

–CITE–

42 USC CHAPTER 68 – DISASTER RELIEF 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

–HEAD–

CHAPTER 68 – DISASTER RELIEF

–MISC1–

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317, 466; title 7 sections 1421, 1427, 1427a, 1942, 1961, 1964,
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–End–

–CITE–

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TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER I – FINDINGS, DECLARATIONS, AND DEFINITIONS

–HEAD–

Sec. 5121. Congressional findings and declarations

–STATUTE–

(a) The Congress hereby finds and declares that –

(1) because disasters often cause loss of life, human

suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of

governments and communities, and adversely affect individuals and

families with great severity;

special measures, designed to assist the efforts of the affected

States in expediting the rendering of aid, assistance, and

emergency services, and the reconstruction and rehabilitation of

devastated areas, are necessary.

(b) It is the intent of the Congress, by this 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)

–SOURCE–

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

–REFTEXT–

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 note set out below and Tables.

–MISC1–

AMENDMENTS

1988 – Subsec. (b)(7). Pub. L. 100–707 struck out par. (7) expressing Congressional intent to provide disaster assistance through a long–range economic recovery program for major disaster areas.

EFFECTIVE DATE

Section 605 of Pub. L. 93–288 provided that Pub. L. 93–288 was effective Apr. 1, 1974, with the exception of section 5178 of this title, prior to repeal by Pub. L. 100–707, title I, Sec. 108(b), Nov. 23, 1988, 102 Stat. 4708.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–390, Sec. 1(a), Oct. 30, 2000, 114 Stat. 1552, provided that: "This Act [enacting sections 5133, 5134, 5165 to 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 this section and sections 3796b, 5133, 5165b, 5172, 5174, and 5187 of this title] may be cited as the 'Disaster Mitigation Act of 2000'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–181, Sec. 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'."

SHORT TITLE OF 1988 AMENDMENT

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 section 1820 [now 3720] 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 this section and sections 3231, 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 this section and former section 5178 of this title] may be cited as 'The Disaster Relief and Emergency Assistance Amendments of 1988'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–568, Sec. 1, Dec. 23, 1980, 94 Stat. 3334, provided:

"That this Act [amending section 5202 of this title] may be cited as the 'Disaster Relief Act Amendments of 1980'."

SHORT TITLE

Section 1 of Pub. L. 93–288, as amended by Pub. L. 100–707, title I, Sec. 102(a), Nov. 23, 1988, 102 Stat. 4689; Pub. L. 106–390, title III, Sec. 301, Oct. 30, 2000, 114 Stat. 1572, provided: "That this Act [enacting this section, sections 3231 to 3236, 5122, 5131, 5132, 5141 to 5158, 5171 to 5189, 5201, and 5202 of this title, and section 1264 of former Title 31, Money and Finance, amending sections 1706c, 1709, 1715l 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, section 1820 [now

3720] of Title 38, Veterans' Benefits, section 461 of former 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, enacting provisions set out as notes under this section, sections 4401 and 5178 of this title, and section 1264 of former Title 31, and amending provisions set out as a note under section 1681 of Title 48, Territories and Insular Possessions] may be cited as the "Robert T. Stafford Disaster Relief and Emergency Assistance Act'."

–TRANS–

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

Functions of the President under the Disaster Relief Acts of 1970 and 1974, with certain exceptions, were delegated to the Secretary of Homeland Security, see sections 4–201 and 4–203 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, as amended, set out as a note under section 5195 of this title.

–MISC2–

REFERENCES TO DISASTER RELIEF ACT OF 1974

Section 102(b) of title I of Pub. L. 100–707 provided that:

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

REFERENCES TO DISASTER RELIEF ACT OF 1970

Section 702(m), formerly section 602(m), of Pub. L. 93–288, as renumbered by Pub. L. 103–337, div. C, title XXXIV, Sec.

3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, provided that:

"Whenever reference is made in any provision of law (other than this Act [see Short Title note set out above]), regulation, rule, record, or documents 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."

REPORT ON STATE MANAGEMENT OF SMALL DISASTERS INITIATIVE

Pub. L. 106–390, title II, Sec. 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, Sec. 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 [see Short Title of

2000 Amendment note above]."

STUDY OF PARTICIPATION BY INDIAN TRIBES IN EMERGENCY MANAGEMENT

Pub. L. 106–390, title III, Sec. 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."

NATIONAL DROUGHT POLICY

Pub. L. 105–199, July 16, 1998, 112 Stat. 641, as amended by Pub.

L. 106–78, title VII, Sec. 753, Oct. 22, 1999, 113 Stat. 1170,

provided that:

"SECTION 1. SHORT TITLE.

"This Act 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 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 the Administrator;

"(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.

"(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 and the Federal laws and programs designed 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.

"(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. 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, 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."

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 5195 of this title.]

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 Amendment note above] 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]."

–EXEC–

EXECUTIVE ORDER NO. 11749

Ex. Ord. No. 11749, Dec. 10, 1973, 38 F.R. 34177, which related to consolidation of functions assigned to 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 5195 of this title.

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 above], 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, Sec. 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, Sec. 5–111, July 20, 1979, 44 F.R. 43239.]

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.

–FOOTNOTE–

(!1) So in original. Probably should be followed by a period.

–End–

–CITE–

~~–EXPCITE–~~

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER I – FINDINGS, DECLARATIONS, AND DEFINITIONS

~~–HEAD–~~

Sec. 5122. Definitions

~~–STATUTE–~~

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, and the Commonwealth of the Northern Mariana Islands.

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

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

(6) Local government. – The term "local government" means –

(A) a county, municipality, city, town, township, 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.

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

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

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

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

(C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.

(D) Any park.

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

–SOURCE–

(Pub. L. 93–288, title I, Sec. 102, May 22, 1974, 88 Stat. 144; Pub. L. 100–707, title I, Sec. 103(b)–(d), (f), Nov. 23, 1988, 102 Stat. 4689, 4690; Pub. L. 102–247, title II, Sec. 205, Feb. 24, 1992, 106 Stat. 38; Pub. L. 106–390, title III, Sec. 302, Oct. 30, 2000, 114 Stat. 1572.)

–MISC1–

AMENDMENTS

2000 – Par. (3). Pub. L. 106–390, Sec. 302(1), substituted "and the Commonwealth of the Northern Mariana Islands" for "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands".

Par. (4). Pub. L. 106–390, Sec. 302(1), substituted "and the

Commonwealth of the Northern Mariana Islands" for "the Northern Mariana Islands, or the Trust Territory of the Pacific Islands".

Par. (6). Pub. L. 106–390, Sec. 302(2), added par. (6) and struck out former par. (6) which read as follows: " '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, Sec. 302(3), inserted "irrigation," after "utility,".

1992 – Pars. (3), (4). Pub. L. 102–247 inserted "the Northern Mariana Islands," after "American Samoa,".

1988 – Par. (1). Pub. L. 100–707, Sec. 103(b), inserted heading and amended text generally. Prior to amendment, text read as follows: " 'Emergency' means 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, Sec. 103(c), inserted heading 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, volcanic 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, Sec. 103(d), struck out "the Canal Zone," after "American Samoa,".

Pars. (8), (9). Pub. L. 100-707, Sec. 103(f), added pars. (8) and (9).

-TRANS-

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

-MISC2-

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 note set out under section 5121 of this title], as amended by this Act [see Short Title of

1988 Amendment note set out 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.

"(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 5195 of this title.]

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4625 of this title; title 6 section 101; title 12 section 1706c; title 19 section 1313; title 29 section 2918.

–End–

–CITE–

42 USC SUBCHAPTER II – DISASTER PREPAREDNESS AND
MITIGATION ASSISTANCE 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER II – DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

–HEAD–

SUBCHAPTER II – DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

–End–

–CITE–

42 USC Sec. 5131 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER II – DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

–HEAD–

Sec. 5131. Federal and State disaster preparedness programs

–STATUTE–

(a) Utilization of services of other agencies

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

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

(7) research.

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

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

–SOURCE–

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

–MISC1–

AMENDMENTS

1988 – Subsec. (a). Pub. L. 100–707, Sec. 104(b)(1), struck out "(including the Defense Civil Preparedness Agency)" after "agencies".

Subsec. (d). Pub. L. 100–707, Sec. 104(a), (b)(2), inserted "including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards;" after "plans," and substituted "\$50,000" for "\$25,000".

–End–

–CITE–

42 USC Sec. 5132 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER II – DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

–HEAD–

Sec. 5132. Disaster warnings

–STATUTE–

(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.

–SOURCE–

(Pub. L. 93–288, title II, Sec. 202, May 22, 1974, 88 Stat. 145; Pub. L. 103–337, div. C, title XXXIV, Sec. 3412(b)(1), Oct. 5, 1994, 108 Stat. 3111.)

–MISC1–

AMENDMENTS

1994 – Subsec. (c). Pub. L. 103–337 substituted "section 5196(c) of this title" for "section 2281(c) of title 50, Appendix,".

–End–

–CITE–

42 USC Sec. 5133 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER II – DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

–HEAD–

Sec. 5133. Predisaster hazard mitigation

–STATUTE–

(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) of this section (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) of this section.

(d) State recommendations

(1) In general

(A) Recommendations

The Governor of each State may recommend to the President not fewer than five local governments to receive assistance under this section.

(B) Deadline for submission

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

(C) Criteria

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

(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) of this

section, 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) of this section.

(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) of this section; and
- (iii) other public uses.

(1) 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.

–SOURCE–

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

–REFTEXT–

REFERENCES IN TEXT

This chapter, referred to in subsec. (g)(5), 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 note set out under section 5121 of this title and Tables.

–MISC1–

FINDINGS AND PURPOSE

Pub. L. 106–390, title I, Sec. 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 [enacting this section and sections 5134, 5165 and 5165a of this title, amending section 5170c of this title, and repealing 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."

–End–

–CITE–

42 USC Sec. 5134 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER II – DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

–HEAD–

Sec. 5134. Interagency task force

–STATUTE–

(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.

–SOURCE–

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

–TRANS–

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

–End–

–CITE–

42 USC SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY
ASSISTANCE ADMINISTRATION 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE
CHAPTER 68 – DISASTER RELIEF
SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE
ADMINISTRATION

–HEAD–

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE
ADMINISTRATION

–End–

–CITE–

42 USC Sec. 5141 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE
CHAPTER 68 – DISASTER RELIEF
SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE
ADMINISTRATION

–HEAD–

Sec. 5141. Waiver of administrative conditions

–STATUTE–

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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 5141, Pub. L. 93–288, title III, Sec. 301, May 22, 1974, 88 Stat. 146, set out procedure for determination of existence of emergency or major disaster, prior to repeal by Pub. L. 100–707, Sec. 105(a)(2).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5154 of this title.

–End–

–CITE–

42 USC Sec. 5142 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5142. Repealed. Pub. L. 100–707, title I, Sec. 105(a)(2), Nov. 23, 1988, 102 Stat. 4691

–MISC1–

Section, Pub. L. 93-288, title III, Sec. 302, May 22, 1974, 88

Stat. 146, related to Federal assistance and its coordination with
State and local disaster assistance.

-End-

-CITE-

42 USC Sec. 5143 01/06/03

-EXPCITE-

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

-HEAD-

Sec. 5143. Coordinating officers

-STATUTE-

(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 chapter 3001 of title 36; 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.

–SOURCE–

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

–REFTEXT–

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), 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 note set out under section 5121 of this title and Tables.

–COD–

CODIFICATION

In subsec. (b)(3), "chapter 3001 of title 36" substituted for "the Act of January 5, 1905, as amended (33 Stat. 599)" on authority of Pub. L. 105–225, Sec. 5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

–MISC1–

PRIOR PROVISIONS

A prior section 302 of Pub. L. 93–288 was classified to section 5142 of this title prior to repeal by Pub. L. 100–707.

AMENDMENTS

1988 – Subsec. (a). Pub. L. 100–707 inserted "or emergency" after "major disaster".

–End–

–CITE–

42 USC Sec. 5144 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5144. Emergency support teams

–STATUTE–

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.

–SOURCE–

(Pub. L. 93–288, title III, Sec. 303, formerly Sec. 304, May 22, 1974, 88 Stat. 148; renumbered Sec. 303, Pub. L. 100–707, title I, Sec. 105(c), Nov. 23, 1988, 102 Stat. 4691.)

–MISC1–

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.

–End–

–CITE–

42 USC Secs. 5145, 5146 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Secs. 5145, 5146. Repealed. Pub. L. 100–707, title I, Sec. 105(d),

Nov. 23, 1988, 102 Stat. 4691

–MISC1–

Section 5145, Pub. L. 93–288, title III, Sec. 305, May 22, 1974,

88 Stat. 148, related to authority of President to provide
assistance in an emergency.

Section 5146, Pub. L. 93–288, title III, Sec. 306, May 22, 1974,

88 Stat. 148, related to cooperation of Federal agencies in
rendering disaster assistance.

–End–

–CITE–

42 USC Sec. 5147 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5147. Reimbursement of Federal agencies

–STATUTE–

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.

–SOURCE–

(Pub. L. 93–288, title III, Sec. 304, formerly Sec. 307, May 22, 1974, 88 Stat. 149; renumbered Sec. 304, Pub. L. 100–707, title I, Sec. 105(d), Nov. 23, 1988, 102 Stat. 4691.)

–MISC1–

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.

–End–

–CITE–

42 USC Sec. 5148 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5148. Nonliability of Federal Government

–STATUTE–

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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 305 of Pub. L. 93–288 was classified to section 5145 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5149 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5149. Performance of services

–STATUTE–

(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.

–SOURCE–

(Pub. L. 93–288, title III, Sec. 306, formerly Sec. 309, May 22,

1974, 88 Stat. 149; renumbered Sec. 306, Pub. L. 100–707, title I,
Sec. 105(d), Nov. 23, 1988, 102 Stat. 4691.)

–REFTEXT–

REFERENCES IN TEXT

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.

–MISC1–

PRIOR PROVISIONS

A prior section 306 of Pub. L. 93–288 was classified to section
5146 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5150 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5150. Use of local firms and individuals

–STATUTE–

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.

–SOURCE–

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

–MISC1–

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.

AMENDMENTS

1988 – Pub. L. 100–707, Sec. 105(e)(2), (3), inserted "or emergency" after "major disaster" in two places and inserted at end "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."

–End–

–CITE–

42 USC Sec. 5151 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5151. Nondiscrimination in disaster assistance

–STATUTE–

(a) Regulations for equitable and impartial relief operations

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

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

As a condition of participation in the distribution of assistance or supplies under this 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.

–SOURCE–

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

–MISC1–

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.

AMENDMENTS

1988 – Subsec. (b). Pub. L. 100–707 substituted "this chapter" for "section 5172 or 5174 of this title" after "assistance under".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5174 of this title.

–End–

–CITE–

42 USC Sec. 5152 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5152. Use and coordination of relief organizations

–STATUTE–

(a) 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) 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.

–SOURCE–

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

–MISC1–

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.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 636.

–End–

–CITE–

42 USC Sec. 5153 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5153. Priority to certain applications for public facility and public housing assistance

–STATUTE–

(a) Priority

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

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

(2) Sections 3502 to 3505 of title 40 for assistance in public

works planning.

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

(4) Section 1926 of title 7.

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

(6) Subtitle IV of title 40.

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

(b) Obligation of certain discretionary funds

In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.

–SOURCE–

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

–REFTEXT–

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec.

(a)(1), is act Sept. 1, 1937, ch. 896, as revised generally by Pub.

L. 93–383, title II, Sec. 201(a), Aug. 22, 1974, 88 Stat. 653,

which is classified generally to chapter 8 (Sec. 1437 et seq.) of

this title. For complete classification of this Act to the Code,

see Short Title 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 classified principally to chapter 69 (Sec. 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title 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 (Sec. 3121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (a)(7), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, Sec. 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (Sec. 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

–COD–

CODIFICATION

"Sections 3502 to 3505 of title 40" substituted for "Section 702 of the Housing Act of 1954" in subsec. (a)(2) and "Subtitle IV of

title 40" substituted for "The Appalachian Regional Development Act of 1965" in subsec. (a)(6) on authority of Pub. L. 107–217, Sec. 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

–MISC1–

PRIOR PROVISIONS

A prior section 5153, Pub. L. 93–288, title III, Sec. 313, May 22, 1974, 88 Stat. 150, related to same subject matter as present section but with references to different acts and provisions, prior to repeal by Pub. L. 100–707, Sec. 105(g).

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.

–End–

–CITE–

42 USC Sec. 5154 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5154. Insurance

–STATUTE–

(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.

(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 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.

–SOURCE–

(Pub. L. 93–288, title III, Sec. 311, as added Pub. L. 100–707, title I, Sec. 105(h), Nov. 23, 1988, 102 Stat. 4692; amended Pub. L. 103–325, title V, Sec. 521, Sept. 23, 1994, 108 Stat. 2257; Pub. L. 106–390, title II, Sec. 201, Oct. 30, 2000, 114 Stat. 1559.)

–MISC1–

PRIOR PROVISIONS

A prior section 5154, Pub. L. 93–288, title III, Sec. 314, May 22, 1974, 88 Stat. 151, consisted of similar provisions, prior to repeal by Pub. L. 100–707, Sec. 105(h).

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.

AMENDMENTS

2000 – Subsecs. (a)(1), (b), (c). Pub. L. 106–390 substituted "section 3149(c)(2) of this title" for "section 3233 of this

title".

1994 – Subsec. (b). Pub. L. 103–325 inserted at end "The requirements of this subsection may not be waived under section 5141 of this title."

–End–

–CITE–

42 USC Sec. 5154a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5154a. Prohibited flood disaster assistance

–STATUTE–

(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 –

(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) "Flood disaster area" defined

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.

–SOURCE–

(Pub. L. 103–325, title V, Sec. 582, Sept. 23, 1994, 108 Stat. 2286.)

–REFTEXT–

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 note set out under section 5121 of this title and Tables.

The amendments made by this section, referred to in subsec. (e), means the amendments made by section 582(c) of Pub. L. 103–325, which amended section 4012a of this title. See Codification note below.

–COD–

CODIFICATION

Section is comprised of section 582 of Pub. L. 103–325. Subsec. (c) of section 582 of Pub. L. 103–325 amended section 4012a of this title.

Section was enacted as part of the National Flood Insurance Reform Act of 1994 and as part of the Riegle Community Development and Regulatory Improvement Act of 1994, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

–End–

–CITE–

42 USC Sec. 5155 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5155. Duplication of benefits

–STATUTE–

(a) General prohibition

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

(b) Special rules

(1) Limitation

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

duplicative assistance to the agency providing the Federal assistance.

(2) Procedures

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

(3) Effect of partial benefits

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

(c) Recovery of duplicative benefits

A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, 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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 5155, Pub. L. 93–288, title III, Sec. 315, May 22, 1974, 88 Stat. 152, consisted of similar provisions, prior to repeal by Pub. L. 100–707, Sec. 105(i).

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.

–End–

–CITE–

42 USC Sec. 5156 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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ADMINISTRATION

–HEAD–

Sec. 5156. Standards and reviews

–STATUTE–

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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 5156, Pub. L. 93–288, title III, Sec. 316, May 22, 1974, 88 Stat. 152, related to reviews and reports by President, prior to repeal by Pub. L. 100–707, Sec. 105(j).

A prior section 313 of Pub. L. 93–288 was classified to section 5153 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5157 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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SUBCHAPTER III – MAJOR DISASTER AND EMERGENCY ASSISTANCE

ADMINISTRATION

–HEAD–

Sec. 5157. Penalties

–STATUTE–

(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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 5157, Pub. L. 93–288, title III, Sec. 317, May 22, 1974, 88 Stat. 152, related to criminal and civil penalties, prior to repeal by Pub. L. 100–707, Sec. 105(k).

A prior section 314 of Pub. L. 93–288 was classified to section 5154 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5158 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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ADMINISTRATION

–HEAD–

Sec. 5158. Availability of materials

–STATUTE–

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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 315 of Pub. L. 93–288 was classified to section 5155 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5159 01/06/03

–EXPCITE–

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ADMINISTRATION

–HEAD–

Sec. 5159. Protection of environment

–STATUTE–

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. 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.

–SOURCE–

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

–REFTEXT–

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 (Sec. 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

–MISC1–

PRIOR PROVISIONS

A prior section 316 of Pub. L. 93–288 was classified to section

5156 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5160 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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ADMINISTRATION

–HEAD–

Sec. 5160. Recovery of assistance

–STATUTE–

(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.

–SOURCE–

(Pub. L. 93–288, title III, Sec. 317, as added Pub. L. 100–707, title I, Sec. 105(m)(1), Nov. 23, 1988, 102 Stat. 4695.)

–MISC1–

PRIOR PROVISIONS

A prior section 317 of Pub. L. 93–288 was classified to section 5157 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5161 01/06/03

–EXPCITE–

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ADMINISTRATION

–HEAD–

Sec. 5161. Audits and investigations

–STATUTE–

(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, documents, 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.

–SOURCE–

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

–MISC1–

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.

–End–

–CITE–

42 USC Sec. 5162 01/06/03

–EXPCITE–

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ADMINISTRATION

–HEAD–

Sec. 5162. Advance of non–Federal share

–STATUTE–

(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.

–SOURCE–

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

–End–

–CITE–

42 USC Sec. 5163 01/06/03

–EXPCITE–

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ADMINISTRATION

–HEAD–

Sec. 5163. Limitation on use of sliding scales

–STATUTE–

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.

–SOURCE–

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

–End–

–CITE–

42 USC Sec. 5164 01/06/03

–EXPCITE–

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ADMINISTRATION

–HEAD–

Sec. 5164. Rules and regulations

–STATUTE–

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.

–SOURCE–

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

–End–

–CITE–

42 USC Sec. 5165 01/06/03

–EXPCITE–

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ADMINISTRATION

–HEAD–

Sec. 5165. Mitigation planning

–STATUTE–

(a) Requirement of mitigation plan

As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e) of this section, 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.

–SOURCE–

(Pub. L. 93–288, title III, Sec. 322, as added Pub. L. 106–390,

title I, Sec. 104(a), Oct. 30, 2000, 114 Stat. 1558.)

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5133, 5170c of this

title.

–End–

–CITE–

42 USC Sec. 5165a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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ADMINISTRATION

–HEAD–

Sec. 5165a. Minimum standards for public and private structures

–STATUTE–

(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.

–SOURCE–

(Pub. L. 93–288, title III, Sec. 323, as added Pub. L. 106–390, title I, Sec. 104(a), Oct. 30, 2000, 114 Stat. 1559.)

–End–

–CITE–

42 USC Sec. 5165b 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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ADMINISTRATION

–HEAD–

Sec. 5165b. Management costs

–STATUTE–

(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) of this section not later than 3 years after the date of establishment of the rates and periodically thereafter.

–SOURCE–

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

–MISC1–

EFFECTIVE DATE

Pub. L. 106–390, title II, Sec. 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 [42 U.S.C. 5165b(a), (b)] (as added by subsection (a)) shall apply to major disasters declared under that

Act [42 U.S.C. 5121 et seq.] 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)), 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) shall be used to establish management cost rates."

–End–

–CITE–

42 USC Sec. 5165c 01/06/03

–EXPCITE–

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ADMINISTRATION

–HEAD–

Sec. 5165c. Public notice, comment, and consultation requirements

–STATUTE–

(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.

–SOURCE–

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

–TRANS–

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

–End–

–CITE–

42 USC SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–SECREP–

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5321, 12840 of this title.

–End–

–CITE–

42 USC Sec. 5170 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5170. Procedure for declaration

–STATUTE–

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.

–SOURCE–

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

–REFTEXT–

REFERENCES IN TEXT

This chapter, referred to in text, 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 note set out under section 5121 of this title and Tables.

–MISC1–

PRIOR PROVISIONS

A prior section 401 of Pub. L. 93–288 was renumbered section 405 by Pub. L. 100–707 and is classified to section 5171 of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5204 of this title; title 10 section 1063a; title 12 sections 1706c, 3352.

–End–

–CITE–

42 USC Sec. 5170a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5170a. General Federal assistance

–STATUTE–

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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 402 of Pub. L. 93–288 was classified to section
5172 of this title prior to repeal by Pub. L. 100–707.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5159 of this title; title
7 section 2014; title 16 section 3505.

–End–

–CITE–

42 USC Sec. 5170b 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

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SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5170b. Essential assistance

–STATUTE–

(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 –

(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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 403 of Pub. L. 93–288 was renumbered section 407 by Pub. L. 100–707 and is classified to section 5173 of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5159, 5187, 5189, 5204a, 5204c of this title; title 16 section 3505.

–End–

–CITE–

42 USC Sec. 5170c 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5170c. Hazard mitigation

–STATUTE–

(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.

(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.

(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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 404, as added Pub. L. 100–707, title I, Sec. 106(a)(3), Nov. 23, 1988, 102 Stat. 4698; amended Pub. L. 103–181, Secs. 2(a), 3, Dec. 3, 1993, 107 Stat. 2054; Pub. L. 106–390, title I, Sec. 104(c)(1), title II, Sec. 204, Oct. 30, 2000, 114 Stat. 1559, 1561.)

–MISC1–

PRIOR PROVISIONS

A prior section 404 of Pub. L. 93–288 was classified to section 5174 of this title prior to repeal by Pub. L. 100–707.

AMENDMENTS

2000 – Subsec. (a). Pub. L. 106–390, Sec. 104(c)(1), substituted "section 5165" for "section 5176" in second sentence and "Subject to section 5165 of this title, the total" for "The total" in third sentence.

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

1993 – Pub. L. 103–181 designated existing provisions as subsec. (a), inserted heading, substituted "75 percent" for "50 percent" in first sentence, 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" in last sentence, and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

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 [the] Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993."

–TRANS–

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

–SECREP–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5165, 5204c of this title.

–End–

–CITE–

42 USC Sec. 5171 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5171. Federal facilities

–STATUTE–

(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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 405, formerly Sec. 401, May 22, 1974, 88 Stat. 153; renumbered Sec. 405, Pub. L. 100–707, title I, Sec. 106(a)(2), Nov. 23, 1988, 102 Stat. 4696.)

–MISC1–

PRIOR PROVISIONS

A prior section 405 of Pub. L. 93–288 was classified to section 5175 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5172 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

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

–STATUTE–

(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) of this section, 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) of this section, 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) of this section, 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.).

(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 on such date.

(3) Exception

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

(4) Dissemination of information

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

(e) 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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 406, as added Pub. L. 100–707, title I, Sec. 106(b), Nov. 23, 1988, 102 Stat. 4699; amended Pub. L. 106–390, title II, Sec. 205(a)–(d)(1), (e), Oct. 30, 2000, 114 Stat. 1562–1564, 1566.)

–REFTEXT–

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs.

(c)(1)(D)(ii), (2)(C)(ii) and (d)(1), (2)(B), is title XIII of Pub.

L. 90–448, Aug. 1, 1968, 82 Stat. 572, as amended, which is

classified principally to chapter 50 (Sec. 4001 et seq.) of this

title. For complete classification of this Act to the Code, see

Short Title note set out 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. See above.

The Coastal Barrier Resources Act, referred to in subsec.

(e)(1)(A)(ii), is Pub. L. 97–348, Oct. 18, 1982, 96 Stat. 1653, as

amended, which is classified principally to chapter 55 (Sec. 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.

–MISC1–

PRIOR PROVISIONS

A prior section 5172, Pub. L. 93–288, title IV, Sec. 402, May 22, 1974, 88 Stat. 153, related to repair and restoration of damaged facilities, prior to repeal by Pub. L. 100–707, Sec. 106(b).

A prior section 406 of Pub. L. 93–288 was renumbered section 409 by Pub. L. 100–707 and is classified to section 5176 of this title.

AMENDMENTS

2000 – Subsec. (a). Pub. L. 106–390, Sec. 205(a), added subsec.

(a) and struck out heading and text of former subsec. (a). Text

read as follows: "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, Sec. 205(b), added subsec. (b) and

struck out heading and text of former subsec. (b). Text read as

follows: "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, Sec. 205(c), added subsec. (c) and struck out heading and text of former subsec. (c) which provided that, upon a determination that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing either a public facility or a private nonprofit facility, an election could be made to receive, in lieu of a contribution under subsec. (a), 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 the facility and of associated expenses, with the restriction that such funds not be used for any State or local government cost–sharing contribution required under this chapter.

Subsec. (e). Pub. L. 106–390, Sec. 205(d)(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

"(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, Sec. 205(e), struck out subsec. (f) which set out various associated expenses, including necessary and extraordinary costs, and costs of using the National Guard and prison labor.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–390, title II, Sec. 205(d)(2), Oct. 30, 2000, 114 Stat. 1566, provided that: "The amendment made by paragraph (1) [amending 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 [subsec. (e)(1) of this section] (as amended by paragraph (1)) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect."

–TRANS–

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of

the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5154, 5159, 5189, 5204a, 5204c of this title; title 16 section 1536.

–End–

–CITE–

42 USC Sec. 5173 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5173. Debris removal

–STATUTE–

(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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 407, formerly Sec. 403, May 22,

1974, 88 Stat. 154; renumbered Sec. 407 and amended Pub. L.

100–707, title I, Sec. 106(c), Nov. 23, 1988, 102 Stat. 4701.)

–MISC1–

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.

AMENDMENTS

1988 – Subsec. (a)(2). Pub. L. 100–707, Sec. 106(c)(2), inserted "or owner or operator of a private nonprofit facility" after "local government".

Subsecs. (c), (d). Pub. L. 100–707, Sec. 106(c)(3), added subsecs. (c) and (d).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5159, 5170b, 5189, 5192, 5204c of this title.

–End–

–CITE–

42 USC Sec. 5174 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5174. Federal assistance to individuals and households

–STATUTE–

(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) of this section 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) of this section 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 future damage to such residences, utilities, or

infrastructure.

(B) Relationship to other assistance

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

(C) Maximum amount of assistance

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

(3) Replacement

(A) In general

The President may provide financial assistance for the replacement of owner-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) of this section, a Governor may request a grant from the President to provide financial

assistance to individuals and households in the State under subsection (e) of this section.

(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) of this section.

(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 households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households.

(g) Cost sharing

(1) Federal share

Except as provided in paragraph (2), 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) of this section –

(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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 408, as added Pub. L. 100–707, title I, Sec. 106(d), Nov. 23, 1988, 102 Stat. 4702; amended Pub. L. 106–390, title II, Sec. 206(a), Oct. 30, 2000, 114 Stat. 1566.)

–MISC1–

PRIOR PROVISIONS

A prior section 5174, Pub. L. 93–288, title IV, Sec. 404, May 22, 1974, 88 Stat. 154, related to temporary housing assistance, prior to repeal by Pub. L. 100–707, Sec. 106(d).

A prior section 408 of Pub. L. 93–288 was classified to section 5178 of this title and to a note set out under section 5178 of this

title prior to repeal by Pub. L. 100–707.

AMENDMENTS

2000–Pub. L. 106–390 amended section catchline and text generally. Prior to amendment, text provided for temporary housing assistance through provision of temporary housing, temporary mortgage and rental payment assistance, expenditures to repair or restore owner–occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly, and transfer of temporary housing to occupants or to States, local governments, and voluntary organizations, required notification to applicants for assistance, and set out location factors to be given consideration in the provision of assistance.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–390, title II, Sec. 206(d), Oct. 30, 2000, 114 Stat. 1571, provided that: "The amendments made by this section [amending this section and section 5192 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]."

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5192, 5204c of this title.

–End–

–CITE–

42 USC Sec. 5175 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5175. Repealed. Pub. L. 100–707, title I, Sec. 105(m)(2), Nov. 23, 1988, 102 Stat. 4696

–MISC1–

Section, Pub. L. 93–288, title IV, Sec. 405, May 22, 1974, 88 Stat. 155, related to protection of environment.

–End–

–CITE–

42 USC Sec. 5176 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

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

–MISC1–

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

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.

–End–

–CITE–

42 USC Sec. 5177 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5177. Unemployment assistance

–STATUTE–

(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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 410, formerly Sec. 407, May 22, 1974, 88 Stat. 156; renumbered Sec. 410 and amended Pub. L. 100–707, title I, Sec. 106(e), (f), Nov. 23, 1988, 102 Stat. 4703, 4704.)

–MISC1–

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.

AMENDMENTS

1988 – Subsec. (a). Pub. L. 100–707, Sec. 106(f)(1)–(3), inserted "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" before period at end of first sentence, substituted "26 weeks" for "one year" in second sentence, and substituted "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" in third sentence.

Subsec. (b). Pub. L. 100-707, Sec. 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."

-End-

-CITE-

42 USC Sec. 5177a 01/06/03

-EXPCITE-

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

-HEAD-

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

-STATUTE-

(a) In general

The Secretary of Agriculture may make grants 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.

–SOURCE–

(Pub. L. 101–624, title XXII, Sec. 2281, Nov. 28, 1990, 104 Stat.

3978; Pub. L. 107–171, title X, Sec. 10102, May 13, 2002, 116 Stat.

488.)

–COD–

CODIFICATION

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

comprises this chapter.

–MISC1–

AMENDMENTS

2002 – Subsec. (a). Pub. L. 107–171 struck out ", not to exceed

\$20,000,000 annually," after "Secretary of Agriculture may make grants".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 917; title 19

section 3391.

–End–

–CITE–

42 USC Sec. 5178 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5178. Repealed. Pub. L. 106–390, title II, Sec. 206(c), Oct. 30, 2000, 114 Stat. 1571

–MISC1–

Section, Pub. L. 93–288, title IV, Sec. 411, as added Pub. L. 100–707, title I, Sec. 106(g), Nov. 23, 1988, 102 Stat. 4704, related to individual and family grant programs.

EFFECTIVE DATE OF REPEAL

Repeal effective 18 months after Oct. 30, 2000, see section 206(d) of Pub. L. 106–390, set out as an Effective Date of 2000 Amendment note under section 5174 of this title.

PRIOR PROVISIONS

A prior section 5178, Pub. L. 93–288, title IV, Sec. 408, May 22, 1974, 88 Stat. 156, related to individual and family grant programs, prior to repeal by Pub. L. 100–707, Sec. 106(g).

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.

–End–

–CITE–

42 USC Sec. 5179 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5179. Food coupons and distribution

–STATUTE–

(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. 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. 2011 et seq.] except as they relate to the availability of food stamps in an area affected by a major disaster.

–SOURCE–

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

–REFTEXT–

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 (Sec. 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

–MISC1–

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.

–TRANS–

DELEGATION OF FUNCTIONS

Secretary of Agriculture designated and empowered to exercise, without 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.

–End–

–CITE–

42 USC Sec. 5180 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5180. Food commodities

–STATUTE–

(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.

–SOURCE–

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

–MISC1–

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.

–End–

–CITE–

42 USC Sec. 5181 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5181. Relocation assistance

–STATUTE–

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. 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.

–SOURCE–

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

–REFTEXT–

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 (Sec. 4601 et seq.) of this title. For complete

classification of this Act to the Code, see Short Title note set

out under section 4601 of this title and Tables.

–MISC1–

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.

–End–

–CITE–

42 USC Sec. 5182 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5182. Legal services

–STATUTE–

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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 415, formerly Sec. 412, May 22, 1974, 88 Stat. 157; renumbered Sec. 415, Pub. L. 100–707, title I,

Sec. 106(h), Nov. 23, 1988, 102 Stat. 4705.)

–MISC1–

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.

–End–

–CITE–

42 USC Sec. 5183 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5183. Crisis counseling assistance and training

–STATUTE–

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.

–SOURCE–

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

–MISC1–

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.

AMENDMENTS

1988 – Pub. L. 100–707 struck out "(through the National Institute of Mental Health)" after "authorized".

–End–

–CITE–

42 USC Sec. 5184 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5184. Community disaster loans

–STATUTE–

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

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 417, formerly Sec. 414(a), (b), May 22, 1974, 88 Stat. 158; renumbered Sec. 417, Pub. L. 100–707, title I, Sec. 106(j), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 106–390, title II, Sec. 207, Oct. 30, 2000, 114 Stat. 1571.)

–COD–

CODIFICATION

Prior to renumbering as section 417, section 414 of Pub. L. 93–288 contained a subsec. (c) which was repealed by Pub. L.

97–258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1082.

–MISC1–

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.

AMENDMENTS

2000 – Pub. L. 106–390, Sec. 207(1)–(3), designated first sentence of subsec. (a) as subsec. (a) and inserted subsec. heading, designated second sentence of subsec. (a) as subsec. (b) and inserted subsec. heading, and designated third sentence of subsec. (a) as subsec. (c)(1) and inserted subsec. and par. headings. Former subsec. (b) redesignated (d).

Subsec. (b). Pub. L. 106–390, Sec. 207(5), substituted "shall not exceed" for "and shall not exceed" and inserted before period at end ", and shall not exceed \$5,000,000".

Subsec. (c)(2). Pub. L. 106–390, Sec. 207(6), added par. (2).

Subsec. (d). Pub. L. 106–390, Sec. 207(4), redesignated subsec. (b) as (d) and inserted subsec. heading.

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."

–End–

–CITE–

42 USC Sec. 5185 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5185. Emergency communications

–STATUTE–

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.

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 418, formerly Sec. 415, May 22, 1974, 88 Stat. 158; renumbered Sec. 418, Pub. L. 100–707, title I,

Sec. 106(j), Nov. 23, 1988, 102 Stat. 4705.)

–MISC1–

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.

–End–

–CITE–

42 USC Sec. 5186 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5186. Emergency public transportation

–STATUTE–

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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 419 of Pub. L. 93–288 was classified to section 5189 of this title prior to repeal by Pub. L. 100–707.

–End–

–CITE–

42 USC Sec. 5187 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5187. Fire management assistance

–STATUTE–

(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 5170b of this title.

(d) Rules and regulations

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

–SOURCE–

(Pub. L. 93–288, title IV, Sec. 420, formerly Sec. 417, May 22, 1974, 88 Stat. 158; renumbered Sec. 420, Pub. L. 100–707, title I, Sec. 106(j), Nov. 23, 1988, 102 Stat. 4705; Pub. L. 106–390, title III, Sec. 303(a), Oct. 30, 2000, 114 Stat. 1572.)

–MISC1–

AMENDMENTS

2000 – Pub. L. 106–390 amended section catchline and text generally. Prior to amendment, text read as follows: "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 DATE OF 2000 AMENDMENT

Pub. L. 106–390, title III, Sec. 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]."

–End–

–CITE–

42 USC Sec. 5188 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5188. Timber sale contracts

–STATUTE–

(a) Cost-sharing arrangement

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

(b) Cancellation of authority

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

(c) Public notice of sale

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 (11) 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.

–SOURCE–

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

–REFTEXT–

REFERENCES IN TEXT

Section 476 of title 16, referred to in subsec. (c), was repealed by Pub. L. 94-588, Sec. 13, Oct. 22, 1976, 90 Stat. 2958.

–FOOTNOTE–

(1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 5189 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5189. Simplified procedure

–STATUTE–

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.

–SOURCE–

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

–MISC1–

PRIOR PROVISIONS

A prior section 5189, Pub. L. 93–288, title IV, Sec. 419, May 22, 1974, 88 Stat. 159, related to alternate contributions, prior to repeal by Pub. L. 100–707, Sec. 106(k).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5154, 5159, 5172 of this title.

–End–

–CITE–

42 USC Sec. 5189a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5189a. Appeals of assistance decisions

–STATUTE–

(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.

–SOURCE–

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

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5172 of this title.

–End–

–CITE–

42 USC Sec. 5189b 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV – MAJOR DISASTER ASSISTANCE PROGRAMS

–HEAD–

Sec. 5189b. Date of eligibility; expenses incurred before date of disaster

–STATUTE–

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.

–SOURCE–

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

–End–

–CITE–

42 USC SUBCHAPTER IV–A – EMERGENCY ASSISTANCE PROGRAMS 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV09A – EMERGENCY ASSISTANCE PROGRAMS

–HEAD–

SUBCHAPTER IV–A – EMERGENCY ASSISTANCE PROGRAMS

–SECREf–

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5170b of this title.

–End–

–CITE–

42 USC Sec. 5191 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV09A – EMERGENCY ASSISTANCE PROGRAMS

–HEAD–

Sec. 5191. Procedure for declaration

–STATUTE–

(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.

–SOURCE–

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

–REFTEXT–

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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 note set out under section 5121 of this title and Tables.

–MISC1–

PRIOR PROVISIONS

A prior section 501 of Pub. L. 93–288 enacted subchapter VIII (Sec. 3231 et seq.) of chapter 38 of this title.

–End–

–CITE–

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV09A – EMERGENCY ASSISTANCE PROGRAMS

–HEAD–

Sec. 5192. Federal emergency assistance

–STATUTE–

(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 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.

–SOURCE–

(Pub. L. 93–288, title V, Sec. 502, as added Pub. L. 100–707, title I, Sec. 107(a), Nov. 23, 1988, 102 Stat. 4706; amended Pub. L. 106–390, title II, Sec. 206(b), Oct. 30, 2000, 114 Stat. 1570.)

–MISC1–

AMENDMENTS

2000 – Subsec. (a)(6). Pub. L. 106–390 struck out "temporary housing" after "provide".

EFFECTIVE DATE OF 2000 AMENDMENT

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

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5159, 5189, 5191 of this title; title 7 section 2014; title 16 section 3505.

–End–

–CITE–

42 USC Sec. 5193 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV09A – EMERGENCY ASSISTANCE PROGRAMS

–HEAD–

Sec. 5193. Amount of assistance

–STATUTE–

(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.

–SOURCE–

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

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5191 of this title.

–End–

–CITE–

42 USC SUBCHAPTER IV–B – EMERGENCY PREPAREDNESS 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV09B – EMERGENCY PREPAREDNESS

–HEAD–

SUBCHAPTER IV–B – EMERGENCY PREPAREDNESS

–SECRET–

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 7 section 1427a; title 50

App. section 2152.

–End–

–CITE–

42 USC Sec. 5195 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 68 – DISASTER RELIEF

SUBCHAPTER IV09B – EMERGENCY PREPAREDNESS

–HEAD–

Sec. 5195. Declaration of policy

–STATUTE–

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.

–SOURCE–

(Pub. L. 93–288, title VI, Sec. 601, as added Pub. L. 103–337, div. C, title XXXIV, Sec. 3411(a)(3), Oct. 5, 1994, 108 Stat. 3100.)

–MISC1–

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2251 of Title 50, Appendix, War and National Defense, prior to repeal by Pub. L. 103–337, Sec. 3412(a).

–TRANS–

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

–MISC2–

MULTIHAZARD 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], subject to terms and conditions as the Director of FEMA shall establish, to any State for multi-hazard preparedness and mitigation through consolidated emergency management performance grants".

MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION; FUNCTIONS, ETC., OF
FEDERAL EMERGENCY MANAGEMENT AGENCY

Pub. L. 96-472, title III, Secs. 301, 302, Oct. 19, 1980, 94

Stat. 2260, as amended by Pub. L. 97-80, title III, Sec. 301, Nov.

20, 1981, 95 Stat. 1083; Pub. L. 97-464, title II, Sec. 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 which are called upon to provide technical 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 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, Sec. 1, Sept. 22, 1961, 75 Stat. 630; Pub. L. 87-367, title I, Sec. 103(10), Oct. 4, 1961, 75 Stat. 788; Pub. L. 88-426, title III, Sec. 305(11), Aug. 14, 1964, 78 Stat. 423; Pub. L. 90-608, ch. IV, Sec. 402, Oct. 21, 1968, 82 Stat. 1194; Reorg. Plan No. 1 of 1973, Sec. 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. 901 et seq.].

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 authorized 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, Sec. 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out below.]

SEC. 3. REGIONAL DIRECTORS

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

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, Sec. 3(a)(2), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, set out below.]

SEC. 5. CIVIL DEFENSE ADVISORY COUNCIL

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

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 Pub. L. 90-608, ch. IV, Sec. 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 Pub. L. 90-608, ch. IV, Sec. 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 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 and also transfers the Civil Defense Advisory Council to the Office of Defense and Civilian Mobilization.

Initially, the Office of Defense and Civilian 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.

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, Sec. 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.

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 Director 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, Sec. 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, 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 Advisor 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. 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. 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 of the Trade Expansion Act of 1962 [19 U.S.C. 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 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.

–EXEC–

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, which related to the preparation by Federal agencies of civil
defense emergency plans, 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 section 5–104 of
Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43243, 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. 6, 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. 9, 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. 15, 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. 26, 1963, 28 F.R. 1847, which related to assignment of emergency preparedness functions to Federal Communications Commission, was revoked by Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, see below.

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, 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 section 5-112 of 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.

EX. ORD. NO. 12148. FEDERAL EMERGENCY MANAGEMENT

Ex. Ord. 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, Sec. 904(a)(8), June 3, 1994, 59 F.R. 29533; Ex. Ord. No. 13286, Sec. 52, Feb. 28, 2003, 68 F.R. 10628, provided:

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), the Disaster Relief Act of 1974 (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. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285), the National Security Act of 1947, as amended [see Short Title note set out under 50 U.S.C. 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 above], Reorganization Plan No. 1 of 1973 [set out above], the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and Section 301 of Title 3 of the United States Code, and in order to transfer emergency functions to the Department of Homeland Security, it is hereby ordered as

follows:

SECTION 1. TRANSFERS OR REASSIGNMENTS

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 Secretary of Homeland Security.

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 Secretary of Homeland Security, 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 Secretary of Homeland Security.

1–104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), including those functions performed by the Office of Science and Technology Policy, are delegated, transferred, or reassigned to the Secretary of Homeland Security.

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 Secretary of Homeland Security.

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.

SEC. 2. MANAGEMENT OF EMERGENCY PLANNING AND ASSISTANCE

2–1. General.

2–101. The Director of the Federal Emergency Management Agency [Secretary of Homeland Security] 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 [Secretary] 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 [Secretary] shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2–103. The Director [Secretary] 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 [Secretary] 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 [Secretary] shall provide an annual report to the President for subsequent transmittal to the Congress on the functions of the Department of Homeland Security. 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 [Secretary] 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 Secretary of Homeland Security 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 Secretary of Homeland Security 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 [Secretary] 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 [Secretary] 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.

SEC. 3. FEDERAL EMERGENCY MANAGEMENT COUNCIL

[Revoked by Ex. Ord. No. 12919, Sec. 904(a)(8), June 3, 1994, 59
F.R. 29533.]

SEC. 4. DELEGATIONS

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), 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) [now set out above], and they are hereby delegated
to the Secretary of Homeland Security.

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 Secretary of Homeland

Security.

(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) [5 U.S.C. 3376 note].

4–104. The Secretary of Homeland Security 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) [50 U.S.C. App. 2285], were transferred to the President by Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 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) [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 Secretary of Homeland Security.

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), and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241–1), 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 Secretary of Homeland Security.

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)), 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 Secretary of Homeland Security.

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 Secretary of Homeland Security.

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 92–335 (86 Stat. 556) are hereby delegated to the Secretary of Homeland Security.

Section [sic] 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) [42 U.S.C. 5170], Section 501 (relating to the declaration of emergencies) [42 U.S.C. 5191], Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities) [42 U.S.C. 5171], and Section 412 (relating to food coupons and distribution) [42 U.S.C. 5179], are hereby delegated to the Secretary of Homeland Security.

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.) are delegated to the Secretary of Homeland Security.

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)), are hereby delegated to the Secretary of Homeland Security.

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)) [now 40 U.S.C. 574(d)], are hereby delegated to the Secretary of Homeland Security.

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), are delegated to the Secretary of Homeland Security.

SEC. 5. OTHER EXECUTIVE ORDERS

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", is revoked.

5-102. Sections 1 and 2 of Executive Order No. 10296, as amended, 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, 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, which concerns the Commodity Set Aside, is revoked.

5-106. Executive Order No. 10634, as amended, 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, 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, relating to the

Health Resources Advisory Committee, is revoked.

5-111. Executive Order No. 11795, as amended, 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, 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, relating to physical security of defense facilities [formerly set out as a note under 50 U.S.C. 404] 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. 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, as amended, which relates to determinations under the Buy American Act [41 U.S.C. 10d note] 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. 1431 note], is further amended by adding "The Federal Emergency Management Agency" after "Government Printing Office".

5–205. Executive Order No. 11179, as amended, concerning the National Defense Executive Reserve [50 U.S.C. App. 2153 note], 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, concerning energy policy and conservation [42 U.S.C. 6201 note], 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 entitled "Floodplain Management" [42 U.S.C. 4321 note] 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. 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. 435 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. 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. 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. 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 [see note above] 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.".

SEC. 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, Sec. 3203(b), Dec. 4, 1987, 101 Stat. 1247.]

EX. ORD. NO. 12472. ASSIGNMENT OF NATIONAL SECURITY AND EMERGENCY
PREPAREDNESS TELECOMMUNICATIONS FUNCTIONS

Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471, as amended by
Ex. Ord. No. 13286, Sec. 46, Feb. 28, 2003, 68 F.R. 10627,
provided:

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), the
National Security Act of 1947, as amended, the Defense Production
Act of 1950, as amended (50 U.S.C. App. 2061), the Federal Civil
Defense Act of 1950, as amended (50 U.S.C. App. 2251), the Disaster
Relief Act of 1974 (42 U.S.C. 5121), Section 5 of Reorganization
Plan No. 1 of 1977 (3 C.F.R. 197, 1978 Comp.) [5 U.S.C. App.], and
Section 203 of Reorganization Plan No. 3 of 1978 (3 C.F.R. 389,
1978 Comp.) [5 U.S.C. App.], and in order to provide for the
consolidation of assignment and 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, to the extent permitted by law, other Executive 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 Homeland 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 Homeland Security 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;
- (3) Ensure that the activities of the NCS are conducted in conjunction with the emergency management activities of the Department of Homeland Security;
- (4) Recommend, in consultation with the NCS Committee of Principals, to the National Security Council, the Homeland 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 [47 U.S.C. 901 note]; 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 Homeland 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 or emergency;
- 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 Section 606 of the Communications Act of 1934, as

amended (47 U.S.C. 606), should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601).

(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), should the President issue implementing instructions in accordance with the National Emergencies Act (50 U.S.C. 1601).

(b) Non–Wartime Emergency Functions. (1) The National Security Council, in consultation with the Homeland 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 for the execution of the responsibilities assigned 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 Homeland 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, the Homeland 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 Secretary of Homeland Security with respect to the emergency management responsibilities assigned pursuant to Executive Order No. 12148, as amended [set out above]; the Secretary of Commerce, with respect to responsibilities assigned pursuant to Executive Order No. 12046 [47 U.S.C. 305 note]; the Secretary of Defense, with respect to communications security responsibilities assigned pursuant to Executive Order No. 12333 [50 U.S.C. 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, the Homeland 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) Department of Homeland Security. The Secretary of Homeland Security 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. 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.

(3) Nothing in this order shall be construed to impair or otherwise affect the authority of the Secretary of Defense with respect to the Department of Defense, including the chain of command for the armed forces of the United States under section 162(b) of title 10, United States Code, and the authority of the Secretary of Defense with respect to the Department of Defense under section 113(b) of that title.

(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 of 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 adequate to execute the

responsibilities assigned 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. 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 Department of Homeland Security, 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 Order.

(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. 305], 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. 305], 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; 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.

EX. ORD. NO. 12656. ASSIGNMENT OF EMERGENCY PREPAREDNESS RESPONSIBILITIES

Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, as amended by Ex. Ord. No. 13074, Feb. 9, 1998, 63 F.R. 7277; Ex. Ord. No. 13228, Sec. 9, Oct. 8, 2001, 66 F.R. 51816; Ex. Ord. No. 13286, Sec. 42, Feb. 28, 2003, 68 F.R. 10626, provided:

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. 401 et seq.], the Defense Production Act of 1950, as amended [see 50 U.S.C. App. 2061], 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, except that the Homeland Security Council shall be responsible for administering such policy with respect to terrorist threats and attacks within the United States. 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 above].

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, except that the Homeland Security Council is the principal forum for consideration of policy relating to terrorist threats and attacks within the United States.

(b) The National Security Council and the Homeland 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 Secretary of Homeland Security shall serve as an advisor to the National Security Council and the Homeland 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 and Homeland Security Council processes as the President may establish, the Secretary of Homeland Security also shall assist in the implementation of and management of those processes as the President may establish. The Secretary of Homeland Security 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 and the Homeland 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 above], 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 and the Homeland 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 Secretary of Homeland Security to ensure that those activities and plans are consistent with current Presidential 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 and the Homeland Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

Sec. 207. Redlegation. 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 that 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 or the Homeland 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 agriculture 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 cooperation 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 Secretary of Homeland Security, 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 defense, or post–attack survival and recovery;
- (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 Secretary of Homeland Security, 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.

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 readiness to respond to national security emergencies;
- (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 Secretary of Homeland Security 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 Secretary of Homeland Security, 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 Administration [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 Secretaries of Labor and Homeland Security, the Directors of the Selective 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, materials, and components;
 - (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 Secretary of Homeland Security 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.

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 Secretary of Homeland Security, 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 schools.

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 consultations 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 Secretary of Homeland Security, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the Department of Energy;
- (6) In consultation with the Secretaries of State, Defense, and Homeland Security, 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 defense and security;

(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 Secretary of Homeland Security, 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.