secretary of Defense and the Secretary of State, be responsible for the deployment and use of military forces for the protection of United States citizens and nationals and, in connection therewith, designated other persons or categories of persons, in support of their evacuation from threatened areas overseas.

Sec. 502. Support Responsibilities. The Secretary of Defense shall:

(1) Advise and assist the heads of other Federal departments and agencies in the development of plans and programs to support national mobilization. This includes providing, as appropriate:

(a) Military requirements, prioritized and time-phased to the extent possible, for selected end-items and supporting services, materi-

(b) Recommendations for use of financial incentives and other methods to improve defense production as provided by law; and

(c) Recommendations for export and import policies;

(2) Advise and assist the Secretary of State and the heads of other Federal departments and agencies, as appropriate, in planning for the protection, evacuation, and repatriation of United States citizens in threatened areas overseas;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(5) In consultation with the Secretaries of State and Commerce, assist the Secretary of the Treasury in the formulation and execution of economic measures that affect other nations;

(6) Support the Secretary of State and the heads of other Federal departments and agencies as appropriate in the formulation and implementation of foreign policy, and the negotiation of contingency and post-emergency plans, intergovernmental agreements, and arrangements with allies and friendly nations, which affect national security;

(7) Coordinate with the Director of the Federal Emergency Management Agency the development of plans for mutual civil-military support during national security emergencies;

(8) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills.

[See pocket part for text of Secs. 601 to end]

PART 6—DEPARTMENT OF EDUCATION

Sec. 601. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Education shall:

(1) Assist school systems in developing their plans to provide for the earliest possible resumption of activities following national security emergencies;

(2) Develop plans to provide assistance, including efforts to meet shortages of critical educational personnel, to local educational agencies;

(3) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, for dissemination of emergency preparedness instructional material through educational institutions and the media during national security emergencies.

Sec. 602. Support responsibilities. The Secretary of Education shall:

(1) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills;

(2) Support the Secretary of Health and Human Services in the development of human services educational and training materials, including self-help program materials for use by human service organizations and professional

PART 7—DEPARTMENT OF ENERGY

Sec. 701. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Energy shall:

(1) Conduct national security emergency preparedness planning, including capabilities development, and administer operational programs for all energy resources, including:

(a) Providing information, in cooperation with Federal, State, and energy industry officials, on energy supply and demand conditions and on the requirements for and the availability of materials and services critical to energy supply systems;

(b) In coordination with appropriate departments and agencies and in consultation with the energy industry, develop implementation plans and operational systems for priorities and allocation of all energy resource requirements for national defense and essential civilian needs to assure national security emergency preparedness;

(c) Developing, in consultation with the Board of Directors of the Tennessee Valley Authority, plans necessary for the integration of its power system into the national supply system;

(2) Identify energy facilities essential to the mobilization, deployment, and sustainment of resources to support the national security and national welfare, and develop energy supply and demand strategies to ensure continued provision of minimum essential services in national security emergencies;

(3) In coordination with the Secretary of Defense, ensure continuity of nuclear weapons production consistent with national security requirements;

(4) Assure the security of nuclear materials, nuclear weapons, or devices in the custody of the Department of Energy, as well as the security of all other Department of Energy programs and facilities;

(5) In consultation with the Secretaries of State and Defense and the Director of the Federal Emergency Management Agency, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the Department of Energy;

(6) In consultation with the Secretaries of State and Defense, the Director of the Federal Emergency Management Agency, the Members of the Nuclear Regulatory Commission, and others, as required, develop plans and capabilities for identification, analysis, damage assessment, and mitigation of hazards from nuclear weapons, materials, and devices;

(7) Coordinate with the Secretary of Transportation in the planning and management of transportation resources involved in the bulk movement of energy;

(8) At the request of or with the concurrence of the Nuclear Regulatory Commission and in consultation with the Secretary of Defense, recapture special nuclear materials from Nuclear Regulatory Commission licensees where necessary to assure the use, preservation, or safeguarding of such material for the common de-

(9) Develop national security emergency operational procedures for the control, utilization, acquisition, leasing, assignment, and priority of occupancy of real property within the jurisdiction of the Department of Energy;

(10) Manage all emergency planning and response activities pertaining to Department of Energy nuclear facilities.

Sec. 702. Support Responsibilities. The Secretary of Energy shall:

(1) Provide advice and assistance, in coordination with appropriate agencies, to Federal, State, and local officials and private sector organizations to assess the radiological impact associated with national security emergencies;

(2) Coordinate with the Secretaries of Defense and the Interior regarding the operation of hydroelectric projects to assure maximum energy output;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Coordinate with the Secretary of Agriculture regarding the emergency preparedness of the rural electric supply systems throughout the Nation and the assignment of emergency preparedness responsibilities to the Rural Electrification Administration.

PART 8—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 801. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Health and Human Services shall:

(1) Develop national plans and programs to mobilize the health industry and health resources for the provision of health, mental health, and medical services in national security emergencies;

(2) Promote the development of State and local plans and programs for provision of health, mental health, and medical services in national security emergencies;

(3) Develop national plans to set priorities and allocate health, mental health, and medical services' resources among civilian and military claimants;

(4) Develop health and medical survival information programs and a nationwide program to train health and mental health professionals and paraprofessionals in special knowledge and skills that would be useful in national security emergencies;

(5) Develop programs to reduce or eliminate adverse health and mental health effects produced by hazardous agents (biological, chemical, or radiological), and, in coordination with appropriate Federal agencies, develop programs to minimize property and environmental damage associated with national security emergencies;

(6) Develop guidelines that will assure reasonable and prudent standards of purity and/or safety in the manufacture and distribution of food, drugs, biological products, medical devices, food additives, and radiological products in national security emergencies;

(7) Develop national plans for assisting State and local governments in rehabilitation of persons injured or disabled during national security emergencies;

(8) Develop plans and procedures to assist State and local governments in the provision of emergency human services, including lodging, feeding, clothing, registration and inquiry, social services, family reunification and mortuary services and interment;

(9) Develop, in coordination with the Secretary of Education, human services educational and training materials for use by human service organizations and professional schools, and develop and distribute, in coordination with the Director of the Federal Emergency Management Agency, civil defense information relative to emergency human services;

(10) Develop plans and procedures in coordination with the heads of Federal departments and agencies, for assistance to United States citizens or others evacuated from overseas areas.

Sec. 802. Support Responsibility. The Secretary of Health and Human Services shall support the Secretary of Agriculture in the development of plans related to national security emergency agricultural health services.

PART 9—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 901. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Housing and Urban Development shall:

(1) Develop plans for provision and management of housing in national security emergencies, including:

(a) Providing temporary housing using Federal financing and other arrangements;

(b) Providing for radiation protection by encouraging voluntary construction of shelters and voluntary use of cost-efficient design and construction techniques to maximize population protection;

(2) Develop plans, in cooperation with the heads of other Federal departments and agencies and State and local governments, to restore community facilities, including electrical power, potable water, and sewage disposal facilities, damaged in national security emergencies.

PART 10—DEPARTMENT OF THE INTERIOR

Sec. 1001. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Interior shall:

(1) Develop programs and encourage the exploration, development, and mining of strategic and critical and other nonfuel minerals for national security emergency purposes;

(2) Provide guidance to mining industries in the development of plans and programs to ensure continuity of production during national security emergencies;

(3) Develop and implement plans for the management, control, allocation, and use of public land under the jurisdiction of the Department of the Interior in national security emergencies and coordinate land emergency planning at the Federal, State, and local levels.

Sec. 1002. Support Responsibilities. The Secretary of the Interior shall:

(1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical minerals;

(2) Cooperate with the Secretary of Commerce in the identification and evaluation of facilities essential for national security emergencies;

(3) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest products.

PART 11—DEPARTMENT OF JUSTICE

Sec. 1101. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Attorney General of the United States shall:

(1) Provide legal advice to the President and the heads of Federal departments and agencies and their successors regarding national security emergency powers, plans, and authorities;

(2) Coordinate Federal Government domestic law enforcement activities related to national security emergency preparedness, including Federal law enforcement liaison with, and assistance to, State and local governments;

(3) Coordinate contingency planning for national security emergency law enforcement activities that are beyond the capabilities of State and local agencies;

(4) Develop national security emergency plans for regulation of immigration, regulation of nationals of enemy countries, and plans to implement laws for the control of persons entering or leaving the United States;

(5) Develop plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutions and resources during national security emergencies;

(6) Provide information and assistance to the Federal Judicial branch and the Federal Legislative branch concerning law enforcement, continuity of government, and the exercise of legal authority during national security emergencies;

(7) Develop intergovernmental and interagency law enforcement plans and counterterrorism programs to interdict and respond to terrorism incidents in the United States that may result in a national security emergency or that occur during such an emergency;

(8) Develop intergovernmental and interagency law enforcement plans to respond to civil disturbances that may result in a national security emergency or that occur during such an emergency.

Sec. 1102. Support Responsibilities. The Attorney General of the United States shall:

(1) Assist the heads of Federal departments and agencies, State and local governments, and the private sector in the development of plans to physically protect essential resources and facilities;

(2) Support the Secretaries of State and the Treasury in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel, property, and other assets within the jurisdiction of the United States;

(3) Support the Secretary of the Treasury in developing plans to control the movement of property entering and leaving the United States;

(4) Support the heads of other Federal departments and agencies and State and local governments in developing programs and plans for identifying fatalities and reuniting families in national security emergencies;

(5) Support the intelligence community in the planning of its counterintelligence and counterterrorism programs.

PART 12—DEPARTMENT OF LABOR

Sec. 1201. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Labor shall:

(1) Develop plans and issue guidance to ensure effective use of civilian workforce resources during national security emergencies. Such plans shall include, but not necessarily be limited to:

(a) Priorities and allocations, recruitment, referral, training, employment stabilization including appeals procedures, use assessment, and determination of critical skill categories; and

(b) Programs for increasing the availability of critical workforce skills and occupations;

(2) In consultation with the Secretary of the Treasury, develop plans and procedures for wage, salary, and benefit costs stabilization during national security emergencies;

(3) Develop plans and procedures for protecting and providing incentives for the civilian labor force during national security emergencies;

(4) In consultation with other appropriate government agencies and private entities, develop plans and procedures for effective labor-management relations during national security emergencies.

Sec. 1202. Support Responsibilities. The Secretary of Labor shall:

(1) Support planning by the Secretary of Defense and the private sector for the provision of human resources to critical defense industries during national security emergencies;

(2) Support planning by the Secretary of Defense and the Director of Selective Service for the institution of conscription in national security emergencies.

PART 13—DEPARTMENT OF STATE

Sec. 1301. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of State shall:

(1) Provide overall foreign policy coordination in the formulation and execution of continuity of government and other national security emergency preparedness activities that affect foreign relations;

(2) Prepare to carry out Department of State responsibilities in the conduct of the foreign relations of the United States during national security emergencies, under the direction of the President, and in consultation with the heads of other appropriate Federal departments and agencies, including but not limited to:

(a) Formulation and implementation of foreign policy and negotiation regarding contingency and post-emergency plans, intergovernmental agreements, and arrangements with United States' allies;

(b) Formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral states;

(c) Formulation and execution of political strategy toward hostile or enemy states;

(d) Conduct of mutual assistance activities;

(e) Provision of foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs;

(f) Protection or evacuation of United States citizens and nationals abroad and safeguarding their property abroad, in consultation with the Secretaries of Defense and Health and Human Services;

(g) Protection of international organizations and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States, in coordination with the Attorney General and the Secretary of the Treasury;

(h) Formulation of policies and provisions for assistance to displaced persons and refugees abroad;

(i) Maintenance of diplomatic and consular representation abroad; and

(j) Reporting of and advising on conditions overseas that bear upon national security emergencies.

Sec. 1302. Support Responsibilities. The Secretary of State shall:

(1) Assist appropriate agencies in developing planning assumptions concerning accessibility of foreign sources of supply;

(2) Support the Secretary of the Treasury, in consultation, as appropriate, with the Secretaries of Commerce and Defense, in the formulation and execution of economic measures with respect to other nations;

(3) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(4) Support the Director of the Federal Emergency Management Agency in the coordination and integration of United States policy regarding the formulation and implementation of civil emergency resources and preparedness planning;

(5) Assist the Attorney General of the United States in the formulation of national security emergency plans for the control of persons entering or leaving the United States.

PART 14—DEPARTMENT OF TRANSPORTATION

Sec. 1401. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Transportation shall:

(1) Develop plans to promulgate and manage overall national policies, programs, procedures, and systems to meet essential civil and military transportation needs in national security emergencies;

(2) Be prepared to provide direction to all modes of civil transportation in national security emergencies, including air, surface, water, pipelines, and public storage and warehousing, to the extent such responsibility is vested in the Secretary of Transportation. This direction may include:

(a) Implementation of priorities for all transportation resource requirements for service, equipment, facilities, and systems;

(b) Allocation of transportation resource capacity; and

(c) Emergency management and control of civil transportation resources and systems, including privately owned automobiles, urban mass transit, intermodal transportation systems, the National Railroad Passenger Corporation and the St. Lawrence Seaway Development Corporation;

(3) Develop plans to provide for the smooth transition of the Coast Guard as a service to the Department of the Navy during national security emergencies. These plans shall be compatible with the Department of Defense planning systems, especially in the areas of port security and military readiness;

(4) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in transportation-related international (including NATO and allied) civil emergency preparedness planning and related activities;

(5) Coordinate with State and local highway agencies in the management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and publicly owned highway maintenance equipment to assure efficient and safe use of road space during national security emergencies;

(6) Develop plans and procedures in consultation with appropriate agency officials for maritime and port safety, law enforcement, and security over, upon, and under the high seas and waters subject to the jurisdiction of the United States to assure operational readiness for national security emergency functions;

(7) Develop plans for the emergency operation of U.S. ports and facilities, use of shipping resources (U.S. and others), provision of government war risks insurance, and emergency construction of merchant ships for military and civil use;

(8) Develop plans for emergency management and control of the National Airspace System, including provision of war risk insurance and for transfer of the Federal Aviation Administration, in the event of war, to the Department of Defense;

(9) Coordinate the Interstate Commerce Commission's development of plans and preparedness programs for the reduction of vulnerability, maintenance, restoration, and operation of privately owned railroads, motor carriers, inland waterway transportation systems, and public storage facilities and services in national security emergencies.

Sec. 1402. Support Responsibility. The Secretary of Transportation shall coordinate with the Secretary of Energy in the planning and [illegible] volved in the bulk movement of energy materials.

PART 15—DEPARTMENT OF THE TREASURY

Sec. 1501. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Treasury shall:

(1) Develop plans to maintain stable economic conditions and a market economy during national security emergencies; emphasize measures to minimize inflation and disruptions; and, minimize reliance on direct controls of the monetary, credit, and financial systems. These plans will include provisions for:

(a) Increasing capabilities to minimize economic dislocations by carrying out appropriate fiscal, monetary, and regulatory policies and reducing susceptibility to manipulated economic pressures;

(b) Providing the Federal Government with efficient and equitable financing sources and payment mechanisms;

(c) Providing fiscal authorities with adequate legal authority to meet resource requirements;

(d) Developing, in consultation with the Board of Governors of the Federal Reserve System, and in cooperation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration Board, the Farm Credit Administration Board and other financial institutions, plans for the continued or resumed operation and liquidity of banks, savings and loans, credit unions, and farm credit institutions, measures for the reestablishment of evidence of assets or liabilities, and provisions for currency withdrawals and deposit insurance;

(2) Provide for the protection of United States financial resources including currency and coin production and redemption facilities, Federal check disbursement facilities, and precious monetary metals;

(3) Provide for the preservation of, and facilitate emergency operations of, public and private financial institution systems, and provide for their restoration during or after national security emergencies;

(4) Provide, in coordination with the Secretary of State, for participation in bilateral and multilateral financial arrangements with foreign governments;

(5) Maintain the Federal Government accounting and financial reporting system in national security emergencies;

(6) Develop plans to protect the President, the Vice President, other officers in the order of presidential succession, and other persons designated by the President;

(7) Develop plans for restoration of the economy following an attack; for the development of emergency monetary, credit, and Federal benefit payment programs of those Federal departments and agencies that have responsibilities dependent on the policies or capabilities of the mentation of national policy on sharing war losses;

(8) Develop plans for initiating tax changes, waiving regulations, and, in conjunction with the Secretary of Commerce or other guaranteeing agency, granting or guaranteeing loans for the expansion of industrial capacity, the development of technological processes, or the production or acquisition of essential materials;

(9) Develop plans, in coordination with the heads of other appropriate Federal departments and agencies, to acquire emergency imports, make foreign barter arrangements, or otherwise provide for essential material from foreign sources using, as appropriate, the resources of the Export–Import Bank or resources available to the Bank;

(10) Develop plans for encouraging capital inflow and discouraging the flight of capital from the United States and, in coordination with the Secretary of State, for the seizure and administration of assets of enemy aliens during national security emergencies;

(11) Develop plans, in consultation with the heads of appropriate Federal departments and agencies, to regulate financial and commercial transactions with other countries;

(12) Develop plans, in coordination with the Secretary of Commerce and the Attorney General of the United States, to control the movement of property entering or leaving the United States;

(13) Cooperate and consult with the Chairman of the Securities and Exchange Commission, the Chairman of the Federal Reserve Board, the Chairman of the Commodities Futures Trading Commission in the development of emergency financial control plans and regulations for trading of stocks and commodities, and in the development of plans for the maintenance and restoration of stable and orderly markets;

(14) Develop plans, in coordination with the Secretary of State, for the formulation and execution of economic measures with respect to other nations in national security emergencies.

Sec. 1502. Support Responsibilities. The Secretary of the Treasury shall:

(1) Cooperate with the Attorney General of the United States on law enforcement activities, including the control of people entering and leaving the United States;

(2) Support the Secretary of Labor in developing plans and procedures for wage, salary, and benefit costs stabilization;

(3) Support the Secretary of State in plans for the protection of international organizations and foreign diplomatic consular, and other official personnel and property or other assets in the United States.

PART 16—ENVIRONMENTAL PROTECTION AGENCY

Sec. 1601. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the Environmental Protection Agency shall:

(1) Develop Federal plans and foster development of State and local plans designed to

hazardous agents (biological, chemical, or radiological) introduced into the environment in national security emergencies;

(2) Develop, for national security emergencies, guidance on acceptable emergency levels of nuclear radiation, assist in determining acceptable emergency levels of biological agents, and help to provide detection and identification of chemical agents;

(3) Develop, in coordination with the Secretary of Defense, plans to assure the provision of potable water supplies to meet community needs under national security emergency conditions, including claimancy for materials and equipment for public water systems.

Sec. 1602. Support Responsibilities. The Administrator of the Environmental Protection Agency shall:

(1) Assist the heads of other Federal agencies that are responsible for developing plans for the detection, reporting, assessment, protection against, and reduction of effects of hazardous agents introduced into the environment;

(2) Advise the heads of Federal departments and agencies regarding procedures for assuring compliance with environmental restrictions and for expeditious review of requests for essential waivers.

PART 17—FEDERAL EMERGENCY MANAGEMENT AGENCY

Sec. 1701. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Federal Emergency Management Agency shall:

(1) Coordinate and support the initiation, development, and implementation of national security emergency preparedness programs and plans among Federal departments and agencies;

(2) Coordinate the development and implementation of plans for the operation and continuity of essential domestic emergency functions of the Federal Government during national security emergencies;

(3) Coordinate the development of plans, in cooperation with the Secretary of Defense, for mutual civil-military support during national security emergencies;

(4) Guide and assist State and local governments and private sector organizations in achieving preparedness for national security emergencies, including development of plans and procedures for assuring continuity of government, and support planning for prompt and coordinated Federal assistance to States and localities in responding to national security emergencies;

(5) Provide the President a periodic assessment of Federal, State, and local capabilities to respond to national security emergencies;

(6) Coordinate the implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies;

(7) Develop and coordinate with all appropriate agencies civil defense programs to enhance Federal, State, local, and private sector capabilities for national security emergency crisis management, population protection, and recovery in the event of an attack on the United States;

(8) Develop and support public information, education and training programs to assist Federal, State, and local government and private sector entities in planning for and implementing national security emergency preparedness programs;

(9) Coordinate among the heads of Federal, State, and local agencies the planning, conduct, and evaluation of national security emergency exercises;

(10) With the assistance of the heads of other appropriate Federal departments and agencies, develop and maintain capabilities to assess actual attack damage and residual recovery capabilities as well as capabilities to estimate the effects of potential attacks on the Nation;

(11) Provide guidance to the heads of Federal departments and agencies on the appropriate use of defense production authorities, including resource claimancy, in order to improve the capability of industry and infrastructure systems to meet national security emergency needs;

(12) Assist the Secretary of State in coordinating the formulation and implementation of United States policy for NATO and other allied civil emergency planning, including the provision of:

(a) advice and assistance to the departments and agencies in alliance civil emergency planning matters;

(b) support to the United States Mission to NATO in the conduct of day-to-day civil emergency planning activities; and

(c) support facilities for NATO Civil Wartime Agencies in cooperation with the Departments of Agriculture, Commerce, Energy, State, and Transportation.

Sec. 1702. Support Responsibilities. The Director of the Federal Emergency Management Agency shall:

(1) Support the heads of other Federal departments and agencies in preparing plans and programs to discharge their national security emergency preparedness responsibilities, including, but not limited to, such programs as mobilization preparedness, continuity of government planning, and continuance of industry and infrastructure functions essential to national security;

(2) Support the Secretary of Energy, the Secretary of Defense, and the Members of the Nuclear Regulatory Commission in developing plans and capabilities for identifying, analyzing, mitigating, and responding to emergencies related to nuclear weapons, materials, and devices, including mobile and fixed nuclear facilities, by providing, inter alia, off-site coordination;

(3) Support the Administrator of General Services in efforts to promote a government-wide program with respect to Federal buildings and installations to minimize the effects of attack and establish shelter management organizations.

PART 18—GENERAL SERVICES ADMINISTRATION

Sec. 1801. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of General Services shall:

(1) Develop national security emergency plans and procedures for the operation, maintenance, and protection of federally owned and occupied buildings managed by the General Services Administration, and for the construction, alteration, and repair of such buildings;

(2) Develop national security emergency operating procedures for the control, acquisition, leasing, assignment, and priority of occupancy of real property by the Federal Government, and by State and local governments acting as agents of the Federal Government, except for the military facilities and facilities with special nuclear materials within the jurisdiction of the Departments of Defense and Energy;

(3) Develop national security emergency operational plans and procedures for the use of public utility services (other than telecommunications services) by Federal departments and agencies, except for Department of Energy-operated facilities;

(4) Develop plans and operating procedures of government-wide supply programs to meet the requirements of Federal departments and agencies during national security emergencies;

(5) Develop plans and operating procedures for the use, in national security emergencies, of excess and surplus real and personal property by Federal, State, and local governmental entities;

(6) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, with respect to Federal buildings and installations, to minimize the effects of attack and establish shelter management organizations;

Sec. 1802. Support Responsibility. The Administrator of General Services shall develop plans to assist Federal departments and agencies in operation and maintenance of essential automated information processing facilities during national security emergencies:[.]

PART 19—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sec. 1901. Lead Responsibility. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the National Aeronautics and Space Administration shall coordinate with the Secretary of Defense to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies.

PART 20—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Sec. 2001. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Archivist of the United States shall:

(1) Develop procedures for publication during national security emergencies of the Federal Register for as broad public dissemination as is practicable of presidential proclamations and Executive orders, Federal emergency notices and actions, and Acts of Congress;

(2) Develop emergency procedures for providing instructions and advice on the handling and preservation of records critical to the operation of the Federal Government in national security emergencies.

PART 21—NUCLEAR REGULATORY COMMISSION

Sec. 2101. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Members of the Nuclear Regulatory Commission shall:

(1) Promote the development and maintenance of national security emergency preparedness programs through security and safeguards programs by licensed facilities and activities;

(2) Develop plans to suspend any licenses granted by the Commission; to order the operations of any facility licensed under Section 103 or 104; Atomic Energy Act of 1954, as amended (42 U.S.C. 2133 or 2134); to order the entry into any plant or facility in order to recapture special nuclear material as determined under Subsection (3) below; and operate such facilities;

(3) Recapture or authorize recapture of special nuclear materials from licensees where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security, as determined by the Commission or as requested by the Secretary of Energy.

Sec. 2102. Support Responsibilities. The Members of the Nuclear Regulatory Commission shall:

(1) Assist the Secretary of Energy in assessing damage to Commission-licensed facilities, identifying useable facilities, and estimating the time and actions necessary to restart inoperative facilities;

(2) Provide advice and technical assistance to Federal, State, and local officials and private sector organizations regarding radiation hazards and protective actions in national security emergencies.

PART 22—OFFICE OF PERSONNEL MANAGEMENT

Sec. 2201. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Personnel Management shall:

(1) Prepare plans to administer the Federal civilian personnel system in national security emergencies, including plans and procedures for the rapid mobilization and reduction of an emergency Federal workforce;

(2) Develop national security emergency work force policies for Federal civilian personnel;

(3) Develop plans to accommodate the surge of Federal personnel security background and pre-employment investigations during national security emergencies.

Sec. 2202. Support Responsibilities. The Director of the Office of Personnel Management

(1) Assist the heads of other Federal departments and agencies with personnel management and staffing in national security emergencies, including facilitating transfers between agencies of employees with critical skills;

(2) In consultation with the Secretary of Defense and the Director of Selective Service, develop plans and procedures for a system to control any conscription of Federal civilian employees during national security emergencies.

PART 23—SELECTIVE SERVICE SYSTEM

Sec. 2301. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of Selective Service shall:

(1) Develop plans to provide by induction, as authorized by law, personnel that would be required by the armed forces during national security emergencies;

(2) Develop plans for implementing an alternative service program.

PART 24—TENNESSEE VALLEY AUTHORITY

Sec. 2401. Lead Responsibility. In addition to the applicable responsibilities covered in Parts 1 and 2, the Board of Directors of the Tennessee Valley Authority shall develop plans and maintain river control operations for the prevention or control of floods affecting the Tennessee River System during national security emergencies.

Sec. 2402. Support Responsibilities. The Board of Directors of the Tennessee Valley Authority shall:

(1) Assist the Secretary of Energy in the development of plans for the integration of the Tennessee Valley Authority power system into nationwide national security emergency programs;

(2) Assist the Secretaries of Defense, Interior, and Transportation and the Chairman of the Interstate Commerce Commission in the development of plans for operation and maintenance of inland waterway transportation in the Tennessee River System during national security emergencies.

PART 25—UNITED STATES INFORMATION AGENCY

Sec. 2501. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the United States Information Agency shall:

(1) Plan for the implementation of information programs to promote an understanding abroad of the status of national security emergencies within the United States;

(2) In coordination with the Secretary of State's exercise of telecommunications functions affecting United States diplomatic missions and consular offices overseas, maintain the capability to provide television and simultaneous direct radio broadcasting in major languages to all areas of the world, and the capability to provide wireless file to all United States embassies during national security emergencies.

Sec. 2502. Support Responsibility. The Director of the United States Information Agency shall assist the heads of other Federal departments and agencies in planning for the use of media resources and foreign public information programs during national security emergencies.

PART 26—UNITED STATES POSTAL SERVICE

Sec. 2601. Lead Responsibility. In addition to the applicable responsibilities covered in Parts 1 and 2, the Postmaster General shall prepare plans and programs to provide essential postal services during national security emergencies.

Sec. 2602. Support Responsibilities. The Postmaster General shall:

(1) Develop plans to assist the Attorney General of the United States in the registration of nationals of enemy countries residing in the United States;

(2) Develop plans to assist the Secretary of Health and Human Services in registering displaced persons and families;

(3) Develop plans to assist the heads of other Federal departments and agencies in locating and leasing privately owned property for Federal use during national security emergencies.

PART 27—VETERANS' ADMINISTRATION

Sec. 2701. Lead Responsibilities. In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall:

(1) Develop plans for provision of emergency health care services to veteran beneficiaries in Veterans' Administration [now Department of Veterans Affairs] medical facilities, to active duty military personnel and, as resources permit, to civilians in communities affected by national security emergencies;

(2) Develop plans for mortuary services for eligible veterans, and advise on methods for interment of the dead during national security emergencies.

Sec. 2702. Support Responsibilities. The Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall;

(1) Assist the Secretary of Health and Human Services in promoting the development of State and local plans for the provision of medical services in national security emergencies, and develop appropriate plans to support such State and local plans;

(2) Assist the Secretary of Health and Human Services in developing national plans to mobilize the health care industry and medical resources during national security emergencies;

(3) Assist the Secretary of Health and Human Services in developing national plans to set priorities and allocate medical resources among civilian and military claimants.

PART 28—OFFICE OF MANAGEMENT AND BUDGET

Sec. 2801. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Management and Budget shall prepare plans and programs to maintain its functions during national security emergencies. In connection with these functions, the Director of the Office of Management and Budget shall:

(1) Develop plans to ensure the preparation, clearance, and coordination of proposed Executive orders and proclamations;

(2) Prepare plans to ensure the preparation, supervision, and control of the budget and the formulation of the fiscal program of the Government;

(3) Develop plans to coordinate and communicate Executive branch views to the Congress regarding legislation and testimony by Executive branch officials;

(4) Develop plans for keeping the President informed of the activities of government agencies, continuing the Office of Management and Budget's management functions, and maintaining presidential supervision and direction with respect to legislation and regulations in national security emergencies.

PART 29—GENERAL

Sec. 2901. Executive Order Nos. 10421 [formerly set out as a note under Section 404 of Title 50, War and National Defense], and 11490 [formerly set out as a note under this section], as amended, are hereby revoked. This Order shall be effective immediately.

EXECUTIVE ORDER NO. 12657

Nov. 18, 1988, 53 F.R. 47513

FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE IN EMERGENCY PREPAREDNESS PLANNING AT COMMERCIAL NUCLEAR POWER PLANTS

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App. 2251 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), Reorganization Plan No. 1 of 1958 [set out above], Reorganization Plan No. 1 of 1973 [set out above], and Section 301 of Title 3 of the United States Code, and in order to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants in operation or under construction, it is hereby ordered as follows:

Section 1. Scope. (a) This Order applies whenever State or local governments, either individually or together, decline or fail to prepare commercial nuclear power plant radiological emergency preparedness plans that are sufficient to satisfy Nuclear Regulatory Commission ("NRC") licensing requirements or to participate adequately in the preparation, demonstration, testing, exercise, or use of such plans.

(b) In order to request the assistance of the Federal Emergency Management Agency ("FEMA") provided for in this Order, an affected nuclear power plant applicant or licensee ("licensee") shall certify in writing to FEMA that the situation described in Subsection (a) exists.

Sec. 2. Generally Applicable Principles and Directives. (a) Subject to the principles articulated in this Section, the Director of FEMA is hereby authorized and directed to take the actions specified in Sections 3 through 6 of this Order.

(b) In carrying out any of its responsibilities under this Order, FEMA:

(1) shall work actively with the licensee, and, before relying upon its resources or those of any other Department or agency within the Executive branch, shall make maximum feasible use of the licensee's resources;

(2) shall take care not to supplant State and local resources. FEMA shall substitute its own resources for those of the State and local governments only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation;

(3) is authorized, to the extent permitted by law, to enter into interagency Memoranda of Understanding providing for utilization of the resources of other Executive branch Departments and agencies and for delegation to other Executive branch Departments and agencies and for delegation to other Executive branch Departments and agencies of any of the functions and duties assigned to FEMA under this Order; however, any such Memorandum of Understanding shall be subject to approval by the Director of the Office of Management and Budget ("OMB") and published in final form in the Federal Register; and

(4) shall assume for purposes of Sections 3 and 4 of this Order that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in accordance with their duties to protect the public from harm and would act generally in conformity with the licensee's radiological emergency preparedness plan.

(c) The Director of OMB shall resolve any issue concerning the obligation of Federal funds arising from the implementation of this Order. In resolving issues under this Subsection, the Director of OMB shall ensure:

(1) that FEMA has utilized to the maximum extent possible the resources of the licensee and State and local governments before it relies upon its appropriated and lawfully available resources or those of any Department or agency in the Executive branch;

(2) that FEMA shall use its existing resources to coordinate and manage, rather than duplicate, other available resources;

(3) that implementation of this Order is accomplished with an economy of resources; and

(4) that full reimbursement to the Federal Government is provided, to the extent permitted by law.

Sec. 3. FEMA Participation in Emergency Preparedness Planning. (a) FEMA assistance in emergency preparedness planning shall include advice, technical assistance, and arrangements for facilities and resources as needed to satisfy the emergency planning requirements under the Atomic Energy Act of 1954, as amended [42 U.S.C.A. § 2011 et seq.], and any other Federal legislation or regulations pertaining to issuance or retention of a construction permit or an operating license for a nuclear power plant.

(b) FEMA shall make all necessary plans and arrangements to ensure that the Federal Government is prepared to assume any and all functions and undertakings necessary to provide adequate protection to the public in cases within the scope of this Order. In making such plans and arrangements,

(1) FEMA shall focus planning of Federal response activities to ensure that:

(A) adequate resources and arrangements will exist, as of the time when an initial response is needed, given the absence or inadequacy of advance State and local commitments; and

(B) attention has been given to coordinating (including turning over) response functions when State and local governments do exercise their authority, with specific attention to the areas where prior State and local participation has been insufficient or absent;

(2) FEMA's planning for Federal participation in responding to a radiological emergency within the scope of this Order shall include, but not be limited to, arrangements for using existing Federal resources to provide prompt notification of the emergency to the general public; to assist in any necessary evacuation; to provide reception centers or shelters and related facilities and services for evacuees; to provide emergency medical services at Federal hospitals, including those operated by the military services and by the Veterans' Administration [now Department of Veterans Affairs]; and to ensure the creation and maintenance of channels of communication from commercial nuclear power plant licensees or applicants to State and local governments and to surrounding members of the public.

Sec. 4. Evaluation of Plans. (a) FEMA shall consider and evaluate all plans developed under the authority of this Order as though drafted and submitted by a State or local government.

(b) FEMA shall take all actions necessary to carry out the evaluation referred to in the preceding Subsection and to permit the NRC to conduct its evaluation of radiological emergency preparedness plans including, but not limited to, planning, participating in, and evaluating exercises, drills, and tests, on a timely basis, as necessary to satisfy NRC requirements for demonstrations of off-site radiological emergency preparedness.

Sec. 5. Response to a Radiological Emergency. (a) In the event of an actual radiological emergency or disaster, FEMA shall take all steps necessary to ensure the implementation of the plans developed under this Order and shall coordinate the actions of other Federal agencies to achieve the maximum effectiveness of Federal efforts in responding to the emergency.

(b) FEMA shall coordinate Federal response activities to ensure that adequate resources are directed, when an initial response is needed, to activities hindered by the absence or inadequacy of advance State and local commitments. FEMA shall also coordinate with State and local governmental authorities and turn over response functions as appropriate when State and local governments do exercise their authority.

(c) FEMA shall assume any necessary command-and-control function, or delegate such function to another Federal agency, in the event that no competent State and local authority is available to perform such function.

(d) In any instance in which Federal personnel may be called upon to fill a command-and-control function during a radiological emergency, in addition to any other powers it may have, FEMA or its designee is authorized to accept volunteer assistance from utility employees and other nongovernmental personnel for any purpose necessary to implement the emergency response plan and facilitate off-site emergency response.

Sec. 6. Implementation of Order. (a) FEMA shall issue interim and final directives and procedures implementing this Order as expeditiously as is feasible and in any event shall issue interim directives and procedures not more than 90 days following the effective date of this Order and shall issue final directives and procedures not more than 180 days following the effective date of this Order.

(b) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary revisions of, all FEMA regulations, directives, and guidance to conform them to the terms and policies of this Order.

(c) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary renegotiations of, all interagency agreements to which FEMA is a party, so as to conform them to the terms and policies of this Order. This directive shall include, but not be limited to, the Federal Radiological Emergency Response Plan (50 *Fed.Reg.* 46542 (November 8, 1985)).

(d) To the extent permitted by law, FEMA is directed to obtain full reimbursement, either jointly or severally, for services performed by FEMA or other Federal agencies pursuant to this Order from any affected licensee and from any affected nonparticipating or inadequately participating State or local government.

Sec. 7. Amendments. This Executive Order amends Executive Order Nos. 11490 (34 Fed. Reg. 17567 (October 28, 1969)) [formerly set out as a note under this section], 12148 (44 Fed.Reg. 43239 (July 20, 1979)) [set out as a note under this section], and 12241 (45 Fed.Reg. 64879 (September 29, 1980)) [not classified to the Code], and the same are hereby superseded to the extent that they are inconsistent with this Order.

Sec. 8. Judicial Review. This Order is intended only to improve the internal management of the Executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sec. 9. Effective Date. This Order shall be effective November 18, 1988.

EXECUTIVE ORDER NO. 12673

Mar. 23, 1989, 54 F.R. 12571

DELEGATION OF DISASTER RELIEF AND EMERGENCY ASSISTANCE FUNCTIONS

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*) [section 5121 et seq. of this title], and in order to conform delegations of authority to recent legislation, it is hereby ordered as follows:

Section 1. Section 4-203 of Executive Order No. 12148 [set out as a note under this section] is amended to read:

Section 4-203. The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*), except those functions vested in the President by Section 401 (relating to the declaration of major disasters and emergencies) [section 5170 of this title], Section 501 (relating to the declaration of emergencies) [section 5191 of this title], Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities) [section 5171 of this title], and Section 412 (relating to food coupons and distribution) [section 5179 of this title], are hereby delegated to the Director of the Federal Emergency Management Agency.

Sec. 2. Section 3 of Executive Order No. 11795 [set out as a note under section 5121 of this title] is amended by removing the words "Section 409" and inserting "Section 412" in place thereof.

Sec. 3. The functions vested in the President by Section 103(e)(2) of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100-707 (relating to the transmission of a report to the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Environment and Public Works of the Senate) [set out as a note under section 5122 of this title], are hereby delegated to the Director of the Federal Emergency Management Agency.

Sec. 4. The functions vested in the President by Section 110 of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100-707 [set out as a note under section 5121 of this title], are hereby delegated to the Director of the Federal Emergency Management Agency.

Sec. 5. The functions vested in the President by Section 113 of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100-707 [set out as a note under section 5201 of this title], are hereby delegated to the Director of the Federal Emergency Management Agency.

Sec. 6. The amendments to Executive Order No. 12148 [set out as a note under this section] that are made by Section 1 of this Executive Order shall not affect the administration of any assistance for major disasters or emergencies declared by the President before the effective date of "The Disaster Relief and Emergency Assistance Amendments of 1988 [probably means the date of enactment of Pub.L. 100-707, which was approved Nov. 23, 1988]."

GEORGE BUSH

EXECUTIVE ORDER NO. 13010

July 15, 1996, 61 F.R. 37347, as amended by Ex. Ord. No. 13025, Nov. 13, 1996, 61 F.R. 58623; Ex. Ord. No. 13041, Apr. 3, 1997, 62 F.R. 17039; Ex. Ord. No. 13064, Oct. 11, 1997, 62 F.R. 53711; Ex. Ord. No. 13077, Mar. 10, 1998, 63 F.R. 12381; Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879

CRITICAL INFRASTRUCTURE PROTECTION

Certain national infrastructures are so vital that their incapacity or destruction would have a debilitating impact on the defense or economic security of the United States. These critical infrastructures include telecommunications, electrical power systems, gas and oil storage and transportation, banking and finance, transportation, water supply systems, emergency services (including medical, police, fire, and rescue), and continuity of government. Threats to these critical infrastructures fall into two categories: physical threats to tangible property ("physical threats"), and threats of electronic, radio-frequency, or computer-based attacks on the information or communications components that control critical infrastructures ("cyber threats"). Because many of these critical infrastructures [illegible] it is essential that the government and private sector work together to develop a strategy for protecting them and assuring their continued operation.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Establishment. There is hereby established the President's Commission on Critical Infrastructure Protection ("Commission").

(a) Chair. A qualified individual from outside the Federal Government shall be designated by the President from among the members to serve as Chair of the Commission. The Commission Chair shall be employed on a full-time [illegible]

(b) **Members.** The head of each of the following executive branch departments and agencies shall nominate not more than two full-time members of the Commission:

(i) Department of the Treasury;

(ii) Department of Justice;

(iii) Department of Defense;

(iv) Department of Commerce;

(v) Department of Transportation;

(vi) Department of Energy;

(vii) Central Intelligence Agency;

(viii) Federal Emergency Management Agency;

(ix) Federal Bureau of Investigation;

(x) National Security Agency.

One of the nominees of each agency may be an individual from outside the Federal Government who shall be employed by the agency on a full-time basis. Each nominee must be approved by the Steering Committee.

Sec. 2. The Principals Committee. The Commission shall report to the President through a Principals Committee ("Principals Committee"), which shall review any reports or recommendations before submission to the President. The Principals Committee shall comprise the:

(i) Secretary of the Treasury;

(ii) Secretary of Defense;

(iii) Attorney General;

(iv) Secretary of Commerce;

(v) Secretary of Transportation;

(vi) Secretary of Energy;

(vii) Director of Central Intelligence;

(viii) Director of the Office of Management and Budget;

(ix) Director of the Federal Emergency Management Agency;

(x) Assistant to the President for National Security Affairs;

(xi) Assistant to the Vice President for National Security Affairs.

(xii) Assistant to the President for Economic Policy and Director of the National Economic Council; and

(xiii) Assistant to the President and Director of the Office of Science and Technology Policy.

Sec. 3. The Steering Committee of the President's Commission on Critical Infrastructure Protection. A Steering Committee ("Steering Committee") shall oversee the work of the Commission on behalf of the Principals Committee. The Steering Committee shall comprise five members. Four of the members shall be appointed by the President, and the fifth member shall be the Chair of the Commission. Two of the members of the Committee shall be employees of the Executive Office of the President. The Steering Committee will receive regular reports on the progress of the Commission's work and approve the submission of reports to the Principals Committee.

Sec. 4. Mission. The Commission shall: (a) within 30 days of this order, produce a statement of its mission objectives, which will elaborate the general objectives set forth in this order, and a detailed schedule for addressing each mission objective, for approval by the Steering Committee;

(b) identify and consult with: (i) elements of the public and private sectors that conduct, support, or contribute to infrastructure assurance; (ii) owners and operators of the critical infrastructures; and (iii) other elements of the public and private sectors, including the Congress, that have an interest in critical infrastructure assurance issues and that may have differing perspectives on these issues;

(c) assess the scope and nature of the vulnerabilities of, and threats to, critical infrastructures;

(d) determine what legal and policy issues are raised by efforts to protect critical infrastructures and assess how these issues should be addressed;

(e) recommend a comprehensive national policy and implementation strategy for protecting critical infrastructures from physical and cyber threats and assuring their continued operation;

(f) propose any statutory or regulatory changes necessary to effect its recommendations; and

(g) produce reports and recommendations to the Steering Committee as they become available; it shall not limit itself to producing one final report.

Sec. 5. Advisory Committee to the President's Commission on Critical Infrastructure Protection. [Revoked by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879]

Sec. 6. Administration. (a) All executive departments and agencies shall cooperate with the Commission and provide such assistance, information, and advice to the Commission as it may request, to the extent permitted by law.

(b) The Commission and the Advisory Committee may hold open and closed hearings, conduct inquiries, and establish subcommittees, as necessary.

(c) Members of the Advisory Committee shall serve without compensation for their work on the Advisory Committee. While engaged in the work of the Advisory Committee, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service.

(d) To the extent permitted by law, and subject to the availability of appropriations, the Department of Defense shall provide the Commission and the Advisory Committee with administrative services, staff, other support services, and such funds as may be necessary for the performance of its functions and shall reimburse the executive branch components that provide representatives to the Commission for the compensation of those representatives.

(e) In order to augment the expertise of the Commission, the Department of Defense may, at the Commission's request, contract for the services of nongovernmental consultants who may prepare analyses, reports, background papers, and other materials for consideration by the Commission. In addition, at the Commission's request, executive departments [illegible]

shall request that existing Federal advisory committees consider and provide advice on issues of critical infrastructure protection, to the extent permitted by law.

(f) [Revoked by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879.]

(g) The person who served as Chair of the Commission may continue to be a member of the Steering Committee after termination of the Commission.

Sec. 7. Review of Commission's Report. (a) Upon the termination of the Commission as set out in section 6(f) of this order, certain of the Commission's staff may be retained no later than September 30, 1998, solely to assist the Principals, Steering, and Advisory Committees in reviewing the Commission's report and preparing recommendations to the President. They shall act under the direction of the Steering Committee or its designated agent. The Department of Defense shall continue to provide funding and administrative support for the retained Commission staff.

(b) Pursuant to Executive Order 12958 [set out as a note under section 435 of Title 50, War and National Defense], I hereby designate the Executive Secretary of the National Security Council to exercise the authority to classify information originally as "Top Secret" with respect to the work of the Commission staff, the Principals Committee, the Steering Committee, the Advisory Committee, and the Infrastructure Protection Task Force.

Sec. 8. Interim Coordinating Mission. (a) While the Commission is conducting its analysis and until the President has an opportunity to consider and act on its recommendations, there is a need to increase coordination of existing infrastructure protection efforts in order to better address, and prevent, crises that would have a debilitating regional or national impact. There is hereby established an Infrastructure Protection Task Force ("IPTF") within the Department of Justice, chaired by the Federal Bureau of Investigation, to undertake this interim coordinating mission.

(b) The IPTF will not supplant any existing programs or organizations.

(c) The Steering Committee shall oversee the work of the IPTF.

(d) The IPTF shall include at least one full-time member each from the Federal Bureau of Investigation, the Department of Defense, and the National Security Agency. It shall also receive part-time assistance from other executive branch departments and agencies. Members shall be designated by their departments or agencies on the basis of their expertise in the protection of critical infrastructures. IPTF members' compensation shall be paid by their parent agency or department.

(e) The IPTF's function is to identify and coordinate existing expertise, inside and outside of the Federal Government, to:

(i) provide, or facilitate and coordinate the provision of, expert guidance to critical infrastructures to detect, prevent, halt, or confine an attack and to recover and restore service;

(ii) issue threat and warning notices in the event advance information is obtained about a threat;

(iii) provide training and education on methods of reducing vulnerabilities and responding to attacks on critical infrastructures;

(iv) conduct after-action analysis to determine possible future threats, targets, or methods of attack; and

(v) coordinate with the pertinent law enforcement authorities during or after an attack to facilitate any resulting criminal investigation.

(f) All executive departments and agencies shall cooperate with the IPTF and provide such assistance, information, and advice as the IPTF may request, to the extent permitted by law.

(g) All executive departments and agencies shall share with the IPTF information about threats and warning of attacks, and about actual attacks on critical infrastructures, to the extent permitted by law.

(h) The IPTF shall terminate no later than 180 days after the termination of the Commission, unless extended by the President prior to that date.

Sec. 9. General. (a) This order is not intended to change any existing statutes or Executive orders.

(b) This order is not intended to create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

EXECUTIVE ORDER NO. 13130

July 14, 1999, 64 F.R. 38535

NATIONAL INFRASTRUCTURE ASSURANCE COUNCIL

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to support a coordinated effort by both government and private sector entities to address threats to our Nation's critical infrastructure, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the National Infrastructure Assurance Council (NIAC). The NIAC shall be composed of not more than 30 members appointed by the President. The members of the NIAC shall be selected from the private sector, including private sector entities representing the critical infrastructures identified in Executive Order 13010 [set out as a note under this section], and from State and local government. The members of the NIAC shall have expertise relevant to the functions of the NIAC and shall not be full-time officials or employees of the executive branch of the Federal Government.

(b) The President shall designate a Chairperson and Vice-Chairperson from among the members of the NIAC.

(c) The National Coordinator for Security, Infrastructure Protection and Counter-Terrorism at the National Security Council (National Coordinator) will serve as the Executive Director of the NIAC.

(d) The Senior Director for Critical Infrastructure Protection at the National Security Council will serve as the NIAC's liaison to other agencies.

(e) Individuals appointed by the President will serve for a period of 2 years. Service shall be limited to no more than 3 consecutive terms.

Section 2. Functions. (a) The NIAC will meet periodically to:

(1) enhance the partnership of the public and private sectors in protecting our critical infrastructure and provide reports on this issue to the President as appropriate;

(2) propose and develop ways to encourage private industry to perform periodic risk assessments of critical processes, including information and telecommunications systems; and

(3) monitor the development of Private Sector Information Sharing and Analysis Centers (PSISACs) and provide recommendations to the National Coordinator and the National Economic Council on how these organizations can best foster improved cooperation among the PSISACs, the National Infrastructure Protection Center (NIPC), and other Federal Government entities.

(b) The NIAC will report to the President through the Assistant to the President for National Security Affairs, who shall assure appropriate coordination with the Assistant to the President for Economic Policy.

(c) The NIAC will advise the lead agencies with critical infrastructure responsibilities, sector coordinators, the NIPC, the PSISACs and the National Coordinator on the subjects of the NIAC's function in whatever manner the Chair of the NIAC, the National Coordinator, and the head of the affected entity deem appropriate.

(d) Senior Federal Government officials will participate in the meetings of the NIAC as appropriate.

(e) The Department of Commerce shall perform the functions of the President under the Federal Advisory Committee Act [5 U.S.C.A. App. 2] for the NIAC, except that of reporting to the Congress, in accordance with the guidelines and procedures established by the Administrator of General Services.

Section 3. Administration. To the extent permitted by law:

(a) The NIAC may hold open and closed hearings, conduct inquiries, and establish subcommittees as necessary.

(b) All executive departments and agencies shall cooperate with the NIAC and provide such assistance, information, and advice to the NIAC as it may request, as appropriate.

(c) Members of the NIAC shall serve without compensation for their work on the NIAC. While engaged in the work of the Council, members will be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons serving intermittently in the Government service.

(d) To the extent permitted by law, and subject to the availability of appropriations, the Department of Commerce, through the Critical Infrastructure Assurance Office, shall provide the NIAC with administrative services, staff, and other support services, and such funds as may be necessary for the performance of its functions.

(e) The Council shall terminate 2 years from the date of this order, unless extended by the President prior to that date.

Section 4. Judicial Review. This order is not intended to create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON

EXECUTIVE ORDER NO. 13151

Apr. 27, 2000, 65 F.R. 25619

GLOBAL DISASTER INFORMATION NETWORK

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish a Global Disaster Information Network to use information technology more effectively to reduce loss of life and property from natural and man-made disasters, it is hereby ordered as follows:

Section 1. Policy. (a) It is the policy of this Administration to use information technology more effectively to coordinate the Federal Government's collection and dissemination of information to appropriate response agencies and State governments to prepare for and respond to natural and man-made disasters (disasters). As a result of changing population demographics in our coastal, rural, and urban areas over the past decades, the loss of life and property (losses) from disasters has nearly doubled [illegible] of the ways the Federal Government can reduce these losses is to use technology more effectively to coordinate its collection and dissemination (hereafter referred to collectively as "provision") of information which can be used in both planning for and recovering from disasters. While many agencies provide disaster-related information, they may not always provide it in a coordinated manner. To improve the provision of disaster-related information, the agencies shall, as set out in this order, use information technology to coordinate the Federal Government's provision of information to prepare for, respond to, and recover from domestic disasters.

(b) It is also the policy of this Administration to use information technology and existing channels of disaster assistance to improve the Federal [illegible] could be helpful to foreign governments preparing for or responding to foreign disasters. Currently, the United States Government provides disaster-related information to foreign governments and relief organizations on humanitarian grounds at the request of foreign governments and where appropriate. This information is supplied by Federal agencies on an ad hoc basis. To increase the effectiveness of our response to foreign disasters, agencies shall, where appropriate, use information technology to coordinate the Federal Government's provision of disaster-related information to foreign governments.

(c) To carry out the policies in this order, there is s established the Global Disaster Information Network (Network). The Network is defined as the coordinated effort by Federal agencies to develop a strategy and to use existing technical infrastructure, to the extent permitted by law and subject to the availability of appropriations and under the guidance of the Interagency Coordinating Committee and the Committee Support Office, to make more effective use of information technology to assist our Government, and foreign governments where appropriate, by providing disaster-related information to prepare for and respond to disasters.

Sec. 2. Establishment. (a) There is established an Interagency Coordinating Committee (Committee) to provide leadership and oversight for the development of the Network. The Office of the Vice President, the Department of Commerce through the National Oceanic and Atmospheric Administration, and the Department of State, respectively, shall designate a representative to serve as Co-chairpersons of the Committee. The Committee membership shall comprise representatives from the following departments and agencies:

(1) Department of State;

(2) Department of Defense;

(3) Department of the Interior;

(4) Department of Agriculture;

(5) Department of Commerce;

(6) Department of Transportation;

(7) Department of Energy;

(8) Office of Management and Budget;

(9) Environmental Protection Agency;

(10) National Aeronautics and Space Administration;

(11) United States Agency for International Development;

(12) Federal Emergency Management Agency; and

(13) Central Intelligence Agency.

At the discretion of the Co-chairpersons of the Committee, other agencies may be added to the Committee membership. The Committee shall include an Executive Secretary to effect coordination between the Co-chairpersons of the Committee and the Committee Support Office.

(b) There is established a Committee Support Office (Support Office) to assist the Committee by developing plans and projects that would further the creation of the Network. The Support Office shall, at the request of the Co-chairpersons of the Committee, carry out tasks

(c) The National Oceanic and Atmospheric Administration shall provide funding and administrative support for the Committee and the Support Office. To the extent permitted by law, agencies may provide support to the Committee and the Support Office to assist them in their work.

Sec. 3. Responsibilities. (a) The Committee shall:

(1) serve as the United States Government's single entity for all matters, both national and international, pertaining to the development and establishment of the Network;

(2) provide leadership and high-level coordination of Network activities;

(3) provide guidance for the development of Network strategies, goals, objectives, policies, and legislation;

(4) represent and advocate Network goals, objectives, and processes to their respective agencies and departments;

(5) provide manpower and material support for Network development activities;

(6) develop, delegate, and monitor interagency opportunities and ideas supporting the development of the Network; and

(7) provide reports, through the Co-chairpersons of the Committee, to the President as requested or at least annually.

(b) The Support Office shall:

(1) provide management and administrative support for the committee;

(2) develop Network strategies, goals, objectives, policies, plans, and legislation in accordance with guidance provided by the Committee;

(3) consult with agencies, States, nongovernment organizations, and international counterparts in developing Network development tasks;

(4) develop and make recommendations concerning Network activities to the agencies as approved by the Committee; and

(5) participate in projects that promote the goals and objectives of the Network.

Sec. 4. Implementation. (a) The Committee, with the assistance of the Support Office, shall address national and international issues associated with the development of the Network within the context of:

(1) promoting the United States as an example and leader in the development and dissemination of disaster information, both domestically and abroad, and, to this end, seeking cooperation with foreign governments and international organizations;

(2) striving to include all appropriate stakeholders in the development of the Network; and

(3) facilitating the creation of a framework that involves public and private stakeholders in a partnership for sustained operations of the Network.

(b) Intelligence activities, as determined by the Director of the Central Intelligence Agency, as well as national security-related activities of the Department of Defense and of the Department of Energy, are exempt from compliance

Sec. 5. Tribal Governments. This order does not impose any requirements on tribal governments.

Sec. 6. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable by law, by a party against the United States, its officers, its employees, or any other person.

WILLIAM J. CLINTON

PART A—POWERS AND DUTIES

§ 5196. Detailed functions of administration

[See main volume for text of (a) to (h)]

(i) Materials and facilities

[See main volume for text of (1) and (2)]

(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.

(5)Redesignated (4)

[See main volume for text of (j) and (k)]

(As amended Pub.L. 104–66, Title II, § 2071, Dec. 21, 1995, 109 Stat. 729.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1995 Acts. House Report No. 104–327, see 1995 U.S. Code Cong. and Adm. News, p. 674.

Amendments

1995 Amendments. Subsec. (i)(3) to (5). Pub.L. 104–66, § 2071, redesignated pars. (4) and (5) as pars. (3) and (4), respectively, and struck out former par. (3), which related to reports of property acquisitions.

CROSS REFERENCES

Chemical–biological emergency response team and addition to Federal response plan, see 50 USCA § 2314.

Director of Federal Emergency Management Agency compile master inventory, see 50 USCA § 2317.

§ 5196e. Radiological Emergency Preparedness Fund

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954, as amended, and Executive Order 12657, for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Director of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

For necessary expenses of the Fund for fiscal year 1999, $12,849,000, to remain available until expended.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1998 Acts. House Conference Report No. 105–769 and Statement by President, see 1998 U.S. Code Cong. and Adm. News, p. 545.

References in Text

The Atomic Energy Act of 1954, referred to in text, is Act Aug. 30, 1954, c. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to Chapter 23 [42 U.S.C.A. § 2011 et seq.] of this title. For complete classification of this Act to the Code, see Short Title note set out under 42 U.S.C.A. § 2011 and Tables.

Executive Order 12657, referred to in text, is Ex. Ord. No. 12657, Nov. 18, 1988, 53 F.R. 47513, which is set out as a note under 42 U.S.C.A. § 5951.

PART B—GENERAL PROVISIONS

§ 5197f. Relation to Atomic Energy Act of 1954

HISTORICAL AND STATUTORY NOTES

References in Text

The Atomic Energy Act of 1954, referred to in section heading and text, is Act Aug. 1, 1946, c. 724, as added Act Aug. 30, 1954, c. 1073, § 1, 68 Stat. 919, as amended, which is classified principally to chapter 23 (section 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1954 Acts note set out under section 2011 of this title and Tables.

SUBCHAPTER V—MISCELLANEOUS

§ 5201. Rules and regulations

LIBRARY REFERENCES

Texts and Treatises

20 Fed Proc L Ed, Internal Revenue § 48:862.

§ 5204b. Technical assistance for insular areas

HISTORICAL AND STATUTORY NOTES

Change of Name

Any reference in any provision of law enacted before Jan. 4, 1995, to the Committee on Natural Resources of the House of Representatives treated as referring to the Committee on Resources of the House of Representatives, see section 1(a)(8) of Pub.L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 5205. 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 chapter 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 [illegible]

CHAPTER 68—DISASTER RELIEF

SUBCHAPTER I—FINDINGS, DECLARATIONS, AND DEFINITIONS

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(a) In general.
(b) Intent of Congress.
5122. Definitions.

SUBCHAPTER II—DISASTER PREPAREDNESS ASSISTANCE

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(a) Readiness of Federal agencies to issue warnings to State and local officials.
(b) Technical assistance to State and local governments for effective warnings.
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(c) Recovery of duplicative benefits.
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(b) Civil enforcement.
(c) Referral to Attorney General.
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Recovery of assistance.
(a) Party liable.
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SUBCHAPTER I—FINDINGS, DECLARATIONS, AND DEFINITIONS

§ 5121. Congressional findings and declarations

(a) In general

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) Intent of Congress

It is the intent of the Congress, by this chapter, 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 [1]

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

[1] So in original. Probably should be followed by a period.

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note under this section and Tables.

Amendments

1988 Amendments. Subsec. (b)(5) to (7). Pub.L. 100–707, § 103(a)(1)-(3), struck out par. (7) expressing Congressional intent to provide disaster assistance through a long-range economic recovery program for major disaster areas; struck out "; and" at the end of par. (6); and inserted "and" at the end of par. (5).

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, which provided for an effective date for Pub.L. 93–288, with the exception of section 5178 of this title, was repealed by Pub.L. 100–707, Title I, § 108(b), Nov. 23, 1988, 102 Stat. 4708.

Delegation of Functions

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

Short Title

1993 Amendments. Pub.L. 103–181, § 1, Dec. 3, 1993, 107 Stat. 2054, provided that: "This Act [amending section 5170c of this title and enacting provisions set out as notes under sections 4601 and 5170c of this title] may be cited as the 'Hazard Mitigation and Relocation Assistance Act of 1993'."

1988 Amendments. Section 101(a) of Title I of Pub.L. 100–707 provided that: "This title [enacting sections 5141, 5153 to 5157, 5159 to 5164, 5170 to 5170c, 5172, 5174, 5178, 5189 to 5189b, and 5191 to 5193 of this title, amending this section, sections 1382a, 3030, 3231, 3232, 3539, 4003, 4013, 5122, 5131, 5143, 5144, 5147 to 5152, 5158, 5171, 5173, 5176, 5177, 5179 to 5188, 5201, 7704, and 9601 of this title, sections 1421, 1427, 1427a, 1961, 1964, and 2014 of Title 7, Agriculture, sections 1706c, 1709, and 1715l of Title 12, Banks and Banking, section 636 of Title 15, Commerce and Trade, sections 1536 and 3505 of Title 16, Conservation, sections 241–1 and 646 of Title 20, Education, section 125 of Title 23, Highways, sections 165, 5064, and 5708 of Title 26, Internal Revenue Code, section 701n of Title 33, Navigation and Navigable Waters, and former section 1820 of Title 38, Veterans' Benefits, repealing sections 5142, 5145, 5146, 5175, and 5202 of this title and former sections 5141, 5153 to 5157, 5172, 5174, 5178, and 5189 of this title, enacting provisions set out as notes under sections 3231, 5121, 5122, and 5201 of this title, amending provisions set out as a note under this section and section 1681 of Title 48, Territories and Insular Possessions, and repealing provisions set out as notes under section 5121 and former section 5178 of this title] may be cited as 'The Disaster Relief and Emergency Assistance Amendments of 1988'."

1980 Amendments. Pub.L. 96–568, § 1, Dec. 22, 1980, 94 Stat. 3334, provided: "That this Act [amending former section 5202 of this title] may be cited as the 'Disaster Relief Act Amendments of 1980'."

1974 Acts. Section 1 of Pub.L. 93–288, as amended by Pub.L. 100–707, Title I, § 102(a), Nov. 23, 1988, 102 Stat. 4689, provided: "That this Act [enacting this section and sections 3231 to 3236, 5122, 5131, 5132, 5141 to 5158, 5171 to 5189, 5201, and former 5202 of this title, and section 1264 of former Title 31, Money and Finance, amending sections 1706c, 1709, 1715*l* of Title 12, Banks and Banking, sections 241–1, 646, 758 of Title 20, Education, sections 165, 5064, 5708 of Title 26, Internal Revenue Code, former section 1820 of Title 38, Veterans' Bene-

fits, section 461 of Title 40, Public Buildings, Property, and Works, repealing sections 4401, 4402, 4411 to 4413, 4414 to 4420, 4431 to 4436, 4457 to 4462, 4481 to 4485 of this title, and enacting provisions set out as notes under this section and sections 4401, and 5178 of this title, section 1264 of former Title 31, and section 1681 of Title 48, Territories and Insular Possessions] may be cited as the [sic] 'The Robert T. Stafford Disaster Relief and Emergency Assistance Act.' "

Declared Disasters and Emergencies Not Affected

Section 112 of Title I of Pub.L. 100–707 provided that: "This title [see Short Title of 1988 Amendments note under this section] shall not affect the administration of any assistance for a major disaster or emergency declared by the President before the date of the enactment of this Act [Nov. 23, 1988]."

Recommendations Concerning Improvement of Relationships Among Disaster Management Officials

Section 110 of Pub.L. 100–707 provided that: "Not later than 1 year after the date of the enactment of this Act [Nov. 23, 1988], the President shall recommend to the Congress proposals to improve the operational and fiscal relationships that exist among Federal, State, and local major disaster and emergency management officials. Such proposals should include provisions which—

"(1) decrease the amount of time for processing requests for major disaster and emergency declarations and providing Federal assistance for major disasters and emergencies;

"(2) provide for more effective utilization of State and local resources in major disaster and emergency relief efforts; and

"(3) improve the timeliness of reimbursement of State and local governments after the submission of necessary documentation."

[Functions of President under section 110 of Pub.L. 100–707 delegated to Director of Federal Emergency Management Agency by section 4 of Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, set out as a note under section 2251 of Title 50, Appendix, War and National Defense.]

References to Disaster Relief Act of 1970

Section 702(m), formerly section 602(m) of Pub.L. 93–288, renumbered section 702(m) of Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(2), Oct. 5, 1994, 108 Stat. 3100, provided that: "Whenever reference is made in any provision of law (other than this Act [the Disaster Relief Act of 1974, see Short Title of 1974 Acts note under this section]), regulation, rule, record, or document of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744), repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act."

References to Disaster Relief Act of 1974

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

Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction

For provisions relating to seismic safety requirements for new construction or total replacement of a building under this chapter after a presidentially declared major disaster or emergency, see Ex. Ord. No. 12699, Jan. 5, 1990, 55 F.R. 835, set out as a note under section 7704 of this title.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 11749

Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, which related to the consolidation of functions assigned to the Secretary of Housing and Urban Development, was revoked by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 2251 of Title 50, Appendix, War and National Defense.

EX. ORD. NO. 11795. DELEGATION OF PRESIDENTIAL FUNCTIONS

Ex. Ord. No. 11795, July 11, 1974, 39 F.R. 25939, as amended by Ex. Ord. No. 11910, Apr. 13, 1976, 41 F.R. 15681; Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, provided:

By virtue of the authority vested in me by the Disaster Relief Act of 1974 (Public Law 93–288; 88 Stat. 143) [see References to Disaster Relief Act of 1974 note under this section], section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

[Sections 1 and 2. Revoked by Ex. Ord. No. 12148, § 5–111, July 20, 1979, 44 F.R. 43239.]

Sec. 3. The Secretary of Agriculture is designated and empowered to exercise, without the approval, ratification, or other action of the President, all of the authority vested in the President by section 412 of the act [section 5179 of this title] concerning food coupons and distribution.

[Sec. 4. Revoked by Ex. Ord. No. 12148, § 5–111, July 20, 1979, 44 F.R. 43239.]

LIBRARY REFERENCES

Administrative Law

Discrimination against poor and handicapped, see West's Federal Practice Manual § 13050.

American Digest System

Provisions for disbursement of federal funds; disaster aid generally, see United States ⇐82(1, 5).

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

Law Reviews

Tortfeasor liability for disaster response costs: Accounting for the true cost of accidents. Note, LV Fordham L.Rev. 1001 (1987).

Unstable ground: Landslide policy in the United States. Robert B. Olshansky and J. David Rogers, 13 Ecology L.Q. 939 (1987).

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Persons entitled to maintain action 2
State regulation or control 1

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1. State regulation or control

The Federal Emergency Management Agency, as an agency of the United States, and acting pursuant to a valid delegation of the President's statutory authority to provide disaster assistance to the states, is not subject to state regulations or prohibitions which would impede the performance of its federal functions. 1981 (Counsel-Inf.Op.) 5 Op.O.L.C. 198.

2. Persons entitled to maintain action

Governor had standing under parens patriae doctrine to challenge alleged vio-

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Note 2

lation of Disaster Relief Act by Federal Emergency Management Agency, in view of express will of Congress that Act provide federal assistance to state and local governments in carrying out their responsibilities to alleviate suffering and damages and governor's interest in assuring that state's citizens were not denied full benefit of federal law designed to address unemployment caused by disaster. State of Kan. ex rel. Hayden v. U.S., D.Kan. 1990, 748 F.Supp. 797, on reconsideration 751 F.Supp. 1495, affirmed 953 F.2d 1392.

§ 5122. Definitions

As used in this chapter—

(1) Emergency

"Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) Major disaster

"Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter 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.

(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, or the Trust Territory of the Pacific 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.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

1992 Acts. Senate Report No. 102–243 and Statement by President, see 1992 U.S. Code Cong. and Adm. News, p. 44.

Amendments

1992 Amendments. Pars. (3), (4). Pub.L. 102–247 inserted "the Northern Mariana Islands,".

1988 Amendments. Par. (1). Pub.L. 100–707, § 103(b), inserted the heading "Emergency" and substituted a clarified and generalized definition for the term "emergency" previously meaning "any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster".

Par. (2). Pub.L. 100–707, § 103(c), inserted the heading "Major Disaster" and amended text generally. Prior to amendment, text read as follows: " 'Major disaster' means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, vol-

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canic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe 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 chapter, above and beyond emergency services by the Federal Government, 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."

Pars. (3), (4). Pub.L. 100–707, § 103(d), excluded the Canal Zone from the definition of the terms "United States" and "State".

Pars. (8), (9). Pub.L. 100–707, § 103(f), added pars. (8) and (9).

Local Government

Section 103(e) of Pub.L. 100–707 provided that:

"**(1) In general.**—The term 'local government' is deemed to have the same meaning in the Disaster Relief and Emergency Assistance Act [Pub.L. 93–288; see Short Title of 1974 Acts note under section 5121 of this title], as amended by this Act [Pub.L. 100–707; see Short Title of 1988 Amendments note under section 5121 of this title], as that term had on October 1, 1988, under section 102(6) of the Disaster Relief Act of 1974 [par. (6) of this section] and regulations implementing the Disaster Relief Act of 1974 [42 U.S.C.A. § 5121 et seq.].

"**(2) Termination of effectiveness.**—Paragraph (1) shall not be effective on and after the 90th day after the President transmits to the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Environment and Public Works of the Senate a report which includes an interpretation of the term 'local government' for purposes of the Disaster Relief and Emergency Assistance Act, as amended by this Act."

[Functions of President under section 103(e)(2) of Pub.L. 100–707 delegated to Director of Federal Emergency Management Agency by section 3 of Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, set out as a note under section 2251 of Title 50, Appendix, War and National Defense.]

[Committee on Public Works and Transportation of House of Representatives changed to Committee on Transportation and Infrastructure of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.]

CROSS REFERENCES

Major disaster as defined in this section for purposes of—
Employment assistance funds availability, see 29 USCA § 1784.
Mortgage insurance eligibility for housing renovation and modernization, see 12 USCA § 1706c.
Relocation assistance advisory program, see 42 USCA § 4625.

WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Emergency
Generally 1
Immigration 2

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1. Emergency—Generally

Definition of "emergency" in this section did not support the application of this chapter to Cuban and Haitian refugee situation in Florida; the definition encompasses only natural disasters; accordingly, the provisions of § 4332 of this title were not inapplicable. Colon v. Carter, D.C.Puerto Rico 1980, 507 F.Supp. 1026, vacated on other grounds 633 F.2d 964.

2. —— Immigration

It is within the discretion of the President to determine whether an immigration emergency so threatens property or human life as to fall within the scope of this chapter. 1982 (Counsel–Inf.Op.) 6 Op.O.L.C. 708.

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SUBCHAPTER II—DISASTER PREPAREDNESS ASSISTANCE

§ 5131. Federal and State disaster preparedness programs

(a) Utilization of services of other agencies

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

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) Technical assistance for development of plans and programs

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

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

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

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

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

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

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Amendments

1988 Amendments. Subsec. (a). Pub.L. 100–707, § 104(b)(1), substituted "appropriate agencies" for "appropriate agencies (including the Defense Civil Preparedness Agency)".

Subsec. (d). Pub.L. 100–707, § 104(b)(2), increased the limitation on the amount of the grant per annum to $50,000 from $25,000; and authorized grants for evaluations of natural hazards and development of the programs and actions required to mitigate such hazards.

LIBRARY REFERENCES

Administrative Law

Disaster preparedness programs and assistance, see 44 C.F.R. § 300.1 et seq.

American Digest System

Provisions for disbursement of federal funds; disaster aid generally, see United States ⇐82(1, 5).

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Disaster assistance agreements 1

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1. Disaster assistance agreements

Disaster assistance agreement was binding contract which obligated United States to provide such assistance as was called for therein. State of Tex. v. U.S., 1976, 537 F.2d 466, 210 Ct.Cl. 522.

§ 5132. Disaster warnings

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

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

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

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

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

The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 5196(c) of this title, or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) Agreements with commercial communications systems for use of facilities

The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

(Pub.L. 93–288, Title II, § 202, May 22, 1974, 88 Stat. 145; Pub.L. 103–337, Div. C, Title XXXIV, § 3412(b)(1), Oct. 5, 1994, 108 Stat. 3111.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

Amendments

1994 Amendments. Subsec. (c). Pub.L. 103–337, § 3412(b)(1), substituted "section 5196(c) of this title" for "section 2281(c) of Title 50, Appendix".

LIBRARY REFERENCES

American Digest System

Provisions for disbursement of federal funds; disaster aid generally, see United States ⇐82(1, 5).

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

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WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

SUBCHAPTER III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

§ 5141. 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.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Prior Provisions

A prior section 5141, Pub.L. 93–288, Title III, § 301, May 22, 1974, 88 Stat. 146, set out the procedure for determination of existence of emergency or major disaster, and was repealed by Pub.L. 100–707, Title I, § 105(a)(2), Nov. 23, 1988, 102 Stat. 4691.

LIBRARY REFERENCES

American Digest System

Provisions for disbursement of federal funds; disaster aid generally, see United States ⚖82(1, 5).

Encyclopedias

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Rules and regulations 1

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1. Rules and regulations

Regulatory 30–day submission requirement promulgated by the Federal Emergency Management Agency (FEMA), within which request for declaration of major disaster under the Disaster Relief Act had to be submitted, was valid; submission requirement was reasonably related to administrative enforcement of Act and was not contrary to any provision of Act. State of Kan. ex rel. Hayden v. U.S., D.Kan.1990, 751 F.Supp. 1495, affirmed 953 F.2d 1392.

§ 5142. Repealed. Pub.L. 100–707, Title I, § 105(a)(2), Nov. 23, 1988, 102 Stat. 4691

HISTORICAL AND STATUTORY NOTES

Section, Pub.L. 93–288, Title III, § 302, May 22, 1974, 88 Stat. 146, related to Federal assistance and its coordination with State and local disaster assistance.

§ 5143. Coordinating officers

(a) Appointment of Federal coordinating officer

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

(b) Functions of Federal coordinating officer

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

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this chapter shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599) [36 U.S.C.A. § 1 et seq.]; and

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

(c) State coordinating officer

When the President determines assistance under this chapter is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

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

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsecs. (b) and (c), in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

The Act of January 5, 1905, as amended, referred to in subsec. (b)(3), is Act Jan. 5, 1905, c. 23, 33 Stat. 599, as amended, which enacted sections 1, 2, 3, former section 4, sections 4a, 5, 6, 8, and 9 of Title 36, Patriotic Societies and Observances. For complete classification of this Act to the Code, see Tables.

Amendments

1988 Amendments. Subsec. (a). Pub.L. 100–707 substituted "major disaster or emergency" for "major disaster".

Prior Provisions

A prior section 302 of Pub.L. 93–288, which was classified to section 5142 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Appointment and powers of federal agents and employees, see United States ⇐36, 40.

Provisions for disbursement of federal funds; disaster aid generally, see United States ⇐82(1, 5).

Encyclopedias

Appointment and powers of federal agents and employees, see C.J.S. United States §§ 36, 38 et seq.

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5144. Emergency support teams

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

(Pub.L. 93–288, Title III, § 303, formerly § 304, May 22, 1974, 88 Stat. 148, renumbered § 303, Pub.L. 100–707, Title I, § 105(c), Nov. 23, 1988, 102 Stat. 4691.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 303 of Pub.L. 93–288 was renumbered section 302 by Pub.L. 100–707 and is classified to section 5143 of this title.

LIBRARY REFERENCES

American Digest System

Appointment and powers of federal agents and employees, see United States ⇐36, 40.

Provisions for disbursement of federal funds; disaster aid generally, see United States ⇐82(1, 5).

Encyclopedias

Appointment and powers of federal agents and employees, see C.J.S. United States §§ 36, 38 et seq.

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§§ 5145, 5146. Repealed. Pub.L. 100–707, Title I, §105(d), Nov. 23, 1988, 102 Stat. 4691

HISTORICAL AND STATUTORY NOTES

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

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

§ 5147. Reimbursement of Federal agencies

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

(Pub.L. 93–288, Title III, § 304, formerly § 307, May 22, 1974, 88 Stat. 149; renumbered § 304, Pub.L. 100–707, Title I, § 105(d), Nov. 23, 1988, 102 Stat. 4691.)

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 304 of Pub.L. 93–288 was renumbered section 303 by Pub.L. 100–707 and is classified to section 5144 of this title.

LIBRARY REFERENCES

American Digest System

Provisions for disbursement of federal funds; disaster aid generally, see United States ⇐82(1, 5).

American Digest System

Provisions for disbursement of federal funds; disaster aid generally, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5148. Nonliability of Federal Government

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 chapter.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 305 of Pub.L. 93–288 which was classified to section 5145 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Claims against United States in general and actions against United States or its officers or agents, see United States ⇐93 et seq., 125(28 to 34), 127(1, 2).

Encyclopedias

Claims against United States in general and actions against United States or its officers or agents, see C.J.S. United States §§ 136 et seq., 178, 184.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Declarations of disaster 2
Presidential decisions 3
Regulation promulgation 1

1. Regulation promulgation

Section of Disaster Relief Act precluding judicial review of disaster relief claims based upon discretionary actions of federal employees precluded review of claim that regulation restricting disaster unemployment benefits to those actually working or scheduled to work at time of disaster was an improper interpretation of relevant federal regulations; promulgation of challenged regulation was exactly the sort of exercise of discretion that Congress intended to insulate from judicial review. Rosas v. Brock, C.A.11 (Fla.) 1987, 826 F.2d 1004.

2. Declarations of disaster

Any decision of Federal Emergency Management Agency or its officials not to submit to President governor's request for "major disaster" declaration, which complied with procedural requirements, would be beyond their discretion and their statutory authority, and would be subject to judicial review. State of Kan. ex rel. Hayden v. U.S., D.Kan.1990, 748 F.Supp. 797, on reconsideration 751 F.Supp. 1495, affirmed 953 F.2d 1392.

3. Presidential decisions

President's decision on request for declaration of "major disaster" was not subject to judicial review, as decision involved discretionary function statutorily precluded from judicial review; therefore, district court lacked subject matter jurisdiction over governor's claims seeking to challenge denial of request for declaration of major disaster. State of Kan. ex rel. Hayden v. U.S., D.Kan.1990, 748 F.Supp. 797, on reconsideration 751 F.Supp. 1495, affirmed 953 F.2d 1392.

§ 5149. Performance of services

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

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

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

In performing any services under this chapter, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of Title 5 governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such Title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such

Title relating to classification and General Schedule pay rates; and

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

The provisions of Title 5 governing appointments in the competitive service, referred to in subsec. (b)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Prior Provisions

A prior section 306 of Pub.L. 93–288, which was classified to section 5146 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Federal authority and capacity to contract in general, see United States ⇐59 et seq.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Federal authority and capacity to contract in general, see C.J.S. United States § 81 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5150. Use of local firms and individuals

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 chapter.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Amendments

1988 Amendments. Pub.L. 100–707, § 105(e)(2), (3), substituted "major disaster or emergency" for "major disaster" in two instances, and added the sentence "This section shall not be considered to restrict the use of Department of Defense resources in the provision of major disaster assistance under this chapter."

Prior Provisions

A prior section 307 of Pub.L. 93–288 was renumbered section 304 by Pub.L. 100–707 and is classified to section 5147 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Federal authority and capacity to contract in general, see United States ⇐59 et seq.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Federal authority and capacity to contract in general, see C.J.S. United States § 81 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5151. Nondiscrimination in disaster assistance

(a) Regulations for equitable and impartial relief operations

The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other

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relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.

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

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Amendments

1988 Amendments. Subsec. (b). Pub.L. 100–707 substituted "under this chapter" for "under section 5172 or 5174 of this title".

Prior Provisions

A prior section 308 of Pub.L. 93–288 was renumbered section 305 by Pub.L. 100–707 and is classified to section 5148 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Discrimination prohibited in programs receiving federal assistance generally, see Civil Rights ⇐126.

Federal authority and capacity to contract in general, see United States ⇐59 et seq.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

Discrimination prohibited in programs receiving federal assistance generally, see C.J.S. Civil Rights § 46 et seq.

Federal authority and capacity to contract in general, see C.J.S. United States § 81 et seq.

Law Reviews

Enforcing the hidden U.S. equal rights law. Ann Fagan Ginger, 20 Golden Gate U.L.Rev. 385 (1990).

WESTLAW ELECTRONIC RESEARCH

Civil rights cases: 78k[add key number].
United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5152. Utilization of relief organizations

(a) Personnel and facilities

In providing relief and assistance under this chapter, 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) Coordination

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 chapter, and such other regulation as the President may require.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 309 of Pub.L. 93–288 was renumbered section 306 by Pub.L. 100–707 and is classified to section 5149 of this title.

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LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Federal authority and capacity to contract in general, see United States ⇐59 et seq.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Federal authority and capacity to contract in general, see C.J.S. United States § 81 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5153. 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 [42 U.S.C.A. § 1437 et seq.] for the provision of low-income housing.

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

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

(4) Section 1926 of Title 7.

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

(6) The Appalachian Regional Development Act of 1965.

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

(b) Obligation of certain discretionary funds

In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

The United States Housing Act of 1937, referred to in subsec. (a)(1), is Act Sept. 1, 1937, c. 896, as revised generally by Pub.L. 93–383, Title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (section 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1937 Acts note set out under section 1437 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (a)(3), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Housing and Community Development Act of 1974 is Title I of Pub.L. 93–383, which is classified generally to chapter 69 (section 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5301 of this title, and Tables.

The Public Works and Economic Development Act of 1965, as amended, referred to in subsec. (a)(5), is Pub.L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified principally to chapter 38 (section 3121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1965 Acts note set out under section 3121 of this title and Tables.

The Appalachian Regional Development Act of 1965, referred to in subsec. (a)(6), is Pub.L. 89–4, Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables.

The Federal Water Pollution Control Act, referred to in subsec. (a)(7), is Act June 30, 1948, c. 758, as amended generally by Pub.L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (section 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title of 1948 Acts note set out under section 1251 of Title 33, and Tables.

Prior Provisions

A prior section 5153, Pub.L. 93–288, Title III, § 313, May 22, 1974, 88 Stat. 150, relating to same subject matter as present section but with references to different acts and provisions, was repealed by Pub.L. 100–707, Title I, § 105(g), Nov. 23, 1988, 102 Stat. 4691.

A prior section 310 of Pub.L. 93–288 was renumbered section 307 by Pub.L. 100–707 and is classified to section 5150 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funding; disaster aid and public housing, see United States ⇐82 (1, 3 to 3.5, 5).

Encyclopedias

Disbursement of federal funding; disaster aid and public housing, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5154. Insurance

(a) Applicants for replacement of damaged facilities

(1) Compliance with certain regulations

An applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged

facilities), section 5189 of this title (relating to simplified procedure) or section 3233 of this title shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

(2) Determination

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

(b) Maintenance of insurance

No applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure), or section 3233 of this title may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this chapter unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 5141 of this title.

(c) State acting as self-insurer

A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 5172 or 5189 of this title or 3233 of this title or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a) of this section. No such self-insurer may receive assistance under section 5172 or 5189 of this title for any property or part thereof for which it has previously received assistance under this chapter, to the extent that insurance for such property or part thereof would have been reasonably available.

(Pub.L. 93–288, Title III, § 311, as added Pub.L. 100–707, Title I, § 105(h), Nov. 23, 1988, 102 Stat. 4692, and amended Pub.L. 103–325, Title V, § 521, Sept. 23, 1994, 108 Stat. 2257.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

1994 Acts. Senate Report No. 103–169 and House Conference Report No. 103–652, see 1994 U.S. Code Cong. and Adm. News, p. 1881.

References in Text

This chapter, referred to in subsecs. (b) and (c), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Amendments

1994 Amendments. Subsec. (b). Pub.L. 103–325, § 521, added provisions prohibiting waiver of requirements under section 5141 of this title.

Prior Provisions

A prior section 5154, Pub.L. 93–288, Title III, § 314, May 22, 1974, 88 Stat. 151, related to the same subject matter of the present section making some changes in text and was repealed by Pub.L. 100–707, Title I, § 105(h), Nov. 23, 1988, 102 Stat. 4692.

A prior section 311 of Pub.L. 93–288 was renumbered section 308 by Pub.L. 100–707 and is classified to section 5151 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5154a. Prohibited flood disaster assistance

(a) General prohibition

Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) Transfer of property

(1) Duty to notify

In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to—

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(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) Failure to notify

If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property—

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) Property described

For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) Omitted

(d) Definition

For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 1961(a) of Title 7; or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et

seq.), as a result of flood conditions existing in or affecting that area.

(e) Effective date

This section and the amendments made by this section shall apply to disasters declared after September 23, 1994.

(Pub.L. 103–325, Title V, § 582, Sept. 23, 1994, 108 Stat. 2286.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. Senate Report No. 103–169 and House Conference Report No. 103–652, see 1994 U.S. Code Cong. and Adm. News, p. 1881.

References in Text

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(2), is Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

"This section and the amendments made by this section", referred to in subsec. (e), means this section and the amendments made by subsec. (c) of section 582 of Pub.L. 103–325, see Codifications note set out under this section.

Codifications

Section was enacted as part of the National Flood Insurance Reform Act of 1994 and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which comprises this chapter.

Subsec. (c) of section 582 of Pub.L. 103–325 amended section 4012a of this title.

WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

§ 5155. 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 entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

(b) Special rules

(1) Limitation

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

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(2) Procedures

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

(3) Effect of partial benefits

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

(c) Recovery of duplicative benefits

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

(d) Assistance not income

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsec. (d), in the original read "This Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 5155, Pub.L. 93–288, Title III, § 315, May 22, 1974, 88 Stat. 152, related to the same subject matter as the present section and was repealed by Pub.L. 100–707, Title I, § 105(i), Nov. 23, 1988, 102 Stat. 4693.

A prior section 312 of Pub.L. 93–288 was renumbered section 309 by Pub.L. 100–707 and is classified to section 5152 of this title.

LIBRARY REFERENCES

Administrative Law

Emergency funds for repair of federal-aid highways, see 23 C.F.R. § 668.101 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5156. 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 chapter. 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 chapter.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 5156, Pub.L. 93–288, Title III, § 316, May 22, 1974, 88 Stat. 152, related to reviews and reports by the President and was repealed by Pub.L. 100–707, Title I, § 105(j), Nov. 23, 1988, 102 Stat. 4694.

A prior section 313 of Pub.L. 93–288, which was classified to section 5153 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Office of the President and presidential powers and duties; powers and duties of federal officers and employees generally, see United States ⇐26, 28, 40, 41.

Encyclopedias

Office of the President and presidential powers and duties; powers and duties of federal officers and employees generally, see C.J.S. United States §§ 27 et seq., 38 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5157. Penalties

(a) Misuse of funds

Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this chapter 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 chapter, including any civil penalty imposed under this chapter, 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 chapter that may warrant consideration for criminal prosecution.

(d) Civil penalty

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsecs. (a) to (d), in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 5157, Pub.L. 93–288, Title III, § 317, May 22, 1974, 88 Stat. 152, related to criminal and civil penalties and was repealed by Pub.L. 100–707, Title I, § 105(k), Nov. 23, 1988, 102 Stat. 4694.

A prior section 314 of Pub.L. 93–288, which was classified to section 5154 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Criminal and civil remedies for fraud, see Fraud ⇐31 et seq., 68 et seq.

Encyclopedias

Criminal and civil remedies for fraud, see C.J.S. Fraud §§ 62 et seq., 154 et seq.

Forms

Indictment and Information, see West's Federal Forms § 7081 et seq.
Sentence and judgment, see West's Federal Forms § 7801 et seq.

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WESTLAW ELECTRONIC RESEARCH

Fraud cases: 184k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5158. Availability of materials

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Prior Provisions

A prior section 315 of Pub.L. 93–288, which was classified to section 5155 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5159. Protection of environment

An action which is taken or assistance which is provided pursuant to section 5170a, 5170b, 5172, 5173, or 5192 of this title, including such assistance provided pursuant to the procedures provided for in section 5189 of this title, which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C.A. § 4321 et seq.]. 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 chapter or under any other provisions of law.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

The National Environmental Policy Act of 1969, referred to in text, is Pub.L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (section 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1970 Acts note set out under section 4321 of this title and Tables.

This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 316 of Pub.L. 93–288, which was classified to section 5156 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Regulations for protection of the environment in general, see Health and Environment ⇐25.5(1) et seq.

Encyclopedias

Regulations for protection of the environment in general, see C.J.S. Health and Environment § 61 et seq.

WESTLAW ELECTRONIC RESEARCH

Health and environment cases: 199k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5160. Recovery of assistance

(a) Party liable

Any person who intentionally causes a condition for which Federal assistance is provided under this chapter or under any other Federal law as a result of a declaration of a major disaster or emergency under this chapter 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.

(Pub.L. 93–288, Title III, § 317, as added Pub.L. 100–707, Title I, § 105(m)(1), Nov. 23, 1988, 102 Stat. 4695.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 317 of Pub.L. 93–288, which was classified to section 5157 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5161. Audits and investigations

(a) In general

Subject to the provisions of chapter 75 of Title 31, relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this chapter, 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, docu-

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ments, papers, and records of any person relating to any activity undertaken or funded under this chapter.

(c) State and local audits

The President may require audits by State and local governments in connection with assistance under this chapter when necessary to assure compliance with this chapter or related regulations.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsecs. (a), (b), and (c), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 318 of Pub.L. 93–288 was renumbered section 315 by Pub.L. 100–707 and is classified to section 5158 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5162. 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 chapter 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 chapter.

(b) Terms of loans and advances

(1) In general

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

(2) Interest

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

(c) Regulations

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5163. Limitation on use of sliding scales

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

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

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5164. Rules and regulations

The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this chapter, 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 chapter.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

LIBRARY REFERENCES

American Digest System

Administrative rulemaking power, see Administrative Law and Procedure ⇐385 et seq.

Office of the President, and presidential powers and duties in general, see United States ⇐26, 28.

Encyclopedias

Administrative rulemaking power, see C.J.S. Public Administrative Law and Procedure § 88 et seq.

Office of the President, and presidential powers and duties in general, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

Administrative law and procedure cases: 15ak[add key number].
United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

§ 5170. 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 chapter, 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 chapter. Based on the request of a Governor under this section, the President may declare under this chapter that a major disaster or emergency exists.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 401 of Pub.L. 93–288, classified to section 5171 of this title, has been renumbered section 405 of Pub.L. 93–288 by section 106(a)(2) of Pub.L. 100–707.

CROSS REFERENCES

Disaster area defined as major disaster determined pursuant to this section for purposes of emergency exceptions made by Federal financial institutions regulatory agency, see 12 USCA § 3352.

Mortgage insurance eligibility for housing renovation and modernization for purposes of major disaster as determined under this section, see 12 USCA § 1706c.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5170a. 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.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Prior Provisions

A prior section 402, Pub.L. 93–288, Title IV, May 22, 1974, 88 Stat. 153, relating to repair and restoration of damaged facilities, and classified to a former section 5172 of this title, was repealed by

Pub.L. 100–707, Title I, § 106(b), Nov. 23, 1988, 102 Stat. 4699.

CROSS REFERENCES

Financial assistance for coastal barrier emergency actions performed pursuant to this section, see 16 USCA § 3505.

Food stamp program's temporary emergency eligibility standards established after consultation with official exercising authority under this section, see 7 USCA § 2014.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5170b. 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 chapter.

(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—

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(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 subchapter or subchapter IV–A of this chapter, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) Rules applicable to debris removal

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

(3) Expenditures out of disaster relief funds

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

(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 November 23, 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this chapter.

(6) Definitions

For purposes of this section—

(A) Department of Defense

The term "Department of Defense" has the meaning the term "department" has under section 101 of Title 10.

(B) Emergency work

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsecs. (a) and (c), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 403 of Pub.L. 93–288, relating to debris removal and classified to section 5173 of this title, was renumbered section 407 of Pub.L. 93–288 by section 106(c)(1) of Pub.L. 100–707.

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CROSS REFERENCES

Financial assistance for coastal barrier emergency actions performed pursuant to this section, see 16 USCA § 3505.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5170c. 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 5176 of this title 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 chapter 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) of this section; and

(B) on or after December 3, 1993, the applicant for the assistance enters into an agreement with the Director that provides assurances that—

(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

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

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

(II) a rest room; or

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

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

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

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

(3) Statutory construction

Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before December 3, 1993.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

1993 Acts. House Report No. 103–358 and Statement by President, see 1993 U.S. Code Cong. and Adm. News, p. 2545.

Amendments

1993 Amendments. Subsec. (a). Pub.L. 103–181, § 3(1), designated existing provisions as subsec. (a) and inserted a subsection (a) heading.

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Pub.L. 103–181, § 2(a)(1), substituted "75 percent" for "50 percent" following "The President may contribute up to".

Pub.L. 103–181, § 2(a)(2), substituted "15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster" for "10 percent of the estimated aggregate amounts of grants to be made under section 5172 of this title with respect to such major disaster" after "shall not exceed".

Subsec. (b). Pub.L. 103–181, § 3(2), added subsec. (b).

Effective Dates

1993 Acts. Section 2(b) of Pub.L. 103–181 provided that: "The amendments made by this section [amending this section] shall apply to any major disaster declared by the President pursuant to The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) [this chapter] on or after June 10, 1993."

Prior Provisions

A prior section 404 of Pub.L. 93–288, relating to temporary housing assistance, and classified to section 5174 of this title, was repealed by section 106(d) of Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5171. Federal facilities

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

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

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

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

(c) Steps for mitigation of hazards

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

(Pub.L. 93–288, Title IV, § 405, formerly § 401, May 22, 1974, 88 Stat. 153; renumbered § 405, Pub.L. 100–707, Title I, § 106(a)(2), Nov. 23, 1988, 102 Stat. 4696.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Prior Provisions

A prior section 405 of Pub.L. 93–288, Title IV, May 22, 1974, 88 Stat. 155, relating to the protection of the environment, was classified to section 5175 of this title, and was repealed by Pub.L. 100–707, Title I, § 105(m)(2), Nov. 23, 1988, 102 Stat. 4696.

CROSS REFERENCES

Endangered or threatened species and habitat requirements exemptions in Presidentially declared disaster areas, see 16 USCA § 1536.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5172. 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,

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restoration, reconstruction, or replacement of such facility and for associated expenses incurred by such person.

(b) Minimum Federal share

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

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

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

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

(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) of this section, a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures which the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

(2) For private nonprofit facilities

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

necessary to meet a need for its services and functions in the area affected by the major disaster.

(3) Restriction on use for State or local contribution

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

(d) Flood insurance

(1) Reduction of Federal assistance

If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

(2) Amount of reduction

The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

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

(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 [42 U.S.C.A. § 4001 et seq.] on such date.

(3) Exception

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

(4) Dissemination of information

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

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(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.

(f) Associated expenses

For purposes of this section, associated expenses include the following:

(1) Necessary costs

Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:

(A) For an applicant whose net eligible costs equal less than $100,000, 3 percent of such net eligible costs.

(B) For an applicant whose net eligible costs equal $100,000 or more but less than $1,000,000, $3,000 plus 2 percent of such net eligible costs in excess of $100,000.

(C) For an applicant whose net eligible costs equal $1,000,000 or more but less than $5,000,000, $21,000 plus 1 percent of such net eligible costs in excess of $1,000,000.

(D) For an applicant whose net eligible costs equal $5,000,000 or more, $61,000 plus ½ percent of such net eligible costs in excess of $5,000,000.

(2) Extraordinary costs

Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under sections 5170b, 5170c, 5172, 5173, 5192, and 5193 of this title in such State in connection with the major disaster as follows:

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

(B) If such total amount 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.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsec. (c)(3), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in subsec. (d)(1) and (2)(B), is Pub.L. 90–448, Title XIII, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified generally to chapter 50 (section 4001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1968 Acts note set out

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under section 4001 of this title and Tables.

The National Flood Insurance Act, referred to in subsec. (d)(3), probably means the National Flood Insurance Act of 1968.

The Coastal Barrier Resources Act, referred to in subsec. (e)(1), is Pub.L. 97–348, Oct. 18, 1982, 96 Stat. 1653, as amended, which is classified generally to chapter 55 (section 3501 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 3501 of Title 16 and Tables.

Prior Provisions

A prior section 5172, Pub.L. 93–288, Title IV, § 402, May 22, 1974, 88 Stat. 153, relating to repair and restoration of damaged facilities, was repealed by Pub.L. 100–707, Title I, § 106(b), Nov. 23, 1988, 102 Stat. 4699.

A prior section 406 of Pub.L. 93–288, relating to minimum standards for public and private structures, and classified to section 5176 of this title, was renumbered section 409 of Pub.L. 93–288 by section 106(e) of Pub.L. 100–707.

CROSS REFERENCES

Endangered or threatened species and habitat requirements exemptions in Presidentially declared disaster areas, see 16 USCA § 1536.

Recovery Planning Council acceptance of determinations made under this section as element of economic recovery investment plan, see 42 USCA § 3232.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5173. Debris removal

(a) Presidential authority

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

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

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

(b) Authorization by State or local government; indemnification agreement

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

(c) Rules relating to large lots

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

(d) Federal share

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Amendments

1988 Amendments. Subsec. (a)(2). Pub.L. 100–707, § 106(c)(2), substituted "local government or owner or operator of a private nonprofit facility" for "local government".

Subsecs. (c), (d). Pub.L. 100–707, § 106(c)(3), added subsecs. (c) and (d).

Prior Provisions

A prior section 407 of Pub.L. 93–288 was renumbered section 410 by Pub.L. 100–707 and is classified to section 5177 of this title.

LIBRARY REFERENCES

Administrative Law

Disaster assistance, see 44 C.F.R. § 205.1 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5174. 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 5151 of this title requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section 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

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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.

(Pub.L. 93–288, Title IV, § 408, as added Pub.L. 100–707, Title I, § 106(d), Nov. 23, 1988, 102 Stat. 4702.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Prior Provisions

A prior section 5174, Pub.L. 93–288, Title IV, § 404, May 22, 1974, 88 Stat. 154, relating to temporary housing assistance, was repealed by Pub.L. 100–707, Title I, § 106(d), Nov. 23, 1988, 102 Stat. 4702.

A prior section 408 of Pub.L. 93–288, which was classified to section 5178 of this title and to a note set out under section 5178 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

Administrative Law

Disaster assistance, see 44 C.F.R. § 205.1 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Office of President, and powers and duties thereof, see United States ⇐26, 27.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Unpublished policies, reliance upon 1

1. Unpublished policies, reliance upon

Hurricane victims' claim that reliance by Federal Emergency Management Agency (FEMA) on "unpublished" policy to deny temporary housing assistance to otherwise eligible hurricane victims based on finding that another person in predisaster housing unit received assistance, without proof that applicant actually received such assistance, violated provision of Administrative Procedure Act (APA) was not within penumbra of district court's jurisdiction, since that policy was part and parcel of discretionary authority given to FEMA in Stafford Disaster Relief Act. Lockett v. Federal Emergency Management Agency, S.D.Fla.1993, 836 F.Supp. 847.

§ 5175. Repealed. Pub.L. 100–707, Title I, § 105(m)(2), Nov. 23, 1988, 102 Stat. 4696

HISTORICAL AND STATUTORY NOTES

Section, Pub.L. 93–288, Title IV, § 405, May 22, 1974, 88 Stat. 155, related to the protection of the environment.

§ 5176. Minimum standards for public and private structures

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

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

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 409 of Pub.L. 93–288 was renumbered section 412 by Pub.L. 100–707 and is classified to section 5179 of this title.

LIBRARY REFERENCES

Administrative Law

Disaster assistance, see 44 C.F.R. § 205.1 et seq.

American Digest System

Disbursement of federal funds generally; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5177. Unemployment assistance

(a) Benefit assistance

The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of Title 26) 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 chapter, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

(2) Federal assistance

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

(Pub.L. 93–288, Title IV, § 410, formerly § 407, May 22, 1974, 88 Stat. 156; renumbered § 410 and amended Pub.L. 100–707, Title I, § 106(e), (f), Nov. 23, 1988, 102 Stat. 4703, 4704.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsec. (b), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Amendments

1988 Amendments. Subsec. (a). Pub.L. 100–707, § 106(f)(1)–(3), substituted: in the first sentence, "is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of Title 26) or waiting period credit" for "is unemployed"; in the second sentence, "26 weeks" for "one year"; and, in the third sentence, "occurred" for "occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment".

Subsec. (b). Pub.L. 100–707, § 106(f)(4), inserted heading and amended text generally. Prior to amendment, text read as follows: "The President is further authorized for the purposes of this chapter to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster."

Prior Provisions

A prior section 410 of Pub.L. 93–288 was renumbered section 413 by Pub.L. 100–707 and is classified to section 5180 of this title.

LIBRARY REFERENCES

Administrative Law

Disaster unemployment assistance, see 20 C.F.R. § 625.1 et seq.

American Digest System

Disbursement of federal funds generally; disaster aid, see United States ⇐82(1, 5).

Unemployment compensation insurance under social security law generally, see Social Security and Public Welfare ⇐251 et seq.

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Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.

Unemployment compensation insurance under social security law generally, see C.J.S. Social Security and Public Welfare § 146 et seq.

WESTLAW ELECTRONIC RESEARCH

Social security and public welfare cases: 356ak[add key number].
United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5177a. Emergency grants to assist low-income migrant and seasonal farmworkers

(a) In general

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

(b) "Low-income migrant or seasonal farmworker" defined

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

(1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;

(2) who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and

(3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) Authorization of appropriations

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

(Pub.L. 101–624, Title XXII, § 2281, Nov. 28, 1990, 104 Stat. 3978.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1990 Acts. Senate Report No. 101–357, House Conference Report No. 101–916, and Statement by President, see 1990 U.S. Code Cong. and Adm. News, p. 4656.

Codifications

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which is classified principally to this chapter.

Separability of Provisions

If any provision of Pub.L. 101–624 or the application thereof to any person or circumstance is held invalid, such invalidity not to affect other provisions or applications of Pub.L. 101–624 which can be given effect without regard to the invalid provision or application, see section 2519 of Pub.L. 101–624, set out as a note under section 1421 of Title 7, Agriculture.

CROSS REFERENCES

Low-income migrant or seasonal farmworker defined as having same meaning as this section for purposes of application of North American Free Trade Agreement, see 19 USCA § 3391.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds in general; aid to state and local agencies, see United States ⇐82(1, 2).

Encyclopedias

Disbursement of federal funds in general; aid to state and local agencies, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5178. 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 chapter 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) of this section for expenses of administering grants to individuals and families under this section.

(e) Administration through Governor

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

(f) Limit on grants to individual

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Prior Provisions

A prior section 5178 and the effective date note thereto, Pub.L. 93–288, Title IV, § 408, May 22, 1974, 88 Stat. 156, relating to individual and family grant programs, were struck out by Pub.L. 100–707, Title I, § 106(g), Nov. 23, 1988, 102 Stat. 4704.

A prior section 411 of Pub.L. 93–288 was renumbered section 414 by Pub.L. 100–707 and is classified to section 5181 of this title.

LIBRARY REFERENCES

Administrative Law

Disaster assistance, see 44 C.F.R. § 205.1 et seq.

American Digest System

Disbursement of federal funds generally; disaster aid, see United States ⇐82(5).

Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Persons eligible 1

1. Persons eligible

This section under which governor could make grants to cover portion of adjusted loss from damage or destruction of nonbusiness or nonfarm personal property from floods gave claimants opportunity to apply for grants but created no right to grant enforceable by heirs of decedent who suffered such loss. Kosjer v. Com., Dept. of Public Welfare, 1983, 464 A.2d 687, 76 Pa.Cmwlth. 614.

§ 5179. Food coupons and distribution

(a) Persons eligible; terms and conditions

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

(b) Duration of assistance; factors considered

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

(c) Food Stamp Act provisions unaffected

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 [7 U.S.C.A. § 2011 et seq.] except as they relate to the availability of food stamps in an area affected by a major disaster.

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

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

The Food Stamp Act of 1964, referred to in subsecs. (a) and (c), is Pub.L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, known as the Food Stamp Act of 1977, which is classified generally to chapter 51 (section 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title of 1964 Act note set out under section 2011 of Title 7 and Tables.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Delegation of Functions

Secretary of Agriculture designated and empowered to exercise, without the approval, ratification, or other action of President, all authority vested in President by this section concerning food coupons and distribution, see section 3 of Ex. Ord. No. 11795, as amended, set out as a note under section 5121 of this title.

Prior Provisions

A prior section 412 of Pub.L. 93–288 was renumbered section 415 by Pub.L. 100–707 and is classified to section 5182 of this title.

LIBRARY REFERENCES

Administrative Law

Donation of foods, see 7 C.F.R. § 250.1 et seq.
Issuance and use of coupons, see 7 C.F.R. § 274.1 et seq.

American Digest System

Disbursement of federal funds generally; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5180. Food commodities

(a) Emergency mass feeding

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

(b) Funds for purchase of food commodities

The Secretary of Agriculture shall utilize funds appropriated under section 612c of Title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Prior Provisions

A prior section 413 of Pub.L. 93–288 was renumbered section 416 by Pub.L. 100–707 and is classified to section 5183 of this title.

LIBRARY REFERENCES

Administrative Law

Donation of foods, see 7 C.F.R. § 250.1 et seq.

American Digest System

Disbursement of federal funds generally; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds generally; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5181. Relocation assistance

Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) [42 U.S.C.A. § 4601 et seq.] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in text, is Pub.L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified principally to chapter 61 (section 4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1971

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Acts note set out under section 4601 of this title and Tables.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Prior Provisions

A prior section 414(a), (b) of Pub.L. 93–288 was renumbered section 417(a), (b) by Pub.L. 100–707 and is classified to section 5184 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; relocation assistance and disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; relocation assistance and disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5182. Legal services

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 chapter, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Prior Provisions

A prior section 415 of Pub.L. 93–288 was renumbered section 418 by Pub.L. 100–707 and is classified to section 5185 of this title.

LIBRARY REFERENCES

Administrative Law

Disaster assistance, see 44 C.F.R. § 205.1 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5183. Crisis counseling assistance and training

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Amendments

1988 Amendments. Pub.L. 100–707 substituted "President is authorized to provide" for "President is authorized (through the National Institute of Mental Health) to provide".

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Prior Provisions

A prior section 416 of Pub.L. 93–288 was renumbered section 419 by Pub.L. 100–707 and is classified to section 5186 of this title.

LIBRARY REFERENCES

Administrative Law

Disaster assistance for crisis counseling and training, see 42 C.F.R. § 38.1 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5184. Community disaster loans

(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

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

(b) No effect on grants or other assistance

Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this chapter.

(Pub.L. 93–288, Title IV, § 417(a), (b), formerly § 414(a), (b), May 22, 1974, 88 Stat. 158; renumbered § 417(a), (b), Pub.L. 100–707, Title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Prior Provisions

A prior section 417 of Pub.L. 93–288 was renumbered section 420 by Pub.L. 100–707 and is classified to section 5187 of this title.

Community Emergency Drought Relief

Pub.L. 95–31, Title I, May 23, 1977, 91 Stat. 169, provided: "That this Act be cited as the 'Community Emergency Drought Relief Act of 1977'.

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

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

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

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

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

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

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

"**Sec. 105.** The National Environmental Protection Act of 1969, as amended [section 4321 et seq. of this title], shall be implemented to the fullest extent consistent with but subject to the time constraints imposed by this Act, and the Secretary of Commerce when making the final determination regarding an application for assistance hereunder shall give consideration to the environmental consequences determined within that period.

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

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

LIBRARY REFERENCES

Administrative Law

Community emergency drought relief, see 13 C.F.R. § 318.1 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5185. Emergency communications

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

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

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Prior Provisions

A prior section 418 of Pub.L. 93–288 was renumbered section 421 by Pub.L. 100–707 and is classified to section 5188 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5186. Emergency public transportation

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Prior Provisions

A prior section 419 of Pub.L. 93–288, which was classified to section 5189 of this title, was repealed by Pub.L. 100–707.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5187. Fire suppression grants

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

LIBRARY REFERENCES

Administrative Law

Disaster assistance, see 44 C.F.R. § 205.1 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5188. Timber sale contracts

(a) Cost-sharing arrangement

Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to

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negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Cancellation of authority

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

(c) Public notice of sale

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of Title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber

The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

Section 476 of Title 16, referred to in subsec. (c), was repealed by Pub.L. 94–588, § 13, Oct. 22, 1976, 90 Stat. 2958.

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

LIBRARY REFERENCES

Administrative Law

Application for assistance, see 43 C.F.R. § 1815.0–3 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Rights and remedies of government in regard to contracts generally, see United States ⇐75(1) et seq.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Rights and remedies of government in regard to contracts generally, see C.J.S. United States § 103 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5189. Simplified procedure

If the Federal estimate of the cost of—

(1) repairing, restoring, reconstructing, or replacing under section 5172 of this title any damaged or destroyed public facility or private nonprofit facility,

(2) emergency assistance under section 5170b or 5192 of this title, or

(3) debris removed under section 5173 of this title,

is less than $35,000, the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 5170b, 5172, 5173, or 5192 of this title, as the case may be, on the basis of such Federal estimate. Such $35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

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

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

Prior Provisions

A prior section 5189, Pub.L. 93–288, Title IV, § 419, May 22, 1974, 88 Stat. 159, relating to alternative contributions, was struck out by Pub.L. 100–707, Title I, § 106(k), Nov. 23, 1988, 102 Stat. 4705.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5189a. Appeals of assistance decisions

(a) Right of appeal

Any decision regarding eligibility for, from, or amount of assistance under this subchapter 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) of this section shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

(c) Rules

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; review of federal agency action, see United States ⇐82(7).

Encyclopedias

Disbursement of federal funds; review of federal agency action, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Exhaustion of remedies 1

1. Exhaustion of remedies

Administrative exhaustion of remedies was not required before hurricane victims could bring action challenging administrative temporary housing eligibility decisions of Federal Emergency Management Agency (FEMA), where exhaustion was not expressly required by statute, and regulation did not require appeal before review and did not compel the initial decision to be made inoperative pending that review. Lockett v. Federal Emergency Management Agency, S.D.Fla. 1993, 836 F.Supp. 847.

§ 5189b. Date of eligibility; expenses incurred before date of disaster

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

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§ 5191. 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 chapter, 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 5192 of this title or section 5193 of this title with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a) of this section.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

References in Text

This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 501 of Pub.L. 93–288 enacted subchapter VIII (section 3231 et seq.) of chapter 38 of this title.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5192. 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 5173 of this title;

(6) provide temporary housing assistance in accordance with section 5174 of this title; 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) of this section with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives,

protect property and public health and safety, and lessen or avert the threat of a catastrophe.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports
1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

CROSS REFERENCES

Financial assistance for coastal barrier emergency actions performed pursuant to this section, see 16 USCA § 3505.
Food stamp program's temporary emergency eligibility standards established after consultation with official exercising authority under this section, see 7 USCA § 2014.

LIBRARY REFERENCES

American Digest System
Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias
Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5193. Amount of assistance

(a) Federal share

The Federal share for assistance provided under this subchapter 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 subchapter for a single emergency shall not exceed $5,000,000.

(2) Additional assistance

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

(A) continued emergency assistance is immediately required;

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

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

(3) Report

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

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports
1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

LIBRARY REFERENCES

American Digest System
Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias
Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

SUBCHAPTER IV–B—EMERGENCY PREPAREDNESS

§ 5195. Declaration of policy

The purpose of this subchapter 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 subchapter so that a comprehensive emergency preparedness system exists for all hazards.

(Pub.L. 93–288, Title VI, § 601, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3100.)

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

LIBRARY REFERENCES

American Digest System

Measures and acts in exercise of war and national emergency powers, see War and National Emergency ⇐35 et seq.

Encyclopedias

Measures and acts in exercise of war and national emergency powers, see C.J.S. War and National Defense § 43 et seq.

WESTLAW ELECTRONIC RESEARCH

War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5195a. Definitions

(a) Definitions

For purposes of this subchapter 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 subchapter, includes buildings, shelters, utilities, and land.

(7) Director

The term "Director" means the Director of the Federal Emergency Management Agency.

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(8) Neighboring countries

The term "neighboring countries" includes Canada and Mexico.

(9) United States and States

The terms "United States" and "States" includes the several States, the District of Columbia, and territories and possessions of the United States.

(10) State

The term "State" includes interstate emergency preparedness authorities established under section 5196(h) of this title.

(b) Cross reference

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

(Pub.L. 93–288, Title VI, § 602, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3101.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

References in Text

The Defense Production Act of 1950, referred to in subsec. (b), is Act Sept. 8, 1950, c. 932, 64 Stat. 798, as amended, which is classified to section 2061 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see section 2061 of the Appendix to Title 50 and Tables.

WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

§ 5195b. Administration of subchapter

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

(Pub.L. 93–288, Title VI, § 603, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3102.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Encyclopedias

Powers and duties of federal officers, agents, and employees generally, see C.J.S. United States § 38 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

PART A—POWERS AND DUTIES

§ 5196. Detailed functions of administration

(a) In general

In order to carry out the policy described in section 5195 of this title, the Director shall have the authorities provided in this section.

(b) Federal emergency response plans and programs

The Director may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Director may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

(c) Delegation of emergency preparedness responsibilities

With the approval of the President, the Director may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(d) Communications and warnings

The Director may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

(e) Emergency preparedness measures

The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

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(1) research and studies as to the best methods of treating the effects of hazards;

(2) developing shelter designs and materials for protective covering or construction; and

(3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements.

(f) Training programs

(1) The Director may—

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

(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of Title 5, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director, and

(C) provide instructors and training aids as necessary.

(2) The terms prescribed by the Director for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

(3) The Director may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

(g) Public dissemination of emergency preparedness information

The Director may publicly disseminate appropriate emergency preparedness information by all appropriate means.

(h) 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 subchapter before the approval of title by the Attorney General as required by section 255 of Title 40.

(3) The Director shall submit to Congress a report, at least quarterly, describing all property acquisitions made pursuant to this subsection.

(4) 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.

(5) 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

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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 to 276a–5)), and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C.App.) and section 276c of Title 40.

(k) Sale or disposal of certain materials and facilities

The Director may arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

(Pub.L. 93–288, Title VI, § 611, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3102.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

References in Text

The Davis-Bacon Act, as amended, referred to in subsec. (j)(8), is Act Mar. 3, 1931, c. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (j)(8), is set out in Appendix 1 to Title 5, Government Organization and Employees.

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The Federal Property and Administrative Services Act of 1949, referred to in subsec. (k), is Act June 30, 1949, c. 288, 63 Stat. 377, as amended. Provisions of that Act relating to disposal of government property are classified to chapter 10 (section 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

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Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Measures and acts in exercise of war and national emergency powers, see War and National Emergency ⇐35 et seq.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Measures and acts in exercise of war and national emergency powers, see C.J.S. War and National Defense § 43 et seq.

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United States cases: 393k[add key number].
War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5196a. 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.

(Pub.L. 93–288, Title VI, § 612, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3105.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Federal and state cooperation, and relation of states to foreign nations, see States ⇐4.19, 7.

Encyclopedias

Federal and state cooperation, and relation of states to foreign nations, see C.J.S. States §§ 28, 34.

WESTLAW ELECTRONIC RESEARCH

States cases: 360k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5196b. Contributions for personnel and administrative expenses

(a) General authority

To further assist in carrying out the purposes of this subchapter, the Director may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 5196(h) of this title) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) Plan requirements

A plan submitted under this section shall—

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

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

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

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

(5) provide that the State shall make such reports in such form and content as the Director may require; 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 sections 5196(h) and 5197(h) of this title shall apply.

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(e) Allocation of funds

For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this subchapter, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States 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.

(Pub.L. 93–288, Title VI, § 613, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3106.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Measures and acts in exercise of war and national emergency powers, see War and National Emergency ⇐35 et seq.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Measures and acts in exercise of war and national emergency powers, see C.J.S. War and National Defense § 43 et seq.

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United States cases: 393k[add key number].

War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5196c. Requirement for State matching funds for construction of emergency operating centers

Notwithstanding any other provision of this subchapter, funds appropriated to carry out this subchapter may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this subchapter for such purpose.

(Pub.L. 93–288, Title VI, § 614, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3107.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5196d. Use of funds to prepare for and respond to hazards

Funds made available to the States under this subchapter 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 subchapter for emergency preparedness activities and measures related to hazards.

(Pub.L. 93–288, Title VI, § 615, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3107.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

PART B—GENERAL PROVISIONS

§ 5197. Administrative authority

(a) In general

For the purpose of carrying out the powers and duties assigned to the Director under this subchapter, 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 subchapter.

(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 subchapter.

(e) Reimbursement

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

(f) Printing

The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of Title 44.

(g) Rules and regulations

The Director may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this subchapter and perform any of the powers and duties provided by this subchapter. The Director may perform any of the powers and duties provided by this subchapter through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate.

(h) Failure to expend contributions correctly

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

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

(3) As used in this subsection, the term "person" means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature

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whatsoever, including instrumentalities of States and political subdivisions.

(Pub.L. 93–288, Title VI, § 621, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3107.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Measures and acts in exercise of war and national emergency powers, see C.J.S. War and National Defense § 43 et seq.

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United States cases: 393k[add key number].
War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5197a. 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 subchapter, except the subjects of the United Kingdom and citizens of Canada specified in section 5197(b) of this title, shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

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

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

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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.

(Pub.L. 93–288, Title VI, § 622, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3108.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Measures and acts in exercise of war and emergency powers, see C.J.S. War and National Defense § 43 et seq.

Powers and duties of federal officers, agents, and employees generally, see C.J.S. United States § 38 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5197b. Use of existing facilities

In performing duties under this subchapter, 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 subchapter.

(Pub.L. 93–288, Title VI, § 623, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Powers and duties of federal officers, agents, and employees generally, see C.J.S. United States § 38 et seq.

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United States cases: 393k[add key number].
War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5197c. 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 subchapter, accompanied by such recommendations as the Director considers appropriate.

(Pub.L. 93–288, Title VI, § 624, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

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Powers and duties of federal officers, agents, and employees generally, see C.J.S. United States § 38 et seq.

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United States cases: 393k[add key number].

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War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5197d. Applicability of subchapter

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

(Pub.L. 93–288, Title VI, § 625, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

LIBRARY REFERENCES

American Digest System

Construction and operation of statutes in general, see Statutes ⇐174 et seq.

Encyclopedias

Construction and operation of statutes in general, see C.J.S. Statutes § 311.

WESTLAW ELECTRONIC RESEARCH

Statutes cases: 361k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5197e. 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 subchapter.

(b) Transfer authority

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

(Pub.L. 93–288, Title VI, § 626, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

LIBRARY REFERENCES

American Digest System

Appropriation and disbursement of federal funds in general, see United States ⇐82(1, 5), 85.

Encyclopedias

Appropriation and disbursement of federal funds in general, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5197f. Relation to Atomic Energy Act of 1954

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

(Pub.L. 93–288, Title VI, § 627, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

References in Text

The Atomic Energy Act of 1954, referred to in section heading and text, is Act Aug. 1, 1946, c. 724, as added Act Aug. 30, 1954, c. 1073, § 1, 68 Stat. 921, as amended, which is classified principally to chapter 23 (section 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1954 Acts note set out under section 2011 of this title and Tables.

LIBRARY REFERENCES

American Digest System

Construction and operation of statutes in general, see Statutes ⇐174 et seq.

Encyclopedias

Construction and operation of statutes in general, see C.J.S. Statutes § 311.

WESTLAW ELECTRONIC RESEARCH

Statutes cases: 361k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5197g. Federal Bureau of Investigation

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

(Pub.L. 93–288, Title VI, § 628, as added Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(3), Oct. 5, 1994, 108 Stat. 3110.)

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

LIBRARY REFERENCES

American Digest System

Construction and operation of statutes in general, see Statutes ⇐174 et seq.

Encyclopedias

Construction and operation of statutes in general, see C.J.S. Statutes § 311.

WESTLAW ELECTRONIC RESEARCH

Statutes cases: 361k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

SUBCHAPTER V—MISCELLANEOUS

§ 5201. Rules and regulations

(a) Generally

(1) Necessary and proper rules and regulations

The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter 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 chapter to a State shall be completed within 60 days after the date of approval of such assistance.

(b) Acceptance of gifts

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

(Pub.L. 93–288, Title VII, § 701, formerly Title VI, § 601, May 22, 1974, 88 Stat. 163; Pub.L. 96–446, Oct. 13, 1980, 94 Stat. 1893; Pub.L. 100–707, Title I, § 108(a), Nov. 23, 1988, 102 Stat. 4707; renumbered § 701, Pub.L. 103–337, Div. C, Title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1974 Acts. Senate Report No. 93–778 and House Conference Report No. 93–1037, see 1974 U.S. Code Cong. and Adm. News, p. 3070.

1980 Acts. House Report No. 96–1431, see 1980 U.S. Code Cong. and Adm. News, p. 3977.

1988 Acts. House Report No. 100–517, see 1988 U.S. Code Cong. and Adm. News, p. 6085.

1994 Acts. House Report No. 103–499 and House Conference Report No. 103–701, see 1994 U.S. Code Cong. and Adm. News, p. 2091.

References in Text

This chapter, referred to in text, in the original read "this Act", meaning Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Amendments

1988 Amendments. Subsec. (a). Pub.L. 100–707, § 108(a)(1), (2), designated existing provision as par. (1) and added par. (2).

1980 Amendments. Subsec. (a). Pub.L. 96–446, § 1(2), designated existing provisions as subsec. (a).

Subsec. (b). Pub.L. 96–446, § 1(3), added subsec. (b).

1974 Acts

Effective Dates

1974 Acts. Section 605 of Pub.L. 93–288, formerly set out as a note under section 5121 of this title, provided that this section is effective Apr. 1, 1974.

Delegation of Functions

The functions vested in the President by section 113 of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100–707, set out as a note under this section, delegated to the Director of the Federal Emergency Management Agency, pursuant to section 5 of Ex. Ord. No. 12673, Mar. 23, 1989, 54 F.R. 12571, set out as a note under section 2251 of the Appendix to Title 50, War and National Defense.

Deadline for Issuance of Regulations

Section 113 of Pub.L. 100–707 provided that: "Regulations necessary to carry out this title [see Short Title of 1988 Acts note set out under section 5121 of this title] and the amendments made by this title shall be issued no later than the 180th day following the date of the enactment of this Act [Nov. 23, 1988]."

LIBRARY REFERENCES

Administrative Law

Disaster preparedness aid, see 44 C.F.R. § 300.1 et seq.
Disaster unemployment assistance, see 20 C.F.R. § 625.1 et seq.
Federal disaster assistance, see 44 C.F.R. § 206.1 et seq.
New communities, assistance, see 24 C.F.R. § 720.1 et seq.

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).
Office of President, and powers and duties thereof, see United States ⇐26, 28.

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.
Office of President, and powers and duties thereof, see C.J.S. United States §§ 27 to 30.

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WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5202. Repealed. Pub.L. 100–707, Title I, § 108(c), Nov. 23, 1988, 102 Stat. 4708

HISTORICAL AND STATUTORY NOTES

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

§ 5203. Excess disaster assistance payments as budgetary emergency requirements

Beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of $320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 901(b)(2)(D) of Title 2, and such amounts shall on and after December 12, 1991, be so designated.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1991 Acts. Statement by President, see 1991 U.S. Code Cong. and Adm. News, p. 1361.

References in Text

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub.L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to this chapter (section 5121 et seq.). For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5121 of this title and Tables.

Codifications

Section was enacted as part of the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of 1992", and not as a part of the "Robert T. Stafford Disaster Relief and Emergency Assistance Act" which comprises this chapter.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases; 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5204. Insular areas disaster survival and recovery; definitions

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

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

(2) the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 5170 of this title; and

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

(Pub.L. 102–247, Title II, § 201, Feb. 24, 1992, 106 Stat. 37.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports 1992 Acts. Senate Report No. 102–243 and Statement by President, see 1992 U.S. Code Cong. and Adm. News, p. 44.

References in Text

Sections 5204 to 5204c of this title, referred to in text, was in the original "this title", meaning Title II of Pub.L. 102–247, Feb. 24, 1992, 106 Stat. 37, which enacted sections 5204 to 5204c of this title and amended section 5122 of this title.

Codifications

Section was enacted as part of the Omnibus Insular Areas Act of 1992 and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which comprises this chapter.

WESTLAW ELECTRONIC RESEARCH

See WESTLAW guide following the Explanation pages of this volume.

§ 5204a. Authorization of appropriations for insular areas

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

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

(2) enhance the survivability of essential public facilities in the event of disasters in the insular areas,

except that with respect to the disaster declared by the President in the case of Hurricane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 5170b and 5172 of this title for such disaster. Such sums shall remain available until expended.

(Pub.L. 102–247, Title II, § 202, Feb. 24, 1992, 106 Stat. 37.)

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HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1992 Acts. Senate Report No. 102–243 and Statement by President, see 1992 U.S. Code Cong. and Adm. News, p. 44.

Codifications

Section was enacted as part of the Omnibus Insular Areas Act of 1992 and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which comprises this chapter.

LIBRARY REFERENCES

American Digest System

Appropriation of federal funds, see United States ⇐85.

Encyclopedias

Appropriation of federal funds, see C.J.S. United States § 123.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5204b. Technical assistance for insular areas

(a) Presidential assessment of response capability; recovery plans

Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director of the Federal Emergency Management Agency, shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort.

(b) Report to Congress

One year following the declaration by the President of a disaster in an insular area, the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall submit to the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources a report on the status of the recovery effort, including an audit of Federal funds expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

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

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1992 Acts. Senate Report No. 102–243 and Statement by President, see 1992 U.S. Code Cong. and Adm. News, p. 44.

1994 Acts. House Report No. 103–779, see 1994 U.S. Code Cong. and Adm. News, p. 3639.

Codifications

Section was enacted as part of the Omnibus Insular Areas Act of 1992 and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which comprises this chapter.

Amendments

1994 Amendments. Subsec. (b). Pub.L. 103–437, § 15(p), substituted "House Committee on Natural Resources" for "House Committee on Interior and Insular Affairs".

Change of Name

Committee on Natural Resources of House of Representatives changed to Committee on Resources of House of Representatives by Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

§ 5204c. Hazard mitigation for insular areas

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

(Pub.L. 102–247, Title II, § 204, Feb. 24, 1992, 106 Stat. 38.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1992 Acts. Senate Report No. 102–243 and Statement by President, see 1992 U.S. Code Cong. and Adm. News, p. 44.

Codifications

Section was enacted as part of the Omnibus Insular Areas Act of 1992 and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which comprises this chapter.

LIBRARY REFERENCES

American Digest System

Disbursement of federal funds; disaster aid, see United States ⇐82(1, 5).

Encyclopedias

Disbursement of federal funds; disaster aid, see C.J.S. United States § 122 et seq.

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WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

CHAPTER 69—COMMUNITY DEVELOPMENT

Sec.

5301. Congressional findings and declaration of purpose.
(a) Critical social, economic, and environmental problems facing Nation's urban communities.
(b) Establishment and maintenance of viable urban communities; systematic and sustained action by Federal, State, and local governments; expansion of and continuity in Federal assistance; increased private investment; streamlining programs and improvement of functioning of agencies; action to address consequences of scarce fuel supplies.
(c) Decent housing, suitable living environment, and economic opportunities for persons of low and moderate income; community development activities which may be supported by Federal assistance.
(d) Consolidation of complex and overlapping Federal assistance programs into consistent system of Federal aid.

5302. General provisions.
(a) Definitions.
(b) Basis and modification of definitions.
(c) Designation of public agencies.
(d) Local governments, inclusion in urban county population.
(e) Exclusion of local governments from urban county population; notification of election.

5303. Grants to States, units of general local government and Indian tribes; authorizations.

5304. Statement of activities and review.
(a) Statement of objectives and projected use of funds by grantee prerequisite to receipt of grant; publication of proposals by grantees; notice and comment; citizen participation plan.
(b) Certification of enumerated criteria by grantee to Secretary.
(c) Special certifications required for certain grants.
(d) Residential antidisplacement and relocation assistance plan; certification of adherence; contents.
(e) Submission of performance and evaluation report by grantee to Secretary; contents; availability for citizen comment; annual review and audit by Secretary of program implementation; adjustments in amount of annual grants.
(f) Audit of grantees by General Accounting Office; access to books, accounts, records, etc., by representatives of General Accounting Office.
(g) Environmental protection measures applicable for release of funds to recipients of assistance for projects; issuance of regulations by Secretary subsequent to consultation with Council on Environmental Quality; request and certification to Secretary for approval of release of funds; form, contents and effect of certification.
(h) Payments; revolving loan fund: establishment in private financial institution for rehabilitation activities; standards for payments: criteria.
(i) Metropolitan city as part of urban county.
(j) Retention of program income; condition of distribution.