AMENDMENT NO. ____ Calendar No. ____

Purpose: To clarify the eligibility for assistance for certain levees.

IN THE SENATE OF THE UNITED STATES—103d Cong., 1st Sess.

H.R. 3116

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

Referred to the Committee on ____________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BOND

Viz:

At the appropriate place in title VIII, insert the following new section:

SEC. 8____. Notwithstanding any other provision of law (including any regulation), with respect to the public sponsor of a primary levee located in the area that was affected by major, widespread flooding in the Midwest during 1993, ~~and that was designed for a 5-year flood~~ or ~~a higher level flood,~~ the eligibility of the public sponsor of the levee to receive assistance through the levee rehabilitation assistance program of the Army Corps of Engineers shall not be affected by the status of participation (or lack of participation) of the public sponsor in the program. A public sponsor of a levee who becomes eligible to receive assistance under the program pursuant to the preceding sentence may, not later than September 30, 1994, submit an application to participate in the program. Of the amounts made available to the Secretary of the Army to provide assistance through the levee rehabilitation assistance program for fiscal year 1994, not more than ~~$150,000,000~~ $50,000,000 may be used to provide assistance to public sponsors who become eligible to receive assistance pursuant to this section. The Federal share of the cost of a levee rehabilitation project for which assistance is made available pursuant to this section shall be 75 percent of the cost of ~~the project~~ construction. The assistance shall be provided on the condition that the non-Federal share of the project shall be paid from non-Federal sources.

lands, easements and rights of way and

Subject to availability of funds, assistance will be provided only in those cases where the public sponsor can demonstrate financial capability, that the levees otherwise meet Corps criteria for operation, maintenance and design, and that the repairs are economically justified.

, in cash, and the public sponsor agrees in writing that any future assistance will be contingent on continued participation in the Corps program.

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

13-Oct-1993 07:58pm

TO: T J Glauthier
TO: Christopher F. Edley, Jr

FROM: Kevin F. Neyland
Office of Mgmt and Budget, NRSS

CC: Bruce D. Long
CC: Francis S. Redburn

SUBJECT: Inquiry from Congressional Staff on Floods

I received a voice mail message from a Linda Comus(?) (225-3274) who is staff to the House Committee on Public Works and Transportation. We met her at the September 22nd meeting.

She had two questions:

1) The committee staff have been told that the flood damage estimate has been raised from $12 billion to $18 billion. She asked that confirmation of that number, or OMB's latest "official" total damage estimate. I have not seen any "official" OMB flood damage estimates. Is there one?

2) Her second question was the number of times and the dates when the President visited the Mid-West flood areas. She said that she needed this for a briefing memo that they are currently preparing for the Members.

Please let me know how you want me to respond. Thank you.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

FAX COVER SHEET

NUMBER OF PAGES 1 **DATE** ______
(excluding cover sheet)

TO: Kathy Way

Office:

Office Phone Number:

Fax Number:

FROM: Jennifer Palmieri

Agency: OMB Legislative Affairs

Office Phone Number: 395-4790

Office Fax Number: 395-3729

Additional Information:

Leon talked to Gephardt. He's okay w/ our position. Call for more details.

7028

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 3, 1993

Honorable Norman Mineta
Chairman
Committee on Public Works and Transportation
Washington, D.C. 20515

Dear Chairman Mineta:

The Administration supports the goals of H.R. 3012 and appreciates the efforts of the Committee to work with the Administration on this legislation.

The Administration understands that amendments may be introduced at the Subcommittee on Water Resources and Environment markup of H.R. 3012 to change the eligibility requirements for the reconstruction of non-Federal levees by the Army Corps of Engineers. This letter is to inform you that the Administration would oppose such amendments.

Such amendments would undermine the integrity of this assistance program by effectively removing the incentives in place since July 1986 for levee sponsors to properly construct and maintain levees, and could result in significantly increased Federal expenditures for additional levee repairs.

In 1986, the Corps of Engineers established nationwide standards of eligibility for owners of levees constructed by non-Federal interests who seek Federal assistance in the repair of flood control works damaged by floods. Those participating in the program have met eligibility requirements, including adherence to a strict operations and maintenance program that we believe has ensured the effectiveness of the structures and the validity of Federal assistance provided under the Corps' emergency authority (P.L. 84-99). Amendments to change the eligibility requirements would undermine the integrity of the levee rehabilitation assistance program and be unfair to sponsors nationwide who have been participating in the program and bearing the expense of meeting the standards.

We appreciate your consideration of these views.

Sincerely,

Leon E. Panetta
Director

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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November 3, 1993

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We appreciate your consideration of these views.

Sincerely,

Leon E. Panetta
Director

MEMORANDUM

TO: KATHI WAY

FROM: KEITH MASON KM

DATE: OCTOBER 27, 1993

RE: GOVERNOR MEL CARNAHAN

I received a copy of Governor Mel Carnahan's letter on the issue of funding for levee repairs, that is currently pending before Congress. Mack McLarty's office sent the letter over and told me that Governor Carnahan needs a response to his inquiry as soon as possible. Please keep me advised as to the progress of this matter. Thank you.

ENCLOSURE

EXECUTIVE OFFICE
STATE OF MISSOURI
JEFFERSON CITY
65102

MEL CARNAHAN
GOVERNOR

P. O. BOX 720

October 25, 1993

President William J. Clinton
The White House
Washington, D.C. 20500

Dear Mr. President :

Thank you for the support and compassion you have shown as we continue to fight back from the devastating floods of 1993. No one state can expect to recover from a disaster of this magnitude without help from its neighbors. As you pointed out last summer in St. Louis, the emergency response effort was just a beginning. We all took great comfort in your assurance that the federal government stood ready to help Missouri rebuild.

It is to that end that I am writing to you today. We need your help with an especially crucial issue that is now before Congress. Missouri's congressional delegation has sponsored language in the defense appropriations bill which would extend the 84-99 Corps of Engineers levee repair program to levees which can qualify by September 30, 1994. This proposal would be extremely helpful for my state, and I urge you to support it. Further, in the August emergency supplemental appropriations bill, $120 million was provided immediately to the Corps with an additional $60 million available on a contingency basis. If additional resources are needed to carry-out an extension of the levee repair program, I ask that you authorize the release of contingency funds.

Missouri is unique in its location and topography and we have a host of thorny questions to address. In September, I announced the creation of a task force on flood plain management to take on some of these difficult issues. The task force (which includes federal, state and local participation) will be reviewing our river management system, housing policies, flood insurance program, and, of course, the complimentary conservation and agricultural use of the most productive land along our rivers. The task force will be working over the next few months to form consensus and develop a comprehensive long-range plan.

President William J. Clinton
October 25, 1993
Page 2

The issue of whether or not certain levees can be rebuilt using federal funds should not dictate the task force's deliberations. Rather, the task force should strive toward rational policy based on protecting some public facilities while leaving other areas available for alternative management. In hindsight, we know that the question of current levee ineligibility is not a result of rational planning but of local feuds, excessive red tape, and our own state laws which have complicated the formation of levee districts. I'm sure, as a former Governor, you can appreciate the need for local planning to resolve such a complex problem, and I assure you we are working in that direction.

Mr. President, this issue is critical to our effort to rebuild our state's economy. I hope that you and the Corps of Engineers will work with us as we attempt to move forward in a rational and responsible manner.

Very Truly Yours,

Mel Carnahan

Mel Carnahan

MC/jf

STATE OF MISSOURI
WASHINGTON, D.C. OFFICE

MEL CARNAHAN
GOVERNOR

HALL OF THE STATES
400 NORTH CAPITOL ST., SUITE 376
WASHINGTON, D.C. 20001
(202) 624-7720

JILL FRIEDMAN
DIRECTOR

FAX TRANSMITTAL SHEET

Date: 10/26/93

Time: 130 a.m./~~p.m.~~ EDT

TO: Kathi Way
Domestic Policy

___ URGENT
___ Priority
___ Routine

✓ Approve
✓ At your request
✓ For your information
___ As discussed

2 Page(s) to follow

FROM: Jill Friedman / Gov. Carnahan

RE: State of MO

MESSAGE: (Fax # 202-456-7028)

F.Y.I. - Thought you would be interested to know.

Thank You.

Send CC to: ___

FAXED by: Leah
(202) 624-7720
(202) 624-5855 FAX

EXECUTIVE OFFICE
STATE OF MISSOURI
JEFFERSON CITY
65102

MEL CARNAHAN
GOVERNOR

P. O. BOX 720

October 25, 1993

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Washington, D.C. 20500

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Mr. President, this issue is critical to our effort to rebuild our state's economy. I hope that you and the Corps of Engineers will work with us as we attempt to move forward in a rational and responsible manner.

Very Truly Yours,

Mel Carnahan

Mel Carnahan

MC/jf

FACSIMILE TRANSMISSION

FEDERAL EMERGENCY MANAGEMENT AGENCY
OFFICE OF PUBLIC AND INTERGOVERNMENTAL AFFAIRS
WASHINGTON, DC 20472

Date: 10/22/93

To: **Name** Cookie Walden

Organization ______

Voice Phone ______

FAX Phone 456-7028

Confirmation Requested: Yes____ No____ at (202) 646-4600

From:

X	MORRIE GOODMAN	__	MORRIS BOONE
__	MARVIN DAVIS	__	MARTHA WHEELER
__	DAVE MARTIN	__	CARL SUCHOCKI
__	BILL ZELLARS	__	VERNICE HAMMOCK-EL
__	KAREN KENNEDY	__	KATHY LANDAU
__	DON JACKS	__	PAT BENNETT
__	SEAN WHEELER	__	VIRGINIA GOODSON

WE ARE SENDING 5 PAGES INCLUDING THIS PAGE
FAX: (202) 646-4086

COMMENTS: ______

DRAFT DRAFT DRAFT

SUBJECT: Federal Levee Policy

The purpose of this memorandum is to clarify the Federal policy on repairing levees in the Midwest. The Corps of Engineers and Soil Conservation Service (SCS) are the principal Federal agencies responsible for repairing levees, the Corps under its Public Law 84-99 program and the SCS under its Emergency Watershed Protection Program. This memorandum provides background on why the current Corps policies were established, describes the process the two agencies are using to identify levees that are under their respective jurisdictions, addresses eligibility criteria and allowable exceptions for provision of levee rehabilitation funds, and establishes SCS criteria for prioritizing levee rehabilitation funding.

Existing Corps policy resulted in part from an internal Corps review of its practices prior to 1986 in order to bring discipline to the program and to realize the maximum benefits from Federal expenditures. Among the principal findings in the review were (1) a lack of sponsor commitment in fulfilling operations and maintenance requirements subsequent to Federal investments in rehabilitation, (2) recurring rehabilitation at Federal expense of levees not meeting minimal engineering standards, (3) recognition of the difficulties associated with determining, after a flood event, the level and adequacy of levee maintenance that existed prior to the food, and (4) issues related to State and local government floodplain management prerogatives. As a result of the review in 1986, the Corps proposed rules to overcome identified shortcomings in the program. The rules clearly established the Corps intent to develop a program that ensured levees accepted into the active inventory met minimal standards. The public sponsorship requirement addressed the need for a financially viable public sponsor so as to ensure proper stewardship of the Federal investment and proper consideration of State and local floodplain management prerogatives. Based on numerous comments received during the comment period for the proposed rules, the Corps allowed a two-year grace period from the implementation date of the new rules for levees to obtain public sponsorship. This grace period ended July 15, 1988.

In 1986, the Corps and SCS signed a memorandum of understanding (MOU) which outlined how the two agencies would delineate responsibility for repair of levees. The agencies agreed that the Corps would be responsible for repairing levees with contributing drainage areas of 400 square miles or greater. The SCS would handle levees with drainage areas of less than 400 square miles. To ensure proper implementation of this part of the MOU, appropriate Corps and SCS officials in each State are identifying the geographic areas of Corps and SCS responsibility. The 400 square-mile criterion will be used as a guide, but will be adjusted where it is prudent to do so. Should the local Corps and SCS officials not agree on a delineation, the case will be forwarded to Agency Headquarters officials for resolution.

Corps policy, as established in 1986, requires that levee sponsors be active participants in the Corps program at the time of a disaster event in order to be eligible for assistance to repair the levees. An active status means that the Corps has inspected the levee and has accepted the levee into its program, or, that the levee sponsor has requested an inspection prior to occurrence of the disaster event. The SCS will not fund the repair of any levee that would be eligible to participate in the Corps program, but which is not in an active status in the Corps program.

In 1986, the Corps informed levee sponsors of its PL 84-99 program eligibility requirements and invited them to apply for participation in the program. Many levee sponsors responded to the Corps invitation and were accepted into the PL 84-99 program based on field inspections conducted by Corps personnel. Many other sponsors did not respond. As a result of the Midwest Flood of 1993, many sponsors in this latter group have asked the Corps to repair their levees. The Corps has determined that these levees are not eligible for Corps assistance. Further, they are ineligible for other Federal funding in accordance with current FEMA, Corps, and SCS policy, with two exceptions.

- The first exception to current policy is when the levee protects critical public infrastructure, e.g., roads, water or wastewater treatment plants, etc., that are at risk behind ineligible levees. In this case, FEMA may fund the levee repair.

- The second exception applies when the levee was constructed after 1986, the Corps has no record of official notification to the levee sponsor of the Corps eligibility requirements, the levee sponsor can demonstrate that the levee has been properly maintained, and the levee sponsor meets all other Corps eligibility requirements. In this case, the levee would be eligible for Corps assistance.

Funds available to repair levees are not sufficient to repair all levees that are eligible for SCS assistance. Therefore, the SCS will use the following criteria to prioritize levees they will repair: (1) type of property protected by the levee, (2) past performance of sponsors, (3) past record of operations and maintenance, (4) environmental impact, and (5) local rules and regulations. FEMA may fund levees within SCS's geographic area of jurisdiction only in cases in which SCS funding is not available and the levee meets the requirements of the first exception (i.e., the levee protects critical public infrastructure, etc.).

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In 1986, the Corps and SCS signed a memorandum of understanding (MOU) which outlined how the two agencies would delineate responsibility for repair of levees. The agencies agreed that the Corps would be responsible for repairing levees with contributing drainage areas of 400 square miles or greater. The SCS would handle levees with drainage areas of less than 400 square miles. To ensure proper implementation of this part of the MOU, appropriate Corps and SCS officials in each State are identifying the geographic areas of Corps and SCS responsibility. The 400 square-mile criterion will be used as a guide, but will be adjusted where it is prudent to do so. Should the local Corps and SCS officials not agree on a delineation, the case will be forwarded to Agency Headquarters officials for resolution.

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In 1986, the Corps informed levee sponsors of its PL 84-99 program eligibility requirements and invited them to apply for participation in the program. Many levee sponsors responded to the Corps invitation and were accepted into the PL 84-99 program based on field inspections conducted by Corps personnel. Many other sponsors did not respond. As a result of the Midwest Flood of 1993, many sponsors in this latter group have asked the Corps to repair their levees. The Corps has determined that these levees are not eligible for Corps assistance. Further, they are ineligible for other Federal funding in accordance with current FEMA, Corps, and SCS policy, with two exceptions.

- The first exception to current policy is when the levee protects critical public infrastructure, e.g., roads, water or wastewater treatment plants, etc., that are at risk behind ineligible levees. In this case, FEMA <u>may</u> fund the levee repair.

- The second exception applies when the levee was constructed after 1986, the Corps has no record of official notification to the levee sponsor of the Corps eligibility requirements, the levee sponsor can demonstrate that the levee has been properly maintained, and the levee sponsor meets all other Corps eligibility requirements. In this case, the levee would be eligible for Corps assistance.

Funds available to repair levees are not sufficient to repair all levees that are eligible for SCS assistance. Therefore, the SCS will use the following criteria to prioritize levees they will repair: (1) type of property protected by the levee, (2) past performance of sponsors, (3) past record of operations and maintenance, (4) environmental impact, and (5) local rules and regulations. FEMA may fund levees within SCS's geographic area of jurisdiction only in cases in which SCS funding is not available and the levee meets the requirements of the first exception (i.e., the levee protects critical public infrastructure, etc.).

Federal Emergency Management Agency

Washington, D.C. 20472

FACSIMILE REPORT FROM FAX (202) 646-3304

TO: Kathi Way
Brian Burke
Vince Montante

DATE: 10/22

AGENCY/DIVISION:

FAX NUMBER:

NO. OF PAGES 7 incl cover

****

FROM: James A. Walke 646-2751

AGENCY/DIVISION: PA

COMMENTS: Draft levee Policy

DRAFT DRAFT DRAFT

SUBJECT: Federal Levee Policy

The purpose of this memorandum is to clarify the Federal policy on repairing levees in the Midwest. The Corps of Engineers and the Soil Conservation Service (SCS) are the principal Federal agencies responsible for repairing levees, the Corps under its Public Law 84-99 program and the SCS under its Emergency Watershed Protection (EWP) program. This memorandum provides background on why the current Corps policies were established, describes the process the two agencies are using to identify levees that are under their respective jurisdiction, addresses eligibility criteria and allowable exceptions for provision of levee rehabilitation funds, and establishes SCS criteria for prioritizing levee rehabilitation funding.

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In 1986, the Corps and the SCS signed a Memorandum of Agreement (MOA) which outlined how the two agencies would delineate responsibility for repair of levees. The agencies agreed as a general principle that the Corps would be responsible for repairing levees with contributing drainage areas of 400 square miles or greater. The SCS would handle levees with drainage areas of less than 400 square miles. To ensure proper implementation of this part of the MOA, appropriate Corps and SCS officials in each state are identifying the geographic delineation of Corps and SCS areas of responsibility. The 400 square-mile criterion will be used as a guide, but will be adjusted where it is prudent to do so. Should the local Corps and SCS officials not agree on a delineation, the case will be forwarded to agency headquarters officials for resolution. In a few cases, this delineation will result in levees classified by the Corps as "active" in its P.L. 84-99 program being located in an area of SCS responsibility.

Levee Repair Policy in Corps of Engineers Geographic Areas.

Corps policy, as established in 1986, requires that levee sponsors be active participants in the Corps program at the time of a disaster event in order to be considered for eligibility for assistance to repair the levees. An active status means that the Corps has inspected the levee and has accepted the levee into its program, or, that the levee sponsor has requested an inspection prior to occurrence of the disaster event. Active status does not guarantee repair -- the Corps also requires that the benefits from the repair will exceed the costs and that repairs can be undertaken in full compliance with environmental laws. In addition, locally constructed levees must be cost-shared with a 20 percent non-federal share. The SCS will not fund the repair of any levee within the geographic areas under Corps jurisdiction.

In 1986, the Corps informed levee sponsors of its PL 84-99 program eligibility requirements and invited them to apply for participation in the program. Many sponsors responded to the Corps invitation and levees were placed in the active status based on field inspections conducted by Corps personnel. Many other sponsors did not respond. As a result of the Midwest Flood of 1993, many sponsors in this latter group have asked the Corps to repair their levees. These levees are not eligible for Corps assistance and they are ineligible for other Federal funding in accordance with current FEMA, Corps, and SCS policy, with two exceptions:

- The first exception is when the levee protects critical public infrastructure (e.g., major roads, and water or wastewater treatment plants) that are at risk behind ineligible levees. In this case, FEMA will fund the levee repair.

- The second exception applies when the levee was constructed after 1986, the Corps has no record of official

DRAFT DRAFT DRAFT

notification to the levee sponsor of the Corps eligibility requirements, the levee sponsor can demonstrate that the levee has been properly maintained, and the levee sponsor meets all other Corps eligibility requirements. In this case, the levee would be given the same consideration as if it had been in an active status before the flood.

Levee Repair Policy in Soil Conservation Service Geographic Areas.

Levees will be eligible for SCS's EWP when there is a potential for loss of life without the repairs; the benefits associated with repairing the levee exceed the cost of levee repairs and other levee-dependent cost -- cropland restoration, facilities repairs, and structure repairs -- that should occur only if the levee is rebuilt; and, the levee owner agrees to meet SCS's eligiblitiy requirement for engineering and maintenance. Eligibility for the EWP does not guarantee that the repairs will be funded.

Funds available to repair levees are not sufficient to repair all levees that are eligible for SCS assistance. Therefore, the SCS will use the following criteria to prioritize levees they will repair: (1) type of property protected by the levee, (2) past performance of sponsors, (3) past record of operations and maintenance, (4) environmental impact, and (5) local rules and regulations. FEMA may fund levees within SCS's geographic area of jurisdiction only in cases that meet the requirements of the first exception mentioned above (i.e., the levee protects critical public infrastructure and is ineligible for SCS assistance).

In a small number of cases, levees in the SCS's geographical areas have been retained in the active status of the Corps' PL 84-99 program. These levees will be treated as if they were in the Corps' areas. They will be rebuilt by the Corps if the benefit-cost and environmental compliance tests are met. If the Corps determines that they are not eligible for PL 84-99 assistance, they will not be repaired by any other agency, unless they meet the requirements of the first exception.

FEMA's Levee Repair Policy

FEMA will repair only those levees that protect critical infrastructure and are ineligible for assistance under the Corps or SCS programs.

SENT BY:Xerox Telecopier 7020 ; 8- 3-93 ; 9:17AM ; 4562983→ 202 456 7739;# 2

August 3, 1993

MEMORANDUM

TO: Members of Congress

FROM: Kay Casstevens, Assistant Secretary
Office of Legislation and Congressional Affairs

SUBJECT: Department of Education Assistance for Flood Victims

As Congress prepares to recess later this week, I want to provide you and your staff with information to help you in responding to inquiries from constituents on flood disaster assistance.

The Department of Education has established an internal "Flood Disaster Relief Task Force" to deal expeditiously with flood-related problems, and is in close touch with the Federal Emergency Management Agency (FEMA) which has the lead on disaster assistance.

ould have to be reworded if Congress acts before we send it out.

The Administration has also requested $100 million in supplemental appropriations -- $30 million for increased Pell Grants and $70 million for impact aid to assist local school districts with higher operational expenses due to the flood. We are hopeful for speedy Congressional action on that legislation.

In the meantime, the Department has begun the process of advising student financial aid officers at colleges and universities of additional resources we expect to be available to students affected by the flood. Financial aid officers are also reminded of their existing statutory authority to make adjustments in assistance to individual students under "special circumstances".

With respect to local schools, FEMA has the federal lead in responding to building needs and equipment repair or replacement. The Department of Education has responsibility for dealing with increased operating expenses or loss of revenues due to property damage from the flood.

Attached is a brief fact sheet with contacts for various types of inquiries. Please do not hesitate to contact my office if you have any further questions.

Attachment

FACT SHEET

DEPARTMENT OF EDUCATION ASSISTANCE FOR MIDWEST FLOOD VICTIMS

Q: How can flood-affected college students get additional aid for the coming school year?

A: Individual students should contact the financial aid office at the institution they are attending for additional assistance. Any further problems should be directed to the Office of Legislation, 202-224-1028.

Q: What assistance is available to local school districts for increased operational expenses and loss of revenue due to flood damage to property?

A: Contact the State Impact Aid representative (see the attached) for assistance. If necessary, contact Frank Delia, School Disaster Assistance Branch, Impact Aid Program, at the Department of Education in Washington: (202) 401-0053. Applications for such aid must be filed within 90 days of the publication in the FEDERAL REGISTER of the President's Declaration of a disaster so will vary by County/State. School districts not sure of their needs may ~~with~~ wish to file an application to protect their eligibility.

Q: What assistance is available to students who attended private schools which were also damaged in the flood?

A: The Department is authorized to provide assistance to school districts for additional educational assistance to help students who formerly attended other schools, including private, that were damaged or destroyed by the disaster.

Q: Who can assist local schools with building repair or equipment replacement?

A: For such assistance, contact the State FEMA Disaster Field Offices and Disaster Application Centers (see attached).

NOTE: For all other inquiries, please do not hesitate to contact the Department's Office of Legislation and Congressional Affairs at (202) 401-1028. Cindy Springer or [illegible]

THE WHITE HOUSE

WASHINGTON

OFFICE OF THE CABINET SECRETARY
(202/456-6280)

TO: Kathi Way 7739

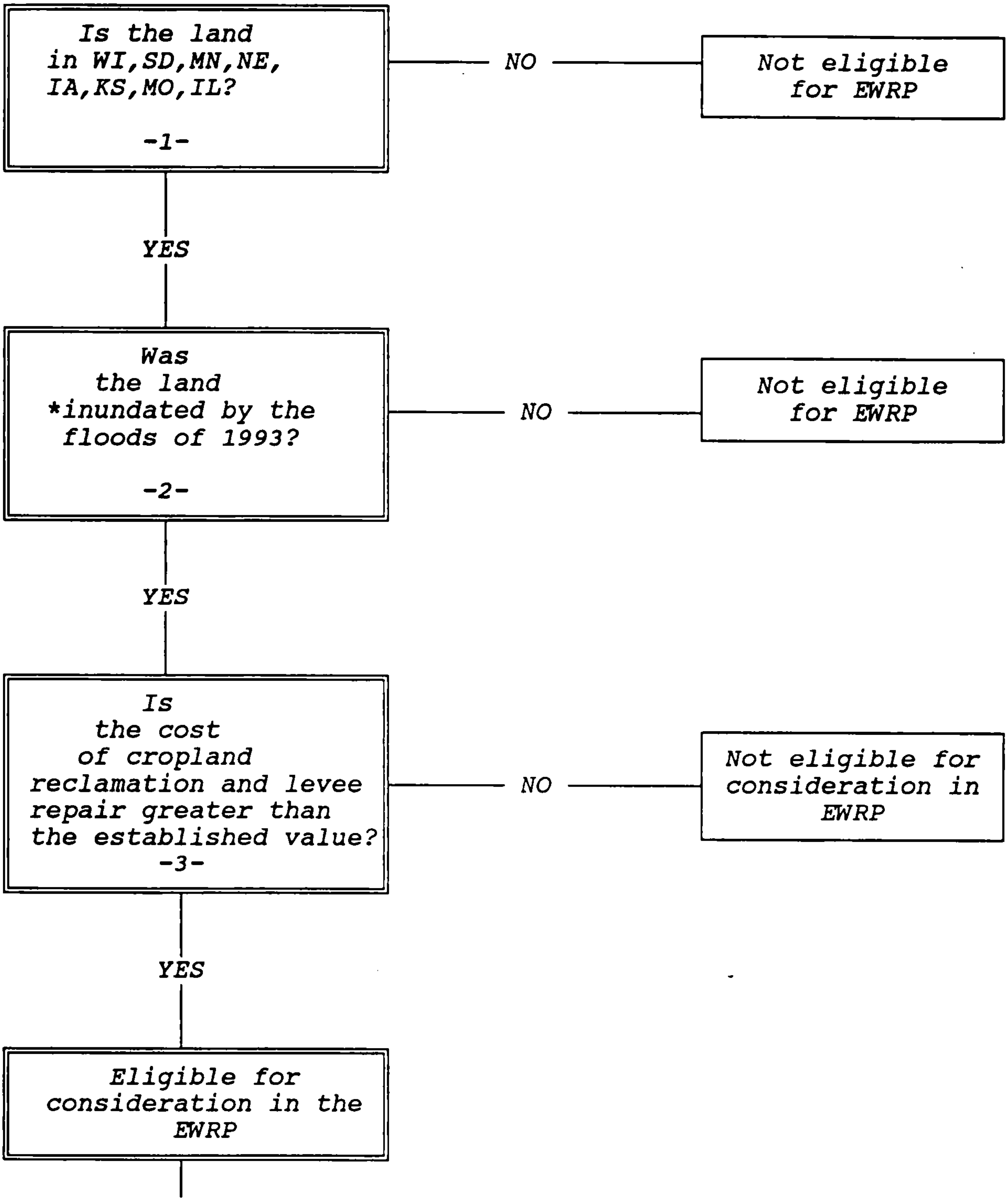
FROM: Christine Varney

DATE: 8-3 NO. OF PAGES 3

MESSAGE: Please review the attached from the Dept. of Education —

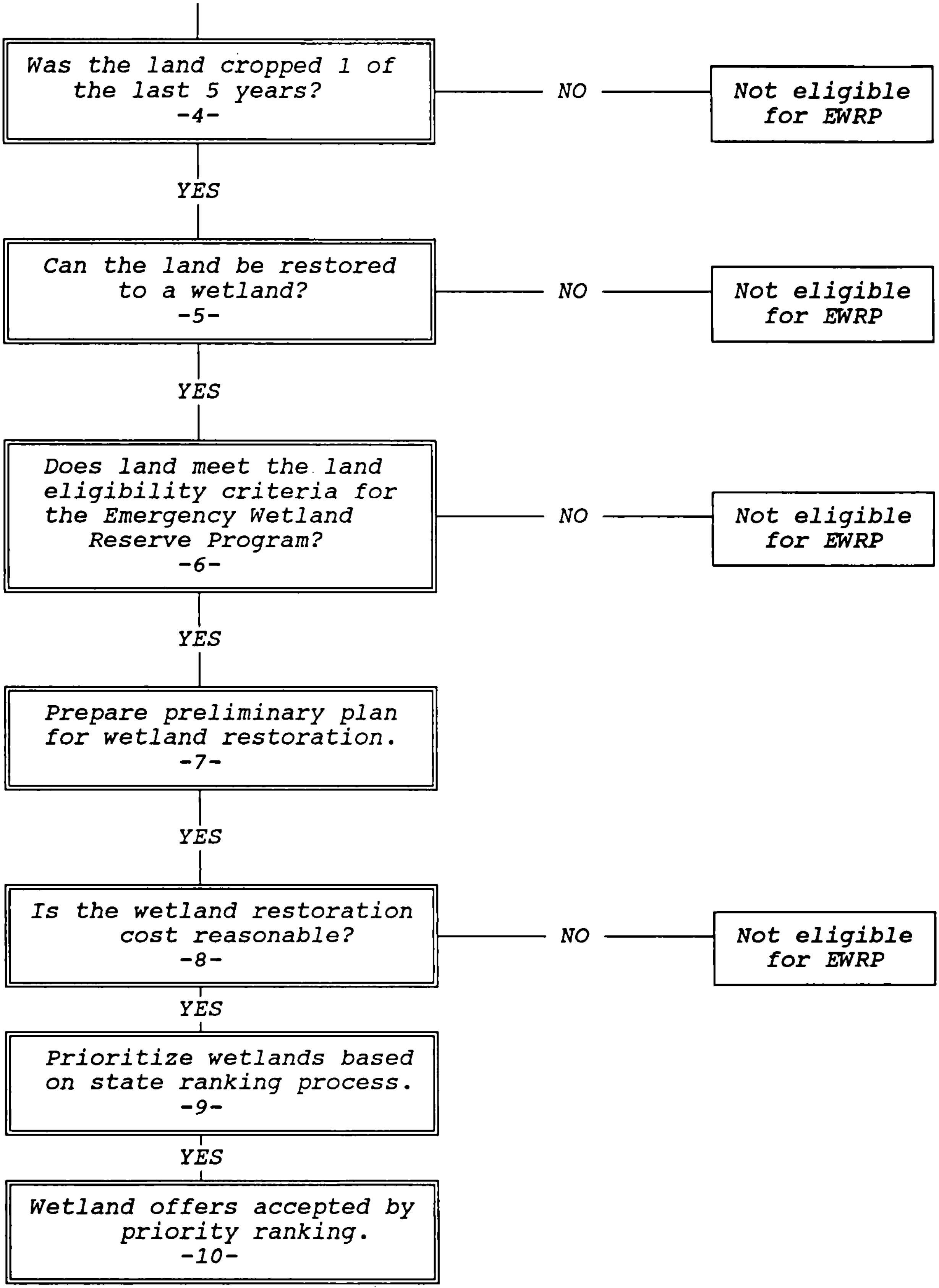
The document to follow is intended for the addressee only and should be considered privileged and confidential.

Emergency Wetlands Reserve Program (EWRP) Eligibility



*Inundation includes water from out bank flows on unleveed streams, levee failures due to over-topping or blow-out, intentional levee breeches, drainage system failure, and back water.

Emergency Wetlands Reserve Program (continued)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

May 2, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #D-762
DRAFT #613

TO: Legislative Liaison Officer -

AGRICULTURE - Marvin Shapiro - (202)720-1516 - 312
COMMERCE - Michael A. Levitt - (202)482-3151 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
HHS - Frances White - (202)690-7760 - 328
HUD - Edward J. Murphy, Jr. - (202)708-1793 - 215
INTERIOR - Danny Consenstein - (202)208-6706 - 329
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
LABOR - Robert A. Shapiro - (202)219-8201 - 330 (Sec. 30)
STATE - Julia C. Norton - (202)647-4463 - 225
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
CORPS ENGINEERS - Susan Bond - (202)272-0030 - 239
EPA - Thomas C. Roberts - (202)260-5414 - 326
GSA - William R. Ratchford - (202)501-0563 - 237
NEC - Sonyia Matthews - (202)456-6722 - 429
NSC - William H. Itoh - (202)395-3723 - 249
OPM - James N. Woodruff - (202)606-1424 - 331
SBA - Kris Swedin - (202)205-6702 - 315
FCC - Steve Klitzman - (202)632-6405 - 260 (Secs. 7 & 8)

FROM: JAMES J. JUKES (for) Jic
Assistant Director for Legislative Reference

OMB CONTACT: **Jeffrey WEINBERG (395-3457)**
Secretary's line (for simple responses): 395-3454
Christopher HEISER (395-4610)

SUBJECT: FEMA Draft Bill Robert T. Stafford Disaster Relief and Emergency Assistance Act Amendments

DEADLINE: NOON May 11, 1994

COMMENTS: FEMA has requested expedited clearance in response to congressional interest in the proposal.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Christine Varney
Ellen Seidman
Erik Lichtenberg,
CEA
Ken Ryder
Steve Redburn
Chris Heiser
Bruce Long
Kevin Neyland
Ed Rea (Sec. 21)
Art Stigile (Sec. 21)
Ray Kogut
Katie McGinty (Sec. 18)
Matt Gentile (Sec. 18)
C. Walden
Larry Matlack (Sec. 30)
Jonas Neihardt (Secs. 7 & 8)
Rob Fairweather (Sec. 18)

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may **also respond** by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please **include** the LRM number shown above, and the **subject** shown below.

TO: Jeffrey WEINBERG
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3457
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: FEMA Draft Bill Robert T. Stafford Disaster Relief and Emergency Assistance Act Amendments

The following is the response of our agency to your request for views on the above-captioned subject:

________ Concur

________ No objection

________ No comment

________ See proposed edits on pages ________________

________ Other: ______________________________

________ FAX RETURN of _____ pages, attached to this response sheet

Federal Emergency Management Agency
Washington, D.C. 20472

DRAFT

The Honorable Al Gore
President of the United States Senate
Washington, DC 20500

Dear Mr. President:

Enclosed is draft legislation "Robert T. Stafford Disaster Relief and Emergency Assistance Act Amendments of 1994," together with a section-by-section analysis of the legislation.

This legislation amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). It expands Title II of the Stafford Act to address the needs of the disaster response community, including the Federal Emergency Management Agency (FEMA), other Federal agencies, State and local governments, and volunteer and private organizations. It also provides new authority for effective response to any major disaster or emergency; and it establishes mitigation of hazards as the foundation for the Nation's emergency management system. The legislation grows from FEMA's review of recent major disasters.

The Office of Management and Budget advises that there is no objection to the submission of the proposal to Congress and that its enactment would be in accord with the program of the President.

Please contact our Office of Congressional Affairs at 202-646-4500 if we can provide further information.

Sincerely,

James L. Witt
Director

Enclosures

Robert T. Stafford Disaster Relief and Emergency Assistance Act
Amendments of 1994

Section-by-Section Analysis
April 22, 1994

SECTION 1. SHORT TITLE.

Act may be cited as the "Robert T. Stafford Disaster Relief and Emergency Assistance Act Amendments of 1994."

SECTION 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.

This section clarifies the intent of Congress to build an all-hazards domestic emergency management system with clear Federal response authority in emergencies and major disasters. New paragraph 2 states Congress's intent to build an all-hazards domestic emergency management system. New paragraph 8 states the intent of Congress to provide timely initiation of federal response and disaster assistance in emergencies and major disasters.

SECTION 3. DEFINITIONS.

The term "emergency" is modified to replace the term "catastrophe" with "major disaster." The term "catastrophe" is included within the term "major disaster."

The term "major disaster" deletes references to specific natural disasters, and inserts reference to "any catastrophe, regardless of cause." These changes are proposed to clarify that the Stafford Act applies to all hazards, natural or manmade, severe and large enough to warrant Federal help to supplement State and local governments and private efforts. Under the current provisions of the Stafford Act questions have been raised on the applicability of the Act to certain major disasters, such as the fires resulting from the civil unrest in Los Angeles, the flood resulting from a construction accident in the City of Chicago, and the emergency response measures required as a result of the explosion at the World Trade Center in New York City. Revision of "major disaster" removes the reference to specific types of natural disasters and to any "fire, flood, or explosion," and applies to any disaster regardless of cause. Declaration of major disasters or emergencies will continue to be made based on the severity, magnitude and impact of the event, and on a finding that effective response is beyond the capabilities of the State and the affected local governments.

The terms United States and State are modified to include the Federated States of Micronesia and the Marshall Islands, as provided by the Insular Areas Act, 42 U.S.C. 5204 - 5204c.

The term private nonprofit facility restricts the new category of "facilities which provide essential services of a governmental nature to the general public" to the list provided in House Report 100-517 which accompanied H.R. 2707, plus facilities which provide health and safety services of a governmental nature. This definition removes from disaster assistance eligibility private nonprofit utilities (electric and telephone co-operatives, water and gas systems, irrigation facilities, etc.).

The term emergency management is defined for the first time in these proposed amendments to the Stafford Act. Although now part of popular usage when referring to the system by which preparedness, mitigation, response, and recovery activities are undertaken, this term has never been defined in previous legislation.

Current regulations allow applicants to adopt an applicable code after a disaster declaration and claim the costs of compliance with that new code as an eligible cost. This proposed provision would restrict "applicable codes" to those in place at the time of the major disaster or emergency declaration, but would provide the Director of FEMA with the discretion to accept a code adopted after the occurrence of a disaster as a basis for reconstruction using sound, cost-effective hazard mitigation measures.

Used frequently throughout the Act, the term hazard mitigation is defined for the first time in these proposed amendments. The term would mean and include plans, programs, and actions that reduce or prevent loss of life, bodily injury, damage or destruction of property from a disaster or emergency, whatever the cause. The definition also includes examples of hazard mitigation which are intended to be broadly interpreted and not exclusive.

The term comprehensive exercise program is also newly defined to mean and include not only training and exercises, but also developing, testing, using, and evaluating plans and procedures for accomplishing the missions of FEMA.

SECTION 4. EMERGENCY MANAGEMENT ASSISTANCE.

This section would authorize Federal and State resources to be used in the development of emergency management programs. Derived from the emergency management assistance authorities of the Federal Civil Defense Act, paragraph (1) would make the President's authority explicit under the Stafford Act to act in advance of declarations of major disasters and emergencies, and to respond to disasters and emergencies immediately after they occur.

The section builds on previous legislation by authorizing Federal activities in advance of a major disaster or emergency declaration. These activities include stockpiling of resources, communications, advance and post-declaration deployment of Federal resources, and emergency response.

The section also would authorize the President to delegate to Federal agencies appropriate emergency management responsibilities, and grants authority to negotiate and execute Federal interagency agreements to define emergency management activities among and between them.

SECTION 5. TECHNICAL ASSISTANCE FOR THE DEVELOPMENT OF PLANS AND PROGRAMS.

The newly defined term "emergency management" is substituted for the previous reference to "preparation against disasters," to emphasize the all-hazards, comprehensive nature of the revised Stafford Act. The section is further modified by striking "private facilities" and inserting "eligible private nonprofit facilities," recognizing that not all private facilities are eligible for technical assistance.

SECTION 6. FINANCIAL CONTRIBUTIONS TO STATES.

The authorities in this section are derived from the Federal Civil Defense Act to permit use of the existing emergency management infrastructure under the authority of the Stafford Act, and to further the all-hazards goals of this proposed legislation.

Paragraph (c), "Financial contributions to States for plans, programs, capabilities, personnel and administrative expenses," would authorize the President to make financial contributions to the States for emergency management personnel, plans, and programs, and defines the financial contributions (not less than 50 percent) that can be made by the President. This section further describes the (1) requirements for plans and exercises, (2) establishment of terms and conditions by the President, (3) allocations to States, and (4) re-allocations based on the failure of States to submit emergency management plans.

Paragraph (d), "Financial aid to States for preparedness and planning activities," would authorize the President to make financial contributions to the States for emergency management purposes, including procurement, construction, leasing, or renovating of materials and facilities.

Paragraph (e), "Financial aid to States for hazard mitigation," would authorize the President to make annual grants to States and local governments for hazard mitigation activities. The funding of such grants would be limited to 10 percent of the aggregate amount of annual appropriations to the President's Disaster Relief Fund in any given year, under criteria to reduce future disaster damages.

Paragraph (f), "National hazard mitigation strategy," would require the President to incorporate standards, criteria, and incentives into a national hazard mitigation strategy for long-term prevention, reduction, or mitigation of risk from natural and other disasters.

Paragraph (g), "Interstate mutual aid agreements," would authorize the President to assist and encourage States to negotiate and enter into interstate emergency management mutual aid agreements. It would provide authority for review of such agreements to ensure consistency wherever possible and would encourage reciprocity between States which would permit the furnishing of mutual aid.

Paragraph (h), "Acquisition of necessary materials and facilities" provides the authority and describes the procedures by which the President is authorized to procure, construct, lease, lend, donate, etc., materials and facilities for emergency management.

Paragraph (i), "Acceptance, sale, and disposition of surplus property" would authorize the President to accept gifts of supplies, equipment, and facilities, and to sell, lend, or donate them for emergency management purposes. This section includes authority to sell, donate, or loan such goods to both State and local governments or to transfer them to other Federal departments and agencies. It is designed to resolve questions regarding the use of such materials that arise in disaster response operations.

Paragraph (j), "Training programs; establishment of a college and technical training schools" would authorize the President to provide training facilities, programs of instruction, and associated administrative expenses for travel and per diem, for emergency managers.

Paragraph (k), "Mutual emergency management aid," would require the President to give all practicable assistance to States in arranging mutual emergency management aid between and among the

States and the neighboring countries of Mexico and Canada, working through the Department of State.

Paragraph (*l*), "Expenditure of funds," would authorize the President to notify States or other persons that fail to expend funds according to regulations, terms, and conditions for approved plans, programs, or projects, to give reasonable notice and opportunity for hearing, and to withhold financial contributions to such States or persons until there is substantial compliance.

SECTION 7. DISASTER WARNINGS.

This section would authorize the use of any Federal communications system to provide warnings and technical assistance to authorities and civilian populations in areas endangered by disasters. It would also authorize the President to enter agreements with private or commercial communications systems to provide warnings of impending hazards.

SECTION 8. NATIONAL EMERGENCIES; AUTHORIZATION OF APPROPRIATIONS

This section states that all authority vested in or delegated by the President under the Stafford Act may be used in any major disaster or emergency that seriously degrades or threatens the national security of the United States. The section further would authorize the President to make communications systems of the Federal Government available to State and local governments, for the purposes of the Stafford Act.

This section would clarify that the authority of the Stafford Act may be invoked by the President when national security is seriously degraded or threatened, and when Federal communications systems are needed by States and local governments for emergency management purposes. Such authorities are currently found under the Federal Civil Defense Act, other statutes, and Executive Orders. Under an all-hazards policy these authorities are needed in the Stafford Act.

Finally, the section would authorize appropriations to carry out title II of the Stafford Act through fiscal year 1996.

SECTION 9. WAIVER OF ADMINISTRATIVE CONDITIONS.

These amendments would extend to emergencies and to major disasters Federal agencies' authority to modify or waive administrative requirements for assistance. Administrative conditions that might otherwise prevent assistance from being given in an emergency or major disaster could be waived under this authority.

SECTION 10. COORDINATING OFFICERS.

This section would broaden Section 302(a) to authorize the President to appoint a Federal Coordinating Officer before a major disaster or emergency occurs in order to designate clearly the official who has authority to coordinate and manage Federal response activities that may be required before an actual declaration.

Paragraph (b) would clarify that the Federal Coordinating Officer is to make a damage assessment, where practicable, in conjunction with State and local officials.

Paragraph (c) is the first of several sections throughout the Act in which the language would be made inclusive and gender neutral.

Paragraph (d) would authorize the Federal Coordinating Officer to deploy Federal personnel and resources before a declaration, consistent with the addition of Section 323 of the Stafford Act, which authorizes Federal mobilization in anticipation of a major disaster.

Paragraph (e) amends Section 302(b) to clarify and emphasize the function of carrying out public information and community relations activities to inform disaster victims, government officials, and others of available Federal disaster assistance. This revision does not create new or expanded authority, but gives this Federal Coordinating Officer function increased emphasis.

SECTION 11. EMERGENCY RESPONSE TEAMS.

The proposed changes to section 303 of the Stafford Act would authorize use of Federal personnel before a major disaster or emergency, i.e., when a major disaster or emergency threatens an area. These changes would clarify that Federal personnel may be deployed before a major disaster or emergency occurs, and that the costs of these deployments may be covered under the Act.

SECTION 12. NONLIABILITY OF THE FEDERAL GOVERNMENT.

This section would deny awards of fees and other expenses to parties bringing suit against the United States under the authority of any provision in the Stafford Act.

SECTION 13. PERFORMANCE OF SERVICES.

Section 13(a) would amend section 306 of the Stafford Act to treat State and local government employees accepted and used under the Stafford Act as Federal employees for purposes of the Federal Tort Claims Act and the Federal Employees' Compensation Act for injuries or damages they may cause in the course of their disaster-related work, or injuries they may sustain in the course of that work.

Section 13(b)(1) of this section would amend section 306 of the Stafford Act to clarify that temporary personnel hired for purposes under the Act are not considered Federal employees under Title V, Civil Service Rules and Regulations. This clarification would codify the intent of Congress to exempt such temporary personnel from Civil Service rules and regulations.

Section 13(b)(2) would permit employment of retired military or civilian Federal employees for work under the Act without reduction of their Federal retirement annuities, and would permit employment of members of the executive reserve authorized under the Defense Production Act on similar terms.

Section 13(b)(3) adds authority to Section 306(b)(6) to stockpile equipment, materials and supplies for other disaster-related purposes. This amendment allows FEMA to stockpile response equipment and specialized materials, if necessary, and is in addition to existing authority to acquire or rent such materials. Any equipment to be stockpiled would supplement Department of Defense, other Federal agencies, and commercial vendor sources, and would be kept to that minimum necessary to ensure the ability to provide immediate response in life-threatening situations.

Section 13(c) would amend section 306 of the Stafford Act to treat volunteers accepted and used under the Stafford Act as Federal employees for purposes of the Federal Tort Claims Act and the Federal Employees' Compensation Act for injuries or damages they may cause in the course of their disaster-related work, or injuries they may sustain in the course of that work.

SECTION 14. NONDISCRIMINATION IN DISASTER ASSISTANCE.

This amendment makes a word change to make Section 308(b) of the Stafford Act gender neutral.

SECTION 15. INSURANCE.

This amendment makes a word change to make Section 311(a)(2) of the Stafford Act gender neutral.

SECTION 16. DUPLICATION OF BENEFITS.

This section would replace section 312 with a new section that offers new flexibility to establish and enforce duplication of benefits procedures to ensure that any program for prohibiting duplication of benefits is cost-effective and does not delay the delivery of assistance.

SECTION 17. AVAILABILITY OF MATERIALS.

Section 315 of the Stafford Act provides the President with the authority to assure the availability and fair distribution of needed construction materials including, if necessary, the authority to allocate such materials from the stocks of companies that traditionally supply them for a period of up to 180 days. The proposed amendment to this section clarifies that this authority is only available to the President in areas affected by a major disaster or emergency.

SECTION 18. PROTECTION OF ENVIRONMENT.

These proposed changes would exempt one additional section of the Stafford Act, section 403, relating to essential assistance to meet immediate threats to life and property, and the National Flood Insurance Program from the provisions of the National Environmental Policy Act (NEPA). At present, mitigation of disaster-related damages through the relocation or redesign of facilities requires NEPA review. FEMA experience shows that NEPA review requirements provide a disincentive to hazard mitigation during recovery from a disaster by imposing delays in the recovery process. Experience also shows that hazard mitigation measures undertaken as part of the repair and reconstruction process generally do not have an adverse impact on the environment; what impact they have is usually beneficial by reducing future hazard vulnerability.

SECTION 19. RECOVERY OF ASSISTANCE.

This section would expand the authority of the United States to seek to recover the reasonable costs incurred by the United States in responding to a disaster or emergency beyond intentional acts to negligent acts caused by any person. This amendment would expand the opportunities for the United States to recover costs attributable to such acts, and could increase the potential for recovery.

SECTION 20. ADVANCE OF NONFEDERAL SHARE.

This proposed change is in the nature of a technical amendment that clarifies language in section 319 of the Stafford Act. The President may lend or advance to eligible applicants or a State that portion of assistance for which the State is responsible. This proposed change clarifies that the loan or advance could be made on the portion of assistance for which the State or the applicant is responsible.

SECTION 21. ISSUANCE OF NOTES; ASSISTANCE IN ANTICIPATION OF MAJOR DISASTER; GIFTS AND SERVICES.

This section adds three new sections to the end of subchapter II of the Stafford Act. New section 322 would authorize the President or delegate to borrow up to one billion dollars (or a greater amount up to two billion dollars approved by the President) from the U.S. Treasury, the proceeds of which would be deposited in the Disaster Relief Fund.

The intent of this authority is to cover situations where the Disaster Relief Fund is insufficient to cover the costs of ongoing and new major disasters and emergencies and the Congress (1) may have adjourned sine die, or (2) while in session the Appropriations Committees may agree that such borrowing is essential to permit FEMA to respond to a major disaster swiftly, providing essential funds for the Disaster Relief Fund while the Congress enacts a dire emergency supplemental appropriations law. Thus, the authority would be invoked only in extreme cases, and under conditions which could be adequately controlled by the Congress and the Administration.

Section 323 would provide the President with the authority to mobilize and pre-position Federal resources to avert, lessen, or prepare for the effects of a disaster before its actual occurrence, and before the Governor makes a request for a major disaster or emergency declaration. It also would authorize the Federal Government to enter into agreements with States to stipulate the criteria and conditions for such mobilization and pre-positioning, and to use, lend, or donate to State and local governments Federal resources in accordance with the purposes of the Stafford Act.

This amendment would clearly authorize the President to take measures under the Stafford Act to mobilize Federal resources before they have been requested by a State's governor so that they may provide maximum benefit when and if they are requested by the governor. Since this section covers the mobilization of resources not specifically requested by a governor, the Federal government would assume 100% of the cost for a limited period. Once a declaration was made and a governor requested these mobilized, pre-deployed resources to be actually employed in the delivery of disaster assistance, cost-sharing would occur consistent with other sections of the Act. Section 323 would not provide authority for the Federal government to intervene unilaterally and begin administering disaster relief independent of a request for such assistance by the governor of the affected State.

New section 324 would authorize the President or the President's delegate to accept and use gifts, bequests, donations of money or any type of property. The President would be authorized to sell, donate, or loan to State and local governments or to transfer to other Federal departments and agencies, any equipment, supplies, materials, or facilities that are unsuitable for emergency management purposes.

Paragraph (b) of new Section 324 would authorize any Federal agency to accept gifts and services involved in saving lives, protecting property, or any other emergency management activities in an emergency or major disaster declared by the President. It further would authorize Federal agencies to provide transportation, shelter, and subsistence for voluntary and uncompensated personnel, with the proviso that such personnel shall not be considered Federal employees for any purpose other than Chapter 81 of Title 5, U.S. Code and section 2680 of title 28, U.S. Code, relating to compensation for injury and tort claims, respectively. This provision is critical to FEMA's ability to mobilize specialized non-Federal personnel, such as local search and rescue teams, to respond to disasters in other parts of the Country.

This section would authorize acceptance, sale, and disposition of surplus property in disasters. Designed to resolve questions regarding the use of surplus materials in response operations, it would provide savings to the Government through effective use of property acquired other than through government acquisition processes.

SECTION 22. DISASTER ASSISTANCE FOR CABIN SITES, PARK, AND RECREATIONAL FACILITIES AT WATER RESOURCE DEVELOPMENT PROJECTS.

This section would provide that no assistance under the Stafford Act may be provided to any individual, leaseholder, lessee, or any other legal entity for the repair, substantial improvement, or reconstruction of structures or facilities damaged by flooding at water resource development projects administered by the Secretary of the Army.

SECTION 23. GENERAL FEDERAL ASSISTANCE.

These amendments would clarify the President's authority to direct Federal agencies, with or without reimbursement, to use their authorities in support of State and local assistance efforts, including authority to deploy such resources before the actual declaration of a disaster. Current authority is limited to use "in any major disaster," which assumes a disaster must have been declared before other Federal agencies can be so directed.

SECTION 24. ESSENTIAL ASSISTANCE.

This amendment would eliminate payments to private nonprofit applicants for performing emergency protective measures. Debris clearance would still be eligible under Sec. 407. The amendment would remove an authority inadvertently included in the Stafford Act in 1988 authorizing Federal reimbursement for costs incurred by private non-profit disaster relief organizations for all of their costs of providing disaster relief services. Since the role and function of these agencies is to solicit private donations to provide disaster relief services, their expenditures are taken from funds provided by private donors specifically for that purpose.

SECTION 25. HAZARD MITIGATION.

This amendment would add a new subsection (c) to Sec. 404 of the Stafford Act, authorizing regulations to establish criteria or standards and to provide incentives for States and local governments to adopt laws to prevent or mitigate the effects of major disasters. The proposed authority would permit use of measures other than restrictive regulations to accomplish national goals to reduce or prevent losses from disasters.

SECTION 26. FEDERAL FACILITIES.

This amendment makes a word change to make Section 405 of the Stafford Act gender neutral.

SECTION 27. REPAIR, RESTORATION AND REPLACEMENT OF DAMAGED FACILITIES.

New section 406(b) would define how per capita costs would be calculated for determining the minimum Federal share of assistance under sections 403, 406, and 407 of the Stafford Act. It would provide a phased Federal share: 75 percent up to $10 per capita; 80 percent from $10.01 to $50 per capita; and 90 percent above $50 per capita. Credits for actions under incentive hazard mitigation programs would not be included in determining per capita costs, but would be in addition to the Federal share of assistance. Where multiple major disasters are declared above $10 per capita, the President would be authorized to make exceptions to the phased Federal share provisions, but no greater than a 90 percent Federal share.

New section 406(c) would allow FEMA to increase the Federal share on one or more permanent restoration projects as credit for mitigation actions taken under Section 404 of the Act. This could apply to those specific projects on which mitigation actions were taken, or could apply to all projects if the mitigation actions were more general, such as implementation of floodplain management regulations.

Section 406(f) [new Section 406(g)] is amended to change the base upon which a grantee's percentage administrative allowance is calculated to bring it into conformance with the allowance for subgrantees. Both allowances would now use "net eligible costs" as the base rather than the Federal share ("assistance provided") which is used for the grantee now. The grantee allowance or eligible administrative expenses would increase by one-third.

SECTION 28. DEBRIS REMOVAL.

Changes to Section 407 of the Act would make the section gender neutral and would clarify that the Federal government must obtain indemnification against any claim resulting from debris removal activities undertaken directly by the Federal government for all debris removal from public and private properties, and not simply for removal of debris from private property.

SECTION 29. GRANTS FOR SERIOUS NEEDS.

The proposed amendments would eliminate the State-administered Individual and Family Grant program, replacing it with a Federally administered grant program to meet serious needs in several categories: housing, personal property, transportation, medical, dental, and funeral expenses. A maximum grant to meet needs in all these areas would be established at $25,000. The new grant program would not include legal authority to provide mortgage and rental assistance. An improved statutory basis would be established for distinguishing housing needs from emergency shelter needs, for using financial assistance to meet most housing needs, and for limiting housing assistance to disaster-related needs as opposed to problems resulting from a chronic lack of affordable housing.

The new grant program would be 100 percent Federally funded. Development of group mobile home parks would remain 75 - 25 cost shared with the States so there would be no cost associated with their development.

The proposed amendments also include authority for FEMA to construct permanent housing as disaster housing in locations where readily fabricated dwellings or mobile homes are neither feasible nor cost effective. In general, this applies to housing in remote island locations such as Guam, American Samoa and areas covered under the Compact of Free Association (former trust territories).

SECTION 30. UNEMPLOYMENT ASSISTANCE.

This amendment would change eligibility for unemployment benefits from a period of 26 weeks following declaration of a disaster to a period of 26 weeks following the point at which an individual's eligibility for unemployment benefits begins following the declaration of a disaster. This change will allow some individuals whose unemployment may not occur immediately after the occurrence of the disaster, but whose unemployment is caused by the disaster, to have the benefit of a full 26 weeks of unemployment benefits, similar to individuals who are unemployed immediately by a disaster.

SECTION 31. REPEAL

This section repeals section 2281 of Public Law 101-624, relating to emergency grants to assist low-income migrant and seasonal farmworkers. This section is not part of the Stafford Act. Codifiers have codified the authority in the midst of the Stafford Act as 42 U.S.C. 5177a.

SECTION 32. INDIVIDUAL AND FAMILY GRANT PROGRAM.

This section repeals Section 411 of the Stafford Act, which is replaced by the new program providing grants for serious needs (see Section 24, above).

SECTION 33. FOOD COUPONS AND DISTRIBUTION.

These amendments make word changes to make Section 412 of the Stafford Act gender neutral.

SECTION 34. EMERGENCY COMMUNICATIONS.

This amendment makes word changes to make Section 418 of the Stafford Act gender neutral.

SECTION 35. TIMBER SALE CONTRACTS.

This section repeals Section 421 of Pub. L. 93-288, since that section has never been used and its future use is not contemplated under foreseeable circumstances.

SECTION 36. PROCEDURE FOR DECLARATION.

This amendment makes changes to make Section 501(b) of the Stafford Act gender neutral.

SECTION 37. RULES AND REGULATIONS.

This section repeals Section 601 of the Stafford Act since Section 601 duplicates authorities elsewhere in the Stafford Act.

103d Congress
1st Session S. ________

Mr. (Ms.) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for an all hazards emergency management system, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Robert T. Stafford Disaster Relief and Emergency Assistance Act Amendments of 1994."

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.

Section 101(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121(b), is amended--

(1) by renumbering paragraphs (2) through (6) as (3) through (7), respectively;

(2) by inserting a new paragraph (2), as follows--

"(2) building and maintaining an all-hazards, domestic emergency management system based on a Federal, State, and local partnership;"

(3) by inserting in paragraph (3), as renumbered, "training and exercise" before "programs";

(4) by deleting "and" at the end of paragraph (6), as renumbered, and by deleting the period at the end of paragraph (7),

as renumbered, and inserting "; and"; and

(5) by inserting a new paragraph (8) at the end of the section, as follows--

"(8) providing for the initiation of federal response and disaster relief assistance in emergencies and major disasters."

SEC. 3. DEFINITIONS.

Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5122, is amended--

(1) by striking "catastrophe" in paragraph (1), and inserting "major disaster";

(2) by striking paragraph (2), and inserting new paragraph (2), as follows--

"(2) MAJOR DISASTER. 'Major disaster' means any catastrophe, regardless of cause, in any part of the United States, which in the determination of the President is of such severity and magnitude to warrant major disaster assistance 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.";

(3) by inserting in paragraphs (3) and (4) "the Federated States of Micronesia, the Marshall Islands," after "Northern Mariana Islands,";

(4) by deleting subsection (9) and inserting the following--

"(9) PRIVATE NONPROFIT FACILITY. 'Private nonprofit facility' means a private nonprofit educational institution, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled, senior citizen centers, museums, zoos, community centers, libraries, homeless shelters, shelter workshops and facilities that provide health and safety services of a governmental nature)."; and

(5) by adding at the end new paragraphs (10), (11), (12), and (13), as follows--

"(10) EMERGENCY MANAGEMENT. 'Emergency management' means and includes all those preparedness, response, recovery, and mitigation activities and measures designed or undertaken (1) to prevent, minimize or mitigate the effects upon the population that are caused or that would be caused by an emergency or major disaster, (2) to respond to the immediate conditions that are created or would be created by any such emergency or major disaster, (3) to effectuate emergency repairs to, or the emergency restoration of, vital facilities destroyed or damaged by any such emergency or major disaster, and (4) to facilitate recovery from damages or destruction caused by an emergency or major disaster.

"(11) 'Current applicable codes, specifications, and standards' means codes, specifications, and standards in force at the time a major disaster is declared, or that the President may prescribe.

"(12) 'Hazard mitigation' means and includes cost-effective plans, programs, and actions that reduce or prevent loss of life, and injury, damage or destruction of property from a disaster or emergency, whatever the cause. Hazard mitigation includes actions that: reduce the probability of losses from hazard occurrences; reduce the intensity and frequency of the risks associated with hazards; communicate the nature and extent of the risks; evaluate hazards and identify hazard-prone areas; develop and implement standards, criteria, and guidelines for reducing property losses; provide hazard warning and population protection; and provide hazard mitigation research, education, and training.

"(13) 'Comprehensive exercise program' means and includes any program that provides training of Federal, State, and local government, and private sector personnel; and includes development, testing, use and evaluation of plans and procedures to prepare for, respond to, recover from, or mitigate any hazard, natural or manmade, whatever the cause.".

SEC. 4. EMERGENCY MANAGEMENT ASSISTANCE.

(a) The heading of Subchapter II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended to read "EMERGENCY MANAGEMENT ASSISTANCE".

(b) The heading of section 201 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5131, is amended by inserting "EMERGENCY MANAGEMENT" between "STATE" and "PROGRAMS".

(c) Section 201(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5131(a), is amended --

(1) by revising paragraph (1) to read as follows--

"(1) preparation and implementation of emergency management plans and programs for mitigation, stockpiling of resources, warning and communications, advance and post-declaration deployment of Federal resources, emergency response, emergency operations, rehabilitation, and recovery;";

(2) by renumbering paragraphs (2) through (7) as (4) through (9), respectively, and by inserting new paragraphs (2) and (3), as follows-

"(2) negotiation and execution of Federal interagency agreements to support emergency management activities among and between Federal departments and agencies to implement emergency management plans;

"(3) delegation to the several departments and agencies of the Federal Government appropriate emergency management responsibilities, and review and coordination of the emergency management activities of the departments and agencies with each other and with the activities of the States and neighboring countries;";

(3) by inserting in paragraph (5), as renumbered, "and appropriate corrective actions;" after "evaluations";

(4) by inserting in paragraph (7), as renumbered, "emergency" between "local" and "management"; and

(5) by inserting a new paragraph (10), as follows--

"(10) public dissemination of emergency management and emergency public information by all appropriate means.".

SEC. 5. TECHNICAL ASSISTANCE FOR THE DEVELOPMENT OF PLANS AND PROGRAMS.

Section 201(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5131(b), is amended --

(a) by striking "preparation against disasters," and inserting "emergency management,";

(b) by inserting ", emergency response capability assessment;" between "mitigation" and "for assistance to individuals,"; and

(c) by striking "private facilities" at the end of subsection (b), and inserting "eligible private nonprofit facilities.".

SEC. 6. FINANCIAL ASSISTANCE TO STATES

Sections 201(c) and 201(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5131(c) and (d), are repealed, and new sections 201(c) through 201(*l*) are inserted, as follows--

"(c) **Financial assistance to States for plans, programs, capabilities, personnel and administrative expenses**--Upon application by a State, the President is authorized to grant financial assistance to the States for the development of plans, programs, and capabilities for emergency management for emergencies and major disasters, prevention, and mitigation, and for necessary and essential State and local emergency management personnel and administrative expenses, on the basis of approved plans for the management of emergencies by the States. The President is further authorized to grant financial assistance for the cost of improving, maintaining and updating State disaster assistance plans, including evaluations of hazards regardless of cause and development of the programs and actions required to mitigate such hazards. Financial assistance to the States for the purposes of this section shall be not less than one-half of the total cost of such plans, programs, capabilities, of such necessary and essential State and local emergency management personnel and administrative expenses, and of the improvements, maintenance, and updating of such plans, programs, and capabilities.

"(1) Requirements of plans and exercises.--Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such an emergency management program, and shall, through such agency, submit a State plan to the President, which shall--

"(A) provide a comprehensive and detailed State program for emergencies and major disasters, including provisions for assistance to individuals, businesses, local governments, and eligible nonprofit institutions and organizations;

"(B) provide for mitigation planning by State and local governments, businesses, and eligible nonprofit institutions and organizations;

"(C) provide for appointment and training of appropriate staffs;

"(D) provide for the formulation of necessary regulations and procedures;

"(E) provide for the conduct of and participation in required comprehensive exercise programs;

"(F) 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, supervised or coordinated by a single State agency;

"(G) 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;

"(H) provide for the development of State and local emergency management operational plans, pursuant to standards approved by the President;

"(I) provide for the employment of emergency management personnel by the State, and for such other methods of administration, including methods relating to the establishment and maintenance of personnel standards on the merit basis (except that the President shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as the President shall find to be necessary and proper for the operation of the plan;

"(J) provide that the State shall make such reports in such form and content as the President may require;

"(K) make available to duly authorized representatives of the President and the Comptroller General of the United States, books, records, and papers necessary to conduct audits for the purposes of this section.

"(2) Establishment of other terms, conditions, and incentives by the President.--In the implementation of this section the President shall establish such other terms, conditions, and incentives as the President may deem necessary and proper, including preparedness standards and mitigation measures to reduce or prevent loss of life and damage to property from major disasters.

"(3) Allocation to States.--For each fiscal year concerned, the President shall allocate to each State, in accordance with regulations and the total sum appropriated hereunder, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States shall give due regard to (A) hazards and risks of States, (B) development of the total emergency management readiness of the Nation, (C) the relative state of development of emergency management readiness of the State, (D) popula-