

FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM GUIDE

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FEMA

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ACRONYMS USED IN THIS GUIDE

CFR	Code of Federal Regulations
DMA 2000	Disaster Mitigation Act of 2000
EMAC	Emergency Management Assistance Compact
FEMA	Federal Emergency Management Agency
FMAGP	Fire Management Assistance Grant Program
GAR	Governor's Authorized Representative
ICARS	Incident Cost Accounting and Reporting System
ICS	Incident Command System
KBDI	Keetch-Byram Drought Index
NFDRS	National Fire Danger Rating System
NIC	NIMS Integration Center
NIMS	National Incident Management System
OMB	Office of Management and Budget
PL	Public Law
PW	Project Worksheet
RFMAS	Request for Fire Management Assistance Subgrant
SMP	State Mitigation Plan
USFS	U.S. Forest Service

CHAPTER 1

FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

OVERVIEW

The President is authorized to provide assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. § 5121, et seq. (hereinafter referred to as the Stafford Act). Relevant portions of the Stafford Act are included in Appendix A. Federal assistance is coordinated through the Department of Homeland Security's Federal Emergency Management Agency (FEMA). Under the Fire Management Assistance Grant Program (FMAGP), FEMA provides assistance, including grants, equipment, supplies, and personnel, to any State¹ or local government² for the mitigation, management, and control of any fire on private forest land or grassland that threatens such destruction as would constitute a major disaster. This chapter provides a brief history and overview of the FMAGP.

History

The FMAGP is effective for all fires declared on or after October 30, 2001. The FMAGP replaced FEMA's Fire Suppression Assistance Program when Section 420 of the Stafford Act was amended by Section 303 of the Disaster Mitigation Act of 2000 (DMA 2000). When providing assistance under this section, the President coordinates with State and Tribal departments of forestry. The President may use the authority provided under Section 403 of the Stafford Act to provide essential assistance as allowed by Section 420(c). FEMA implements regulations in 44 Code of Federal Regulations (CFR) 204. The provisions of 44 CFR Part 204 are included in Appendix B. Administrative requirements for grants and cooperative agreements are found in 44 CFR Part 13.

Overview

The FMAGP provides assistance for mitigation, management, and control of a declared fire. Obtaining assistance under the FMAGP begins with the State submitting a declaration request to the FEMA Regional Director (refer to Chapter 2 of this Guide). The declaration request is made while the fire is burning uncontrolled and threatening such destruction as would constitute a

¹ For purposes of this document, the term "State" refers to the Grantee. Grantees include the States, the District of Columbia, U.S. territories, and insular areas, and can include Indian Tribes and Alaskan Native Tribal governments. (Ref. 44 CFR 204.3)

² A local government is defined as any county, municipality, city, town, township, public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a non-profit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; any Indian Tribal government or authorized Tribal organization, or Alaska Native village or organization; and any 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. (Ref. 44 CFR 204.1)

CHAPTER 1

FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM OVERVIEW

major disaster. Following FEMA's approval of the declaration request, funding assistance is requested by the State and made available for eligible activities that include fire management assistance and associated emergency work (refer to Chapters 3, 4, and 5 of this Guide).

CHAPTER 2

DECLARATION PROCESS

Submitting a Declaration Request

The Governor of a State or the Governor's Authorized Representative (GAR) is authorized to submit requests for fire management assistance declarations. The GAR is the person empowered by the Governor to execute, on behalf of the State, all necessary documents for fire management assistance, including the declaration request.³

The Governor or GAR must submit the declaration request while the fire is burning uncontrolled and threatening such destruction as would constitute a major disaster.⁴ Since the FMAGP operates in real time during an incident (24 hours a day, 7 days a week), declaration requests can be processed at any time of day or night. To expedite processing the State's declaration request, the Governor or GAR should submit his or her request by telephone to the FEMA Regional Director or designated Regional Fire Duty Liaison.

The State must follow up its phone request with the completed FEMA Form 90-58, Request for Fire Management Assistance Declaration. The information entered on Form 90-58 provides written confirmation of information submitted during the phone declaration request and is required for official FEMA files. FEMA Form 90-58 must be received in FEMA's National Office⁵ within 14 days of the date of the phone request to the FEMA Regional Office. A copy of FEMA Form 90-58 can be found in Appendix C.

Information for the Declaration Request

Required Information. When submitting a declaration request, the Governor or GAR should provide as much information as possible in support of the request. A State must include the following information, as available, in both its phone and written (FEMA Form 90-58) requests:

- Size of fire in acres or square miles;
- Name, location, and population of community(ies) threatened;
- Number and types of public facilities threatened;
- Number of primary and secondary residences and businesses threatened;
- Distance of fire to nearest communities;
- Number of evacuations to date, if applicable;
- Current and predicted (24-hour) weather conditions; and
- Degree to which State and local resources are committed to this fire and other fires in Federal, State, or local jurisdictions.

³ 44 CFR 204.22.

⁴ Major disasters are evaluated based on established criteria in 44 CFR 206.48.

⁵ For purposes of this document, the term "National Office" refers to several Headquarter roles, including the Under Secretary of the Emergency Preparedness and Response Directorate, the Recovery Division Director, and FMAGP staff.

In support of its declaration request, the State may append additional documentation to FEMA Form 90-58, including:

- Fire severity maps;
- Geographic, topographical, or land assessment maps; or
- Incident status summary report (Incident Command System (ICS)-209).

Because the State must submit its request while the fire is burning uncontrolled and threatening such destruction as would result in a major disaster, the State should not delay submitting its declaration request, even if certain information is not available at the time of the request. While more information may facilitate the declaration request process, additional supporting information may be furnished by the State, or requested by FEMA, after the initial declaration request has been received.

Fire Complex⁶. A State may request assistance for a fire complex. To qualify, the fires within the complex must all be located in the same general area, managed by the same Incident Commander,⁷ and approved under the fire declaration. Even though an entire complex may be designated in a declaration request, not all fires within the complex will automatically qualify. FEMA, in cooperation with the State, will determine which fires are eligible under a fire management assistance declaration.

Incident Period⁸. The incident period for a declared fire is usually not established until the fire is controlled. The FEMA Regional Director, in consultation with the GAR and the Principal Advisor,⁹ will determine the start and end dates of the incident period.

The incident period may start on the date of the fire management assistance declaration or with the initial firefighting actions at the time the fire threatens such destruction as would constitute a major disaster. The incident period is considered closed when the fire is controlled. The end of a shift or a workday normally marks the closing of the incident period. If the incident period starts before the date of the State's declaration request, the factors and circumstances supporting that determination should be fully documented by the GAR and reviewed and approved by the Regional Director.

⁶ **Fire Complex:** Is defined as two or more individual fires located in the same general area that are assigned to a single Incident Commander.

⁷ The Incident Commander is the ranking "red card" official responsible for a declared fire. ("Red card" is the fire qualifications card issued to fire-rated persons showing their training needs and their qualifications to fill specified fire suppression and support positions on a fire or other incident.)

⁸ **Incident Period:** Is the time interval during which the declared fire occurs. The Regional Director, in consultation with the Governor's Authorized Representative and the Principal Advisor, will establish the incident period. Generally, costs must be directly related to or incurred during the incident period to be considered eligible.

⁹ The Principal Advisor is an individual appointed by the U.S. Forest Service (USFS) or the Bureau of Land Management who is responsible for providing FEMA with a technical assessment of a fire or fire complex. The Principal Advisor is a designated representative of FEMA. The boundaries of FEMA and the USFS are shown in Appendix E.

Generally, wildland firefighting costs must be incurred during the incident period of a declared fire to be considered eligible under FMAGP. Several exceptions to this rule exist for costs related to pre-positioning, mobilizing and demobilizing, as well as emergency work. These costs are discussed in detail in Chapter 3.

Declaration Request Processing

The State's declaration request is submitted to the FEMA Regional Office where the Regional Director or Regional Fire Duty Liaison reviews the request and, in coordination with the appropriate Principal Advisor, verifies the information submitted by the State. The Regional Office then submits the declaration request to the National Office. The National Office receives, processes, and renders a decision on the State's request for a fire management assistance declaration.

Due to the magnitude and impact of a fire, most declaration requests are verbally processed with written documentation following. All official forms and written information must be received by the FEMA National Office within 14 days of the State's phone request.

The roles, duties, and responsibilities of each entity are described on the following pages.

State Role. The Governor or GAR is responsible for submitting a fire declaration request while the fire is burning uncontrolled and threatening such destruction as would constitute a major disaster¹⁰. The GAR is encouraged to submit the information required for FEMA Form 90-58 declaration request by telephone to FEMA's Regional Fire Duty Liaison. Following the phone request, the GAR must complete FEMA Form 90-58, Request for Fire Management Assistance Declaration, in support of his/her phone request and submit it through the FEMA Regional Office to the National Office no later than 14 days after the date of the initial phone request.

FEMA Regional Office Role. FEMA's Regional Office is responsible for receiving the declaration request and obtaining additional information from the State if the declaration request is incomplete or inadequate. Once a formal declaration request is received, the Regional Fire Duty Liaison requests the Principal Advisor for an assessment, and notifies the National Office of the State's request.

After all information is obtained from the State and verified, the Regional Office prepares an official Regional Summary and Recommendation for the State's request. The Regional Office forwards the State's request, Principal Advisor's Report, and Regional Summary and Recommendation to the National Office for consideration by the Under Secretary of the Emergency Preparedness and Response Directorate.

If the Principal Advisor is unavailable at the time of the State's declaration request, the FEMA Regional Office should proceed with developing the Regional Summary and Recommendation and submitting the request to the National Office for review and determination, even though

¹⁰ Major disasters are evaluated based on established criteria in 44 CFR § 206.48.

certain information is unavailable at the time of the request. FEMA uses the best available information at the time of the State's request to render a determination.

Principal Advisor Role. The Principal Advisor provides technical assistance to FEMA regarding the uncontrolled fire or fire complex for which the State is submitting a declaration request. Specifically, the Principal Advisor assesses the threat to life and improved property (homes, critical facilities, and infrastructure), as well as weather, fire behavior, and fire prognosis. The Principal Advisor's Report is used to verify the information submitted by the State. The Principal Advisor's Report does not recommend whether to approve or deny a State's declaration request.

The Principal Advisor completes the Principal Advisor's Report (FEMA Form 90-32) and provides it to the FEMA Regional Fire Duty Liaison. To expedite the declaration request process, the Principal Advisor usually reports his or her findings to FEMA by telephone and follows up with a written Principal Advisor's Report. The Principal Advisor's Report is included as part of the State's declaration request package submitted to the National Office. A copy of FEMA Form 90-32 can be found in Appendix C. The Principal Advisor's Report should be submitted through FEMA's Regional Office to the National Office no later than 14 days after the date of the State's request for a fire management assistance declaration.

National Office Role. The National Office receives and processes the State's declaration request. The National Office approves or denies the State's request based on the conditions that existed at the time of the State's request and whether the fire or fire complex threatened such destruction as would result in a major disaster.

The Under Secretary, or designee, evaluates the declaration request and approves or denies the request based on:

- Evaluation criteria;
- Information provided in the State's request;
- Principal Advisor's Report; and
- Regional Summary and Recommendation.

After reviewing the declaration request package, the National Office may render a decision or request additional information. If a declaration is warranted, the National Office prepares a declaration package, which consists of a memorandum from the Recovery Division Director to the Regional Director, and a letter from the Under Secretary to the White House.

Declaration Request Evaluation

A State's declaration request is evaluated on the threat posed by a fire or fire complex based on the following information:

1. The fire or fire complex threatens lives and improved property, including critical facilities/infrastructure and critical watersheds. Improved properties include, but are not limited to:

- Homes (single family and multi-family [i.e., townhouses, condos, apartments]);
 - Hospitals, prisons, and schools;
 - Police and fire stations;
 - Water treatment facilities;
 - Public utilities;
 - Nuclear facilities; and
 - Major roadways.
2. Availability of Federal, State and local firefighting resources:
- The degree of commitment by Federal, State, and local resources to other fires; and
 - The lack of available Federal, State, and local wildland firefighting resources.
3. High fire danger conditions as indicated by nationally accepted indices:
- National Fire Danger Rating System (NFDRS);
 - Keetch-Byram Drought Index (KBDI) and Palmer Drought Index; and
 - Haines Index.
4. Potential major economic impact:
- State level;
 - Local level; and
 - Regional level.

This information helps the National Office to determine whether the fire or fire complex threatens such destruction as would constitute a major disaster.

Declaration Notification

After the Under Secretary renders his/her determination on the State's declaration request, the National Office contacts the FEMA Regional Fire Duty Liaison. The FEMA Regional Fire Duty Liaison telephones the Governor or GAR with notification of the determination. The FEMA Regional Office promptly follows up this telephone call with a confirming letter to the State from the Regional Director.

Appeals of Declaration Request¹¹

If a declaration request has been denied, the State may submit an appeal for a one-time reconsideration of its request. The appeal must be submitted in writing to the Regional Director no later than 30 days from the date of the letter denying the request. It should contain new

¹¹ The declaration request appeals process is based on 44 CFR 204.26.

information, unavailable at the time of the original request that, if presented, may have altered the original determination. The Regional Director reviews the appeal, prepares a recommendation, and forwards the appeal package to the National Office. The National Office notifies the State of the determination, in writing, within 90 days of receipt of the appeal or receipt of additional requested information.

The State may request a time extension to submit the appeal. This request must be submitted in writing to the Recovery Division Director, through the FEMA Regional Office, no later than 30 days from the date of the Regional Director's notification letter denying the declaration request. The request for an extension must include a justification for the need for an extension. The National Office evaluates the need for the extension based on the reasons cited in the request and either approves or denies the request. Again, the State will be formally notified in writing through the FEMA Regional Office whether this extension has been granted.

Post-Declaration Requirements

Each State must have a formally approved State Mitigation Plan (SMP). A State or Indian Tribal government intending to apply to FEMA for assistance under the FMAGP that does not have an approved SMP per 44 CFR § 204.51(d)(2) must formally submit an acceptable SMP for FEMA's review and approval within 30 days of the signature date of Exhibit E (Amendment of the FEMA-State Agreement for the FMAGP). FEMA then has 45 days, whenever possible, to review the SMP. If the State or Indian Tribal government does not have an existing SMP and fails to submit one, FEMA cannot approve the application for assistance under the FMAGP.

FEMA-State Agreement. The FEMA-State or FEMA-Tribal Agreement for FMAGP ("the Agreement") is a legally binding document, similar to a contract, that outlines the understandings, commitments, and conditions under which funding is provided for fire management assistance declarations, and all applicable laws and regulations. A FEMA-State Agreement Format is shown in Appendix E.

The Agreement is in effect for a calendar year. It must be updated annually and, ideally, should be signed each January before the start of fire season. The FEMA-State Agreement lists the GAR and other officials authorized to act on the behalf of the State. A FEMA-Tribal Agreement must be signed if a Tribal government wishes to serve as a dual Grantee.

A FEMA-State Agreement consists of the following five Exhibits (copies are presented in Appendix E of this document):

- *Exhibit A - State Certification Officers*

This is the State or Indian Tribal governmental officials authorized to execute certification and otherwise to act on behalf of the State. Exhibit A designates the GAR and Alternate GAR empowered by the Governor to execute all necessary documents for FMAGP, including the declaration request and application for a Fire Management Assistance Grant.

CHAPTER 2 DECLARATION PROCESS

In cases where a FEMA-Tribal Agreement has been signed, Exhibit A designates and empowers an Indian Tribal authorized representative and Alternate Tribal authorized representative, empowered by the Indian Tribal Chairman, to execute the application for a Fire Management Assistance Grant. Until Exhibit A has been completed, only the Indian Tribal Chairman has the authority to submit the application for a Fire Management Assistance Grant.

- *Exhibit B - Certification Regarding Drug-Free Workplace Requirements*
- *Exhibit C - Certification for Contacts, Grants, Loans, and Cooperative Agreements*

Certification required by the regulations implementing the “New Restrictions on Lobbying” (44 CFR Part 18).

- *Exhibit D - Disaster Grant Agreement Articles*
- *Exhibit E - Amendment to the FEMA-State Agreement for the Fire Management Assistance Grant Program*

After a State’s declaration request has been approved, the Governor should immediately sign Exhibit E (described below) of their FEMA-State Agreement for FMAGP. Exhibit E must be signed by the State (or Indian Tribal Chairman when appropriate), in concurrence with FEMA, for each declared fire that occurs within the calendar year.

Exhibit E contains specific information for each declared fire, including the name of the fire or fire complex, declaration number, affected counties, and incident period. Exhibit E must be completed for each declared fire and appended to the Agreement. The GAR or Indian Tribal representative authorized by Exhibit A can sign Exhibit E on behalf of the State or Indian Tribal government.

It is important to note that if the Agreement is signed after the first fire is declared, the Governor must sign both the Agreement and Exhibit E. If a State does not have a signed FEMA-State Agreement prior to submitting a declaration request to FEMA, the State should sign an Agreement immediately after FEMA has approved the declaration request. The State must submit the Agreement prior to or with the submittal of the FMAGP grant assistance request (Standard Form 424). Funding will not be obligated until the Agreement has been signed by the Governor (or Indian Tribal Chairman, when appropriate). Failure to sign the Agreement may result in a loss of funding.

Modifying a Declaration Request to Add Counties. If a declared fire or fire complex burns into adjacent counties, then the additional counties may be eligible for assistance under the declared fire. To qualify, the State must provide sufficient information to justify assistance. The requesting county should submit the same type of information provided to FEMA for the original declaration request. All information is evaluated on the threat of the fire, potential economic impact, weather conditions, and committed and available resources. Once all information has been evaluated, FEMA decides whether to designate the additional county. If the request to add counties is denied, the appeal process is the same as that for a denied fire declaration request (refer to 44 CFR 204.26).

CHAPTER 3

ELIGIBILITY

This chapter discusses the documents governing the FMAGP, including its operation and policies, and the basic eligibility criteria for fire management assistance funding for declared fires, including three main components:

- Applicants for Grants and Subgrants;
- Eligible Costs; and
- Ineligible Costs.

Governing Documents

The FMAGP is based on a hierarchy of a Federal statute (namely, the Stafford Act) and its regulations, policies, and guidance. The statute authorizes the FMAGP. From the statute, regulations are created to outline program operations, and policies are written to apply the statute and regulations to specific situations. These documents govern the eligibility criteria through which FEMA provides funds for fire management assistance under the FMAGP.

Federal Statute. Statutes are laws passed by the U.S. Congress and signed by the President. They cannot be changed or waived by FEMA or any other government agency or official. The law that authorizes the FMAGP is the Stafford Act. The basic provisions outlined in the Stafford Act are:

- Give FEMA the authority to administer Federal disaster assistance;
- Define the extent of coverage and eligibility criteria of the disaster assistance programs;
- Authorize grants to the States; and
- Define the minimum Federal cost-sharing levels and thresholds.

The FMAGP is authorized in Section 420 of the Stafford Act. Section 403 of the Stafford Act, Essential Assistance, provides authority as it pertains to Emergency Work. Relevant portions of the Stafford Act are included in Appendix A for reference.

Regulations. Regulations are rules designed to implement a statute based on an agency's interpretation of that statute. Such rules establish the requirements for program operations. Typically, they are published through an official process that allows for public comment. Regulations have the same effect as law and must be complied with once they are published in final form. The regulations published in 44 CFR Part 204 govern the FMAGP and outline program procedures, eligibility, and policies. The provisions of 44 CFR Part 204 are included in Appendix B.

Additional regulations regarding grant administration and allowable costs are found in 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(Generally, an entity has legal responsibility to respond to fires within its own jurisdiction);

- Required as a result of the declared fire;
- Located within the designated area; and
- Pre-positioning costs of equipment used in fighting the fire even when staged outside the designated area.

Types of eligible costs include, but are not limited to, the following:

- Equipment and supplies;
- Labor costs;
- Travel and per diem;
- Pre-positioning costs;
- Emergency work;
- Temporary repairs; and
- Mobilization and demobilization.

FEMA does not provide reimbursement based on the Incident Cost Accounting and Reporting System (ICARS)¹² unless stipulated in a pre-existing contract for all fires, declared and non-declared, for a specified period of time. In those instances, the State incurs costs through ICARS, even if the ICARS costs are not representative of actual costs. However, even in those instances, FEMA must review the costs for reasonableness and may determine to reduce or withhold reimbursement if such costs are determined to be unreasonable.

Grantee and subgrantee administrative costs are discussed in Chapter 4, Grant Management. Eligibility of costs incurred by entities working through Mutual Aid Agreements is discussed in detail in Chapter 5 of this Guide.

Equipment and Supplies. FEMA will reimburse applicants for costs associated with equipment and supplies for declared fires. Eligible costs for equipment and supplies include:

- Personal comfort and safety items normally provided by the State under field conditions for firefighter health and safety.
- Replacement of firefighting supplies, tools, and materials lost or destroyed with comparable items.
- Reimbursement for ownership and operation costs of applicant-owned equipment based on equipment rate guidelines in 44 CFR 206.228(a)(1).
- Operation and maintenance costs of publicly owned, contracted, rented, or volunteer firefighting department equipment to the extent any of these costs are not included in applicable equipment rates.
- Reimbursement for the use of U.S. government-owned equipment based on reasonable actual costs as billed by a Federal agency and paid by the State. Reimbursement for the use of Federal Excess Personal Property is based on the direct cost for use of equipment.
- Repair of damaged applicant-owned equipment. The FEMA Regional Office will determine repair costs based on the lowest applicable equipment rates, which may be

¹² ICARS is an automated system for the generation, delivery, routing, and tracking of resources and costs.

FEMA, U.S. Forest Service, U.S. Department of Agriculture, or State or local rates, depending on the piece of equipment and the formula used in calculating the rate.

- Replacement of applicant-owned equipment that is lost or destroyed in firefighting activities with comparable equipment of the same age, capacity, and condition.
- Purchase of supplies and equipment that are necessary to respond to the declared fire may be eligible. However, the Grantee or subgrantee may be required to compensate FEMA for the fair market value of the cost of the equipment and supplies when the items are no longer needed for fire suppression activities. FEMA Policy No. 9525.12, *Disposition of Equipment, Supplies and Salvaged Materials*, should be used for guidance.

Labor Costs.¹³ For declared fires, certain labor costs are considered eligible for reimbursement. Labor costs eligible for reimbursement include:

- Overtime for permanent or reassigned State, Indian Tribal, or local governmental employees, including firefighters, police, logistical support, and other personnel involved in eligible fire suppression-related activities.
- Seasonally employed personnel, when covered under existing budgets and used for fire suppression activities during the season of employment, are considered permanently employed for the purpose of cost eligibility.
- Regular time and overtime for temporary and contract employees hired to perform eligible fire suppression-related activities.
- The increased portion of overtime costs for regular full-time employees backfilling (one level) for other regular full-time employees within the same entity who are performing eligible fire suppression-related work.
- Permanent employees who are funded from an external source (e.g., by a grant from a Federal agency, statutorily dedicated funds, or rate-payers) to work on specific non-disaster tasks may be paid for regular time and overtime for fire suppression-related work. However, the FEMA Region must consult with the FEMA National Office before approving payment.

Travel and Per Diem. Travel and per diem are eligible for applicants under a declared fire. Eligible travel and per diem include:

- Travel and per diem for all State, Indian Tribal, and local governmental employees who are providing services requested by the Incident Commander and directly associated with declared fire management activities.
- Field camps and meal costs when provided in lieu of per diem.

Pre-Positioning Costs. Pre-positioning is the temporary relocation of existing fire prevention or suppression resources from an area of low fire danger to one of higher fire danger in anticipation of increased magnitude and severity of an uncontrolled fire. States frequently pre-position Federal, out-of-State, State, and local resources during extreme fire hazards to improve initial attack capabilities.

Pre-positioning costs incurred up to a maximum of 21 days before the date of the fire declaration may be eligible under FMAGP. However, only pre-positioning costs for out-of-State,

¹³ Additional guidance is found in Policies No. 9525.7, *Labor Costs-Emergency Work* and 9523.6, *Mutual Aid Agreements for Public Assistance and Fire Management Assistance*.

Federal, and international resources actually used on the declared fire are eligible for funding. Costs incurred to pre-position resources that remained at the staging area and were not used on the declared fire are not eligible for funding.

For instance, suppose one staging area has three Blackhawk helicopters pre-positioned. One Blackhawk helicopter from the staging area is used in the wildland firefighting efforts for a declared fire. Only the pre-positioning costs for that one Blackhawk helicopter are eligible for funding. The use of one piece of equipment on a declared fire does not make pre-positioning costs for an entire staging area (i.e., all three Blackhawk helicopters) eligible for funding.

For pre-positioning costs to be considered eligible under FMAGP, the State must:

- Notify the FEMA Regional Director of its intention to seek funding for pre-positioning resources at the time it submits the declaration request (or immediately thereafter). Since pre-positioning is undertaken in anticipation of an event, it is reasonable for a State to know whether it anticipates submitting costs for pre-positioning at the time the declaration request is approved or shortly thereafter.
- Document specific resources (number, type), estimated cost, and duration of pre-positioned resources.
- Provide detailed justification for pre-positioning, including scientific indicators such as drought indices, current allocation of State firefighting resources, weather conditions, and the number of wildland fires currently burning in the State.

Emergency Work. FEMA may provide funding under FMAGP for essential assistance to reduce or minimize immediate threats to life and property under Section 403 of the Stafford Act when such assistance is directly related to the mitigation, management, and control of the declared fire.

Mitigation, management, and control are those activities undertaken, generally during the incident period of a declared fire, to minimize the immediate adverse effects and to manage and control the fire. Eligible activities may include associated emergency work and pre-positioning equipment directly related to the declared fire to reduce the spread of a declared fire, reduce associated health and safety threats, prevent potential damage by the declared fire, and repair damage caused in the performance of eligible wildland firefighting activities. Only emergency work occurring during the incident period of a declared fire are eligible for funding. Activities designed to reduce the potential for future fires or to minimize damage from future fires are ineligible for funding under FMAGP.

Essential mitigation, management, and control activities under Section 403 may include:

- Police barricading and traffic control;
- Extraordinary emergency operations center expenses;
- Evacuation and sheltering (people and animals);
- Search and rescue;
- Arson patrol and investigation teams;
- Public information dissemination to inform people what to do during the declared fire;
- Limited removal of burned or unburned trees (i.e., snags) that threaten the safety of the general public.

Temporary Repairs. FMAGP funding may be available for the temporary repair of damage caused by firefighting activities related to a declared fire. Repair activities must temporarily protect the immediate safety of the general public. All temporary repair of damage caused by firefighting activities must be completed within 30 days of the close of the incident period for the declared fire. It should be noted that temporary repair of damage caused by firefighting activities does not include repair of damage caused by the declared fire.

Examples of temporary repair activities that may be eligible for funding include:

- Temporary repairs to bulldozer lines, field camps, and staging areas to address safety concerns.

For example, assume that a heavily trafficked park or recreation area was severely gouged by firefighting activities. Because these gouges may affect public health and safety, temporary repair may include refilling the gouges or boarding them over. Temporary repairs would not include a complete re-grading of an entire park or recreation area.

- Temporary repairs to facilities damaged by firefighting activities, such as fences, buildings, bridges, and roads.

An example of a temporary repair might include repairing a portion of a picket fence (removed to allow wildland firefighting resources to access the declared fire) with a chain link fence to temporarily replace the removed fence.

Mobilization and Demobilization. Costs for mobilizing and demobilizing resources to and from a declared fire may be eligible for reimbursement under FMAGP.

- Mobilization is the process by which Federal, State, and local entities are activated, assembled, and transported to respond to or support a declared fire.
- Demobilization is the process of deactivating, disassembling, and transporting back to their point of origin all wildland firefighting resources that had been provided to respond to and support a declared fire.

Demobilization costs may be claimed after submittal of other eligible costs if deployment involves one or more declared fires. **IMPORTANT:** If resources are being used on more than one declared fire, mobilization and demobilization costs must be claimed against the first declared fire on which they are used.

Ineligible Costs

Ineligible costs under FMAGP include the following:

- Costs not directly associated with the fire's incident period (with the exception of pre-positioning, mobilization and demobilization of eligible resources);

- Costs incurred in the mitigation, management, and control of undeclared fires;
- Costs for the straight or regular time salaries and benefits of permanently employed or reassigned personnel of a subgrantee;
- Time and costs expended by volunteer labor, which by nature is offered on a donated basis and is not bound by contract or employment terms (see “Donated Resources” below);
- Costs for mitigation, management, and control of a declared fire on commingled Federal land when such costs are reimbursable to the State by a Federal agency under another statute (44 CFR Part 151);
- Costs related to planning, pre-suppression, recovery, and mitigation of possible future damage related to the burn area of the declared fire;
- Planning actions such as risk assessments;
- Cutting fire-breaks without the presence of an imminent threat;
- Pre-planned non-field training;
- Road widening;
- Land rehabilitation such as seeding, planting operations, and erosion control;
- Timber salvage; and
- Restoration of facilities damaged by fire.

Donated Resources

In some fires, individuals and organizations donate volunteer labor, equipment, and material. FEMA has determined that the value of “in-kind” contributions by third parties may be credited toward the calculation of the non-Federal cost share. FEMA Policy No. 9525.2, *Donated Resources*, should be used for guidance on how to credit applicants for the value of donated resources.

CHAPTER 4

GRANT MANAGEMENT

The Grantee is the State or Indian Tribal government that receives an FMAGP grant and is accountable for the use of the funds provided. Except in an instance where there is a State Grantee and an Indian Tribal Grantee under the same fire declaration, there can be only one Grantee for each declared fire. That means that two offices in the same State cannot be designated as Grantee, nor can offices from two States be designated as Grantee. Only the State agency, as designated by the Governor or GAR in the FEMA-State Agreement for FMAGP for the declared fire, or an Indian Tribal government, can be designated as the Grantee.

Grant Application Package

The FMAGP grant application package consists of the following forms (copies are in Appendix C):

- FF 90-58 Request for FM Declaration;
- FF 90-32 Principal Advisor's Report;
- FEMA Form 90-133 Request for Fire Management Assistance Subgrant (RFMAS); and
- FEMA Form 90-91 Project Worksheet (PW).

In support of the budget information forms (Forms 20-15 and 20-20), all subgrant applications (consisting of the RFMAS and PWs) must be submitted as attachments to the grant application package.

The FEMA Regional Fire Duty Liaison is responsible for reviewing the grant application package for FMAGP eligibility and reasonableness of cost. A Regional grants management specialist is responsible for approving the grant award and obligating funds.

Initial Grant Application and Approval Timeframe. The State must submit its initial grant application (Standard Form 424) no later than 9 months after the date of the fire declaration. Depending on extenuating circumstances, such as delay in receiving bills for Federal resources ordered, the State may submit a written request for a time extension to the Regional Director. The request for a time extension must provide a detailed justification for the delay and need for the extension. Upon receipt of the written request from the State, the Regional Director may approve a time extension for up to 3 months.

The FEMA Regional Director has 45 days from the receipt of the State's initial grant application, or an amendment to the State's grant application, to approve or deny the application package or amendment or to notify the State of a delay. Note that before the Regional Director can approve the State's grant application, the State must demonstrate that it has:

- Met the fire cost threshold;
- An approved State Administrative Plan; and

- An approved State Mitigation Plan.

Fire Cost Threshold. Prior to approval, the State's grant application must meet either the individual fire cost threshold or the cumulative fire cost threshold. When submitting the initial grant application, the State only needs to submit costs up to the amount that meets or exceeds the calendar year fire cost threshold, even if additional costs are anticipated. Amendments to the initial grant application may be submitted thereafter, increasing the overall value of the grant. Should an amendment ever decrease the overall value of the grant so that the grant falls below the fire cost threshold, the grant will be de-obligated in its entirety.

Individual Fire Cost Threshold: The individual fire cost threshold is based on total eligible costs for the declared fire. The individual fire cost threshold for a State is the greater of the following:

- \$100,000; or
- $5\% \times \$1.18$ (\$1.18 is the 2006 statewide per capita indicator. The indicator is adjusted annually for inflation using the *Consumer Price Index for All Urban Consumers* published annually by the Department of Labor) \times the State population.

Cumulative Fire Cost Threshold: The cumulative fire cost threshold is based on total eligible costs incurred during the calendar year for all declared fires and total costs incurred on non-declared wildland fires (Federal costs not billed/payable by the State cannot be included in this calculation). The cumulative fire cost threshold for a State is the greater of the following:

- \$500,000; or
- $3 \times (5\% \times \$1.18 \times \text{State population})$.

To demonstrate that the individual or cumulative fire cost threshold has been met, the State must document the total eligible costs for a declared fire on PWs (FEMA Form 90-91). The cost for the pre-positioning of wildland firefighting resources is not considered when determining whether a grant application meets the fire cost threshold. Sample calculations of fire thresholds are presented in Appendix F.

The costs for all eligible fires within a declared fire complex are aggregated and treated as an individual fire for purposes of meeting or exceeding the fire thresholds.

It is important to note that the fire cost thresholds for each State are adjusted annually. See Appendix G for FY 2006 Fire Cost Thresholds.

State Administrative Plan. The State must develop an Administrative Plan (or have a current FEMA-approved Administrative Plan on file with the FEMA Regional Office) that describes the procedures for administering the FMAGP. It may be a stand-alone plan or it may be an addendum to the Public Assistance Program State Administrative Plan. At a minimum, the stand-alone Administrative Plan or addendum must include:

- The designation of the State agency (i.e., Grantee) that will have responsibility for program administration;
- The identification of staffing functions for FMAGP, the sources of staff to fill these functions, and the management and oversight responsibilities of each;
- The procedures for:
 - ◊ Notifying potential applicants of the availability of the program;
 - ◊ Assisting FEMA in determining applicant eligibility;
 - ◊ Submitting, reviewing, and transmitting subgrant applications, performance reports, and financial reports to the FEMA Regional Office;
 - ◊ Processing payment requests for subgrantees;
 - ◊ Recovering funds for disallowed costs;
 - ◊ Processing appeal requests and requests for time extensions; and
 - ◊ Providing technical assistance and materials on the application procedures, program eligibility guidance, and program deadlines.

The State should review its Administrative Plan for FMAGP annually and make necessary amendments to reflect changes in programmatic guidance or signatory parties. The State may request the Regional Director to provide technical assistance in preparing the State Administrative Plan.

State Mitigation Plan (SMP). Section 322 of the Stafford Act requires States, Tribes, and local governments to take a proactive approach to mitigation planning. This section, as implemented by 44 CFR Part 201, emphasizes the need for State, Tribal, and local entities to closely coordinate mitigation planning and implementation efforts.

Before a State grant application can be approved, the State must:

- Develop an SMP that addresses wildfire risks and mitigation measures in accordance with 44 CFR Part 206 and 44 CFR Part 201; or
- Incorporate wildfire mitigation into an existing SMP developed and approved in accordance with 44 CFR Part 206, Subpart M that addresses wildfire risks and contains a wildfire mitigation strategy and related mitigation initiatives.

The intent of requiring hazard mitigation planning to receive FMAGP grants is to identify wildfire hazards and cost-effective mitigation alternatives that produce long-term benefits.

A State or Indian Tribal government that does not have an approved SMP per 44 CFR §204.51(d)(2), and intends to apply for assistance under the fire declaration, must formally submit an acceptable SMP for FEMA review and approval within 30 days of signing the amendment to the FEMA-State Agreement (Appendix E) FEMA then has 45 days, whenever possible, to review the SMP.

If the State does not have an approved SMP and fails to submit its SMP within the designated timeframe, FEMA will deny the State or Indian Tribal government grant application.

Grantee Responsibilities

In coordination with FEMA, the Grantee is responsible for managing a FMAGP grant under a fire management assistance declaration. Grantee responsibilities include the following:

- Submits the grant application package for FMAGP to the FEMA Regional Director for review and approval;
- Manages the administration and operation of FMAGP in coordination with FEMA;
- Conducts closeouts;
- Obtains audits;
- Disburses funding to subgrantees; and
- Monitors subgrant awards.

The Grantee serves as the primary contact for transactions with and on behalf of applicants applying for a fire management assistance subgrant. The Grantee is responsible for submitting all subgrant requests (RFMAS – FEMA Form 90-133) and PWs (FEMA Form 90-91) to FEMA for review and approval as part of the grant application package. By doing this, the Grantee is certifying that applicant eligibility and costs for work performed in the wildland firefighting activities comply with FEMA laws, regulations, policy, and guidance applicable to FMAGP, as well as the terms and conditions outlined for the administration of the grant in the FMAGP FEMA-State Agreement. During the closeout process or an audit, should funds be disallowed, the Grantee is responsible for recovery of funds.

Subgrantees

Eligible Subgrant Entities. State and Indian Tribal governmental agencies not designated as Grantee, as well as local governmental entities, are eligible to submit applications for fire management assistance subgrants to the Grantee. When an Indian Tribal government is serving as a dual Grantee under the State's declaration, all Indian Tribal government entities applying for subgrants must submit their applications through the Indian Tribal government Grantee.

Privately owned and volunteer entities are not eligible subgrantees, but may be reimbursed through a contract or compact with an eligible subgrantee. Volunteer labor may also be used to offset the non-Federal share of the Fire Management Assistance Grant. Volunteer entities may not be reimbursed but can be used as donated labor.

Subgrantee eligibility is contingent upon a finding that the Incident Commander or comparable State official, such as the State Forester, State Emergency Manager, or Governor's Authorized Representative, requested the applicant's assistance, and that the activities performed by the applicant were required as a result of the declared fire, were the legal responsibility of the applicant, and were located within the designated area.

Subgrant Application Request. State, Indian Tribal, and local governments interested in applying for FMAGP subgrants must submit a RFMAS (FEMA Form 90-133) to the Grantee in accordance with State procedures and within the timeframe established by the Grantee, but no

later than 30 days after the close of the incident period. Under extenuating circumstances, the Regional Director may approve an applicant's request for an additional 30 days to submit its RFMAS. A copy of FEMA Form 90-133 can be found in Appendix C.

The RFMAS is an applicant's official notification to both the Grantee and FEMA of its intent to apply for a subgrant. The form includes information identifying the applicant, including the applicant's name, address, and primary and secondary contacts. The Grantee reviews the RFMAS and forwards it to the FEMA Regional Office. The Regional Director then determines applicant eligibility based on FEMA laws, regulations, policy, and guidance applicable to FMAGP and informs the Grantee of his/her determination. The Grantee then notifies the applicant. If approved, the subgrant application process may begin.

Subgrant Project Worksheets. After approving an applying entity's RFMAS, FEMA Regional staff may begin to work with the Grantee and local staff to prepare PWs (FEMA Form 90-91). PWs are the forms that FEMA uses to document actual costs incurred by eligible applicants in performing eligible wildland firefighting activities. The Regional Director may request the Principal Advisor to assist with PW preparation. A copy of FEMA Form 90-91 can be found in Appendix C.

Subgrantees should submit all PWs to the Grantee for review. The Grantee submits them to the Regional Director as part of its grant application. PWs less than \$1,000 are not eligible under FMAGP.

The Grantee determines the deadline for applicants to submit PWs, but the deadline will be no later than **6 months from the close of the incident period**. At the request of the Grantee, the Regional Director may approve a 3-month extension for the submittal of PWs.

Appeals of Eligibility¹⁴

An eligible applicant, subgrantee, or grantee may appeal any grant-related determination made by FEMA. This includes determinations on applicant eligibility, work eligibility, and cost.

Levels of Appeals. There are two levels of appeal to FEMA. The first level is to the Regional Director. The Regional Director's decision may be appealed to the Recovery Division Director in the National Office for a second and final level of appeal. All appeals must be filed within 60 days after the receipt of the determination that is being appealed.

Appeals Process. Applicants must submit all appeals to the Regional Director through the Grantee. The Grantee reviews the appeals and forwards them with a written recommendation to the Regional Director within 60 days of receipt.

Appeals should contain documented justification supporting the appellant's position, specifying the determination in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.

¹⁴ Appeals of eligibility are based on 44 CFR § 204.54.

Within 90 days following receipt of a Grantee or subgrantee appeal, the Regional Director (for first appeals) or Recovery Division Director in the National Office (for second appeals) notifies the Grantee in writing of the disposition of the appeal or of the need for additional information.

A request by the Regional Director or Recovery Division Director in the National Office for additional information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information, or following expiration of the period for providing the information, the Regional Director or Recovery Division Director notifies the Grantee in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director or Recovery Division Director takes appropriate implementing action.

In appeals involving highly technical issues, the Regional Director or Recovery Division Director may submit the appeal to an independent scientific or technical person or group for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of a technical report, the Regional Director or Recovery Division Director notifies the Grantee in writing of the disposition of the appeal.

Cost Share

All Fire Management Assistance Grants are subject to a cost share. The Federal cost share for all Fire Management Assistance Grants is 75 percent. All terms and conditions are outlined in the FEMA-State Agreement and apply to all declared fires within each calendar year. The 25 percent non-Federal cost share can be paid in its entirety by the Grantee, subgrantee, or a combination of the two. Under the FMAGP, there is no cost-share adjustment. The grant application for each declared fire is subject to the 75 percent Federal cost share.

Duplication of Assistance

FEMA may not duplicate benefits received by or available to the applicant from insurance, other assistance programs, legal awards, or any other source to address the same purpose. A subgrantee must notify FEMA of all benefits that it receives or anticipates to receive from other sources for the same purpose and must seek all such benefits available to them. FEMA will reduce the grant by the amount available for the same purpose from other sources.

Assistance may be provided under FMAGP when other benefits are available to an applicant, but the applicant will be liable to FEMA for any duplicative amounts that it receives or has available to it from other sources, and must repay FEMA for such amounts.

FEMA does not provide assistance that duplicates activities for which another Federal agency has more specific or primary authority to provide assistance for the same purpose. FEMA may disallow or recoup amounts that fall within another Federal agency's statutory authority. The FMAGP may provide funding assistance under Part 204, but the applicant must agree to seek

assistance from the appropriate Federal agency and to repay FEMA for amounts that are within another agency's authority. It is the applicant's responsibility to notify FEMA of any duplicate costs recovered from another Federal agency.

Negligence and Intentional Acts

FEMA may not provide assistance to an applicant for costs attributable to its own negligence or that of a third party. If the applicant suspects negligence or intentional acts by a third party for contributing to or igniting a declared fire, the applicant is responsible for taking all commercially reasonable steps to recover costs from the third party. Any recovered costs are considered duplicated benefits and need to be remitted to FEMA.

To ensure that applicants take reasonable steps toward cost recovery and possible prosecution of responsible entities, applicants are asked to document their liability findings and proposed plan of action. The Grantee must work with the State's Attorney General to pursue legal avenues to recover costs from any third party responsible for a declared fire. This includes declared fires that were "local responsibility" fires for which a State submitted a declaration request. The State's decision to prosecute for damages from a liable third party must be documented and signed by the State's Attorney General, and provided by the Grantee to the Regional Office as part of the State's initial grant application or as a subsequent amendment.

If FEMA determines an applicant has not made reasonable efforts to recover costs from third parties responsible for igniting a declared fire, FEMA may withhold or recoup funding from the applicant. FEMA recognizes, however, that it may not be feasible or cost effective for applicants to pursue cost recovery from all third parties responsible for igniting a declared fire.

A person or third party shall not be held liable as a result of actions that person or entity takes or omits in the course of rendering care or assistance in response to the declared fire. In addition, if the applicant chooses not to prosecute a third party whose intentional acts contributed to the costs incurred by the declared fire, FEMA reserves the right to do so.

Administrative Costs

Grantee. The Grantee may claim both direct and indirect administrative costs for extraordinary costs associated with requesting, obtaining, and administering a grant for a declared fire. Direct costs include regular and overtime pay and travel expenses for permanent, reassigned, temporary, and contract employees who assist in administering the Fire Management Assistance Grant.

Funding for other direct costs incurred by the Grantee administering a Fire Management Assistance Grant, such as equipment and supply purchases, may be eligible, but must be reviewed by the Regional Director. "State management costs," as such, are not eligible under FMAGP, however, most items considered to be State management costs may be reimbursed

under FMAGP as administrative costs pursuant to Office of Management and Budget (OMB) Circular A-87 and 44 CFR Part 204.

Indirect costs incurred by the Grantee during the administration of a grant are allowed in accordance with the provisions of 44 CFR Part 13 and OMB Circular A-87. The Grantee must submit a copy of the indirect cost proposal along with the PW for indirect costs. The PW is reviewed by FEMA's Disaster Finance Center for reasonableness and eligibility.

Costs included in the computation of the indirect cost rate are not allowable as direct administrative costs.

Subgrantee. The subgrantee may claim extraordinary costs associated with requesting, obtaining, and administering a subgrant for a declared fire. Direct costs include regular and overtime pay and travel expenses for permanent, reassigned, temporary, and contract employees who assist in administering the fire management assistance subgrant.

Funding for other direct costs incurred by the subgrantee administering a subgrant, such as equipment and supply purchases, may be eligible, but must be reviewed by the Grantee and Regional Director.

Subgrantees may not claim indirect administrative costs.

Grant Closeouts

Closeout for all Fire Management Assistance Grants must meet the requirements set forth in 44 CFR Part 13, Subpart D. The purpose of closeout is to certify that all eligible costs have been reimbursed. During the closeout process, estimated costs are reconciled with actual costs. It is the Grantee's responsibility to document all costs associated with the eligible wildland firefighting activities. Failure to properly document any project may result in loss of funding for any claimed work. The Grantee is responsible for making sure that all documentation on PWs is accurate, complete, and up to date for closeout.

Closeout shall be completed 90 days after the performance period expiration date. The performance period is the time interval designated in Block 13 on Standard Form 424 for the Grantee and all subgrantees to submit eligible costs and have those costs processed, obligated, and closed out by FEMA. During closeout, the Grantee submits a final Financial Status Report (FEMA Form 20-10), which reports all costs incurred within the incident period and all administrative costs incurred within the performance period.

A Fire Management Assistance Grant is ready to be closed when all funds have been distributed and all documentation is complete. Either FEMA or the State can begin the closeout process. The FEMA Regional Office may begin the closeout process with a letter of inquiry, followed by a letter of intent to proceed with the closeout when no other justification can be provided to keep the grant open.

Audit Requirements

Recipients of FMAGP grants and subgrants are required to comply with the provisions set forth in OMB Circular A-133. Circular A-133 requires grant or subgrant recipients expending \$500,000 or more in Federal funds in a fiscal year to obtain an audit. Specific information pertaining to the audit requirements of each State is outlined in their respective State Administration Plans. States must abide by both Federal and State audit requirements.

Even though a single audit is required, grant recipients are also subject to additional audits by the Department of Homeland Security and/or FEMA Office of Inspector General and State auditors for items not covered under the required audit. Specific documentation and procedures are based on the requirements of the OMB. The OMB requires grant recipients to maintain financial and program records for 3 years following final payment. The Office of Inspector General may independently, or at the National Office's request, initiate an audit of a Grantee or subgrantee for a particular fire or fire complex.

In some instances, State law and procedures may require paperwork to be saved for a longer time. It is important for grant recipients to check the specific audit requirements and statutes that govern their State.

CHAPTER 5

MUTUAL AID¹⁵

This chapter specifies the criteria under FEMA's FMAGP used to determine eligibility of costs incurred through mutual aid agreements between applicants and other entities. It applies to eligible work authorized under Section 420 of the Stafford Act and is applicable to all fires declared under the FMAGP on or after August 11, 2004.

This chapter is applicable to all forms of mutual aid assistance, including agreements between Requesting (or otherwise legally responsible jurisdiction) and Providing Entities, statewide mutual aid agreements, and the mutual aid services provided under the Emergency Management Assistance Compact (EMAC).

Background

State and local governments often require additional assistance, resources, and personnel to respond and recover from a disaster or emergency. Many State and local governments enter into mutual aid agreements to provide emergency assistance to each other when these events occur. These agreements are often written prior to an event, but may be arranged verbally after an event occurs. This chapter addresses the eligibility of costs for both written and verbal mutual aid agreements and mutual aid agreements under the EMAC.

The National Incident Management System (NIMS) encourages States to participate in mutual aid agreements, specifically intrastate agreements that encompass all local jurisdictions. The NIMS Integration Center (NIC) is responsible for developing a national system of standards and guidelines, as well as preparing guidance to assist agencies in implementing the system. FEMA supports the NIMS by establishing standard criteria for determining the eligibility of costs incurred through mutual aid agreements.

Overview

To be eligible for reimbursement under the FMAGP, the assistance provided under a mutual aid agreement must have been requested by a Requesting Entity or Incident Commander, must be directly related to a declared fire, must have been used to perform eligible work, and must have a reasonable cost.

FEMA does not reimburse costs incurred by entities that "self-deploy" (deploy without a request for mutual aid assistance by a Requesting Entity) except to the extent those resources are subsequently used in performing eligible work at the request of the Requesting Entity or Incident Commander.

¹⁵ Refer to FEMA Policy No. 9523.6, *Mutual Aid Agreements for Public Assistance and Fire Management Assistance*, for more detail.

Pre-Event Written Mutual Aid Agreements

FEMA recognizes mutual aid agreements between Requesting and Providing Entities, and statewide mutual aid agreements wherein the State is responsible for administering the claims for reimbursement of Providing Entities. In addition, FEMA recognizes the standard EMAC agreement as a valid form of mutual aid agreement between member States. FEMA encourages parties to have written mutual aid agreements in place prior to a declared fire.

When a pre-event written agreement exists between a Requesting Entity and a Providing Entity, the Providing Entity may be reimbursed through the Requesting Entity. In these circumstances, the Requesting Entity must claim the eligible costs of the Providing Entity on its subgrant application, pursuant to the terms and conditions of the mutual aid agreement and the requirements described in this chapter, and agree to disburse the Federal share of funds to the Providing Entity. This guidance presumes that the Requesting Entity is legally responsible for the response to the declared fire; however in some cases, the Incident Commander directing resources represents an entity other than the jurisdiction legally and financially responsible for fire response to the declared fire (for example, the State, through ICS). In this case, the Providing Entity still is reimbursed only through an agreement with the jurisdiction that is legally responsible for response to the fire and on whose behalf the resources are requested.

When a statewide pre-event mutual aid agreement exists that designates the State as responsible for administering the reimbursement of mutual aid costs, a Providing Entity may, with the prior consent of the Requesting Entity, apply directly to the Grantee for reimbursement in accordance with applicable State law and procedure. In such cases, the Providing Entity must obtain from the Requesting Entity certification of the types and extent of mutual aid assistance requested and received in performing eligible emergency work, and the labor and equipment rates used to determine the mutual aid cost reimbursement request. The certification is to be provided to the State as part of the Providing Entity's reimbursement request.

FEMA encourages parties to address the subject of reimbursement in their mutual aid agreements. The reimbursement provisions in a pre-event agreement will be honored to the extent they meet FEMA requirements.

When a pre-event mutual aid agreement is silent on reimbursement, FEMA does not reimburse for the Providing Entity's first 8 hours of assistance at the site of the declared fire, but will reimburse eligible costs when all other criteria are met. If the agreement is not later amended to address reimbursement, the first 8 hours of future assistance from a Providing Entity for a fire incident will be non-reimbursable.

When a pre-event agreement addresses reimbursement and also includes an initial period of unpaid assistance, FEMA reimburses the eligible costs of assistance after the initial unpaid period (the minimum unpaid period is 8 hours) and when all other criteria are met.

Post-Event Mutual Aid Agreements

When the parties do not have a pre-event written mutual aid agreement, the Requesting (or otherwise legally responsible entity) and Providing Entities may verbally agree on the type and extent of mutual aid resources to be provided in the current event, and on the terms, conditions, and costs of such assistance. Post-event verbal agreements must be documented in writing, executed by an official of each entity with authority to request and provide assistance, and provided to FEMA as a condition of receiving reimbursement.

When the parties have a post-event mutual aid agreement, FEMA does not reimburse for the first 8 hours of assistance at the incident site, but will reimburse eligible costs when all other eligibility criteria are met.

FEMA encourages parties to develop mutual aid agreements with reimbursement clauses so that Providing Entities can be eligible for reimbursement when providing assistance to the Requesting Entity for any subsequent deployment to a fire incident.

Force Account Labor Costs

The straight or regular time wages or salaries of a Requesting Entity's (or otherwise legally responsible entity's) permanently employed personnel performing or supervising eligible response work are not eligible costs, pursuant to 44 CFR §206.228(a)(4), §204.42(c), and §204.43(c), even when such personnel are reassigned from their usual work location to assist during a declared fire. Overtime costs for such personnel are eligible and may be submitted as part of a subgrant application.

The labor force of a Providing Entity is treated as contract labor, with regular time and overtime wages and certain benefits eligible, provided labor rates are reasonable. The increased portion of overtime cost incurred by the Providing Entity for backfill employees is eligible. The labor force of the Providing Entity is not treated as contract labor if the labor force is employed by the same local or State government as the Requesting Entity.

In circumstances where a Providing Entity is also an eligible applicant in its own right, the determination of eligible and ineligible costs depend on the capacity in which the entity is incurring costs. As stated previously, an applicant's straight-time wages are not eligible costs when the applicant is using its permanently employed personnel for work in its own jurisdiction.

Requesting and Providing Entities may not mutually deploy their labor forces to assist each other in such a way as to circumvent the limitations previously outlined.

Eligible Work

There are two types of mutual aid work eligible for FEMA assistance: fire response activities, including associated emergency work, and grant management work. Both are subject to the eligibility requirements under the FMAGP. Mutual aid provided for fire response activities, including emergency work necessary to mitigate immediate threats to life, public safety, and improved property, is eligible.

Examples of eligible fire response work authorized under the FMAGP include:

- Search and rescue, sandbagging, emergency medical care, debris removal;
- Reasonable supervision and administration in the receiving State directly related to eligible work;
- The cost of transporting equipment and personnel by the Providing Entity to the incident site;
- Costs incurred in the operation of the Incident Command System, such as operations, planning, logistics, and administration, provided such costs are directly related to eligible work on the fire to which resources are assigned;
- Dispatch operations in the receiving State;
- Firefighting activities under Section 420 of the Stafford Act and 44 CFR §204; and
- Dissemination of public information authorized under Section 403 of the Stafford Act.

Examples of mutual aid work not eligible under the FMAGP include:

- Permanent recovery work;
- Training, exercises, on-the-job training;
- Long-term recovery and mitigation consultation;
- Costs outside the receiving State that are associated with the operations of the EMAC system;
- Costs for staff performing work that is not eligible under the FMAGP;
- Pre-positioning costs not approved by the Regional Director;
- Dispatch operations outside the receiving State;
- Tracking of EMAC resources; and
- Situation reporting.

Grant management work is work associated with the performance of the Grantee's responsibilities as the grant administrator, as outlined in 44 CFR §206.202(b). Use of EMAC-provided assistance to perform these tasks is eligible mutual aid work.

Reimbursement of Mutual Aid Costs

To be eligible for FEMA assistance, the reimbursement provisions of a mutual aid agreement must apply uniformly to both Federal awards and other activities of the governmental unit, and not be contingent on FEMA approving funding for a declared fire.

Requesting and Providing Entities must keep detailed records of the services requested and received, and provide those records as part of the supporting documentation for a reimbursement request.

A request for reimbursement of mutual aid costs must include a copy of the mutual aid agreement regardless of when the agreement was signed between the Requesting and Providing Entities. A request for reimbursement of mutual aid costs must include a written and signed certification by the Requesting Entity certifying the following:

- The types and extent of mutual aid assistance requested and received in performing eligible emergency work; and
- The labor and equipment rates used to determine the mutual aid cost reimbursement request.

FEMA does not reimburse the value of volunteer labor or the value of paid labor provided at no cost to the applicant. However, the following items apply under a mutual aid agreement:

- To the extent the Providing Entity is staffed with volunteer labor, the value of the volunteer labor may be credited to the non-Federal cost share of the Requesting Entity's emergency work in accordance with the provisions outlined in FEMA Recovery Division Policy #9525.2, *Donated Resources*.
- If a mutual aid agreement provides for an initial period of unpaid assistance or assistance at no cost to the Requesting Entity, the value of the assistance provided at no cost to the Requesting Entity may be credited to the non-Federal cost share of the Requesting Entity's emergency work under the provisions of FEMA Recovery Division Policy #9525.2, *Donated Resources*.

Reimbursement for work beyond emergency assistance, such as permanent repairs, is not eligible for mutual aid assistance under the FMAGP.

APPENDIX A:

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

42 U.S.C. § 5121 et seq.

Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended by Public Law 106-390, October 30, 2000

UNITED STATES CODE Title 42. THE PUBLIC HEALTH AND WELFARE CHAPTER 68. DISASTER RELIEF

*[As amended by Pub. L. 103-181, Pub. L. 103-337, and Pub. L. 106-390]
(Pub. L. 106-390, October 30, 2000, 114 Stat. 1552 - 1575)*

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§ 5121. CONGRESSIONAL FINDINGS AND DECLARATIONS {Sec. 101}

- a. The Congress hereby finds and declares that--
 - 1. because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and
 - 2. because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity; special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.
- b. It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by--
 - 1. revising and broadening the scope of existing disaster relief programs;

Policies. Policies are issued by the FEMA National Office. They clarify or provide direction for specific situations within the parameters established by the Stafford Act and various regulations that pertain to the FMAGP. FEMA issues policies so that the regulations and procedures are interpreted consistently across the nation and from fire to fire.

Applicants for Grants and Subgrants

After the approval of a declaration request, the State may submit an application package for a Fire Management Assistance Grant to the FEMA Regional Director. The Governor or GAR usually designates a single State agency to submit the application package to FEMA for the FMAGP grant. If the application package is approved, then the State entity that submitted it is designated as the Grantee. Generally, the Grantee is the State emergency management or forestry office.

Under a FMAGP declaration, an affected Indian Tribal government may elect to serve as Grantee, if not precluded by State law, or it may act as a subgrantee of the State. An Indian Tribal government acting as Grantee must assume all the responsibilities of a State as outlined in 44 CFR Part 204 for the purpose of administering a grant. An Indian Tribal government must have a FEMA-Tribal Agreement in place in order to serve as a Grantee.

Applicants applying for subgrants must be legally responsible for the fire fighting activities for which reimbursement is being requested. The following entities are eligible to apply through a Grantee for subgrants:

- State agencies;
- Local governments; and
- Indian Tribal governments.

Entities not eligible as applicants are governmental entities that are not legally responsible for the fire fighting activities, privately owned entities, and volunteer firefighting organizations. However, these parties may be reimbursed through a compact, mutual aid agreement or contract with an eligible applicant for eligible costs associated with the declared fire or fire complex. The eligibility of their costs is contingent on a finding that the Incident Commander, or comparable State official, requested that entity's assistance and their activities must meet all other eligibility criteria.

Eligible Costs

All eligible work and related costs must be associated with the incident period of a declared fire (refer to Chapter 2 for a definition of incident period). The work performed must be:

- The legal responsibility of the applicant, whether it was performed by the applicant's own forces or through a secondary party as described in the preceding paragraphs.

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 [.]

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

DELEGATION OF FUNCTIONS

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]."

Notes added to §5121 by the U.S. Code codifiers of Pub.L. 106-390:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- a. SHORT TITLE.-This Act may be cited as the "Disaster Mitigation Act of 2000".

SEC. 208. REPORT ON STATE MANAGEMENT OF SMALL DISASTERS INITIATIVE.

Not later than 3 years after the date of enactment of this Act [October 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).

[Pub.L. 106-390, § 208, 114 Stat. 1571]

SEC. 209. STUDY REGARDING COST REDUCTION.

Not later than 3 years after the date of enactment of this Act, 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.

[Pub.L. 106-390, § 209, 114 Stat. 1571]

SEC. 301. TECHNICAL CORRECTION OF SHORT TITLE.

- a. The first section of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 note) is amended to read as follows:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Robert T. Stafford Disaster Relief and Emergency Assistance Act’.”.

[Pub.L. 106-390, § 1(a), 114 Stat. 1552]

SEC. 308. STUDY OF PARTICIPATION BY INDIAN TRIBES IN EMERGENCY MANAGEMENT.

- 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 enactment of this Act, 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 the Committee on Appropriations of the House of Representatives.

[Pub. L. 106-390, § 308, October 30, 2000, 114 Stat. 1575]

§5122. DEFINITIONS {Sec. 102}

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 Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.
3. "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, 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, 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.

(Pub. L. 93-288, title I, § 102, May 22, 1974, 88 Stat. 144; Pub. L. 100-707, title I, § 103(b)-(d), (f), Nov. 23, 1988, 102 Stat. 4689, 4690.) (As amended Feb. 24, 1992, Pub. L. 102-247, title II, § 205, 106 Stat. 38.)

(Pub. L. 106-390, § 302, October 30, 2000, 114 Stat. 1572)

TITLE II--DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

§ 5131. FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS {Sec. 201}

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 damages 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 the date of enactment of this Act [enacted May 22, 1974]. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the President, which shall--

1. set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and
2. include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

d. Grants for improvement, maintenance, and updating of State plans

The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards; except that no such grant shall exceed \$50,000 per annum to any State.

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

§ 5132. DISASTER WARNINGS {Sec. 202}

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 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App 2281(c)), section 611(c) of this Act, or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters. [§ 3412(b), Pub. L. 103-337, Oct. 5, 1994] [Reference to § 611(c) is incorrect; probably should be § 611(d). Technical correction needed]

d. Agreements with commercial communications systems for use of facilities

The President is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

(Pub. L. 93-288, title II, § 202, May 22, 1974, 88 Stat. 145.)

Note to users: Section 102 of the Disaster Mitigation Act of 2000, added Sec. 203 (a) - (j), Predisaster Hazard Mitigation, which authorizes a predisaster hazard mitigation program that will not be in effect until FEMA publishes implementing regulations.

§ 5133. PREDISASTER HAZARD MITIGATION. {Sec. 203}

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

- b. Establishment of Program.--The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.
- c. Approval by President.--If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the President, using amounts in the National Predisaster Mitigation Fund established under subsection (i) (referred to in this section as the 'Fund'), may provide technical and financial assistance to the State or local government to be used in accordance with subsection (e).
- d. State Recommendations.-
 - 1. In general.-
 - A. Recommendations.--The Governor of each State may recommend to the President not fewer than 5 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).
 - 2. Use.-
 - A. In general.--Except as provided in subparagraph (B), in providing assistance to local governments under this section, the President shall select from local governments recommended by the Governors under this subsection.
 - B. Extraordinary circumstances.--In providing assistance to local governments under this section, the President may select a local government that has not been recommended by a Governor under this subsection if the President determines that extraordinary circumstances justify the selection and that making the selection will further the purpose of this section.
 - 3. Effect of failure to nominate.--If a Governor of a State fails to submit recommendations under this subsection in a timely manner, the President

may select, subject to the criteria specified in subsection (g), any local governments of the State to receive assistance under this section.

e. Uses of Technical and Financial Assistance.-

1. In general.--Technical and financial assistance provided under this section-

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

B. may be used-

- i. to support effective public-private natural disaster hazard mitigation partnerships;
- ii. to improve the assessment of a community's vulnerability to natural hazards; or
- iii. to establish hazard mitigation priorities, and an appropriate hazard mitigation plan, for a community.

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

f. Allocation of Funds.--The amount of financial assistance made available to a State (including amounts made available to local governments of the State) under this section for a fiscal year-

1. shall be not less than the lesser of-

A. \$500,000; or

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

2. shall not exceed 15 percent of the total funds described in paragraph (1)(B); and (3) shall be subject to the criteria specified in subsection (g).

g. Criteria for Assistance Awards.--In determining whether to provide technical and financial assistance to a State or local government under this section, the President shall take into account-

1. the extent and nature of the hazards to be mitigated;
2. the degree of commitment of the State or local government to reduce damages from future natural disasters;

3. the degree of commitment by the State or local government to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance;
4. the extent to which the hazard mitigation measures to be carried out using the technical and financial assistance contribute to the mitigation goals and priorities established by the State;
5. the extent to which the technical and financial assistance is consistent with other assistance provided under this Act;
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 322, 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, governments, and appropriate Federal agencies, the President shall develop multihazard advisory maps for areas, in not fewer than 5 States, that are subject to commonly recurring natural hazards (including flooding, hurricanes and severe winds, and seismic events).
3. Use of technology.--In developing multihazard advisory maps under this subsection, the President shall use, to the maximum extent practicable, the most cost-effective and efficient technology available.
4. Use of maps.-
 - A. Advisory nature.--The multihazard advisory maps shall be considered to be advisory and shall not require the development of any new policy by, or impose any new policy on, any government or private entity.
 - B. Availability of maps.--The multihazard advisory maps shall be made available to the appropriate State and local governments for the purposes of-
 - i. informing the general public about the risks of natural hazards in the areas described in paragraph (2);
 - ii. supporting the activities described in subsection (e); and
 - iii. other public uses.
- I. Report on Federal and State Administration.--Not later than 18 months after the date of enactment of this section, the President, in consultation with State and local governments, shall submit to Congress a report evaluating efforts to implement this section and recommending a process for transferring greater authority and responsibility for administering the assistance program established under this section to capable States.
- m. Termination of Authority.--The authority provided by this section terminates December 31, 2003.

(Pub.L. 106-390, § 102(a), October 30, 2000, 114 Stat. 1553)

[Note, Findings and Purpose, Pub.L. 106-390, § 101, 114 Stat. 1552]

SEC. 101. FINDINGS AND PURPOSE.

- 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 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.

§ 5134. INTERAGENCY TASK FORCE. {Sec. 204}

- 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 of-
 1. relevant Federal agencies;
 2. State and local government organizations (including Indian tribes); and
 3. the American Red Cross.

(Pub.L. 106-390, § 103, October 30, 2000, 114 Stat. 1557)

SUBCHAPTER III--MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

§ 5141. WAIVER OF ADMINISTRATIVE CONDITIONS {Sec. 301}

Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

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

§ 5143. COORDINATING OFFICERS {Sec. 302}

- 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 Act, the Federal coordinating officer, within the affected area, shall--

1. make an initial appraisal of the types of relief most urgently needed;
2. establish such field offices as he deems necessary and as are authorized by the President;
3. coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army,

- the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599) [36 U.S.C. §§ 1 et seq.]; and;
4. take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.;
 5. State coordinating officer When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

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

§ 5144. EMERGENCY SUPPORT TEAMS {Sec. 303}

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

(Pub. L. 93-288, title III, § 303, formerly § 304, May 22, 1974, 88 Stat. 147; renumbered § 303 and amended Pub. L. 100-707, title I, § 105(c), Nov. 23, 1988, 102 Stat. 4691.)

§§ 5145, 5146. REPEALED. Pub. L. 100-707, title I, § 105(d), Nov. 23, 1988, 102 Stat. 4691

Section 5145, Pub. L. 93-288, title III, § 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, § 306, May 22, 1974, 88 Stat. 148, related to cooperation of Federal agencies in rendering disaster assistance.

§ 5147. REIMBURSEMENT OF FEDERAL AGENCIES {Sec. 304}

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

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

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

§ 5148. NONLIABILITY OF FEDERAL GOVERNMENT {Sec. 305}

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

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

§ 5149. PERFORMANCE OF SERVICES {Sec. 306}

a. Utilization of services or facilities of State and local governments

In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

b. Appointment of temporary personnel, experts, and consultants; acquisition, rental, or hire of equipment, services, materials and supplies

In performing any services under this Act, any Federal agency is authorized--

1. to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service;
2. to employ experts and consultants in accordance with the provisions of section 3109 of such title [5 U.S.C. § 3109], without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title [5 U.S.C. §§ 5101 et seq. and 5331 et seq.] relating to classification and General Schedule pay rates; and
3. to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(Pub. L. 93-288, title III, § 306, formerly § 309, May 22, 1974, 88 Stat. 149; renumbered § 306 and amended Pub. L. 100-707, title I, § 105(d), Nov. 23, 1988, 102 Stat. 4691.)

§ 5150. USE OF LOCAL FIRMS AND INDIVIDUALS {Sec. 307}

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

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

§ 5151. NONDISCRIMINATION IN DISASTER ASSISTANCE {Sec. 308}

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 Act or of receiving assistance under this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

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

§ 5152. USE AND COORDINATION OF RELIEF ORGANIZATIONS {Sec. 309}

a. In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community

services housing and essential facilities, whenever the President finds that such utilization is necessary.

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

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

§ 5153. PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE {Sec. 310}

- a. Priority In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:
 1. The United States Housing Act of 1937 [42 U.S.C. § 1437 et seq.] for the provision of low-income housing.
 2. Section 462 of title 40 for assistance in public works planning.
 3. The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. § 5301 et seq.].
 4. Section 1926 of title 7.
 5. The Public Works and Economic Development Act of 1965, as amended [42 U.S.C. § 3121 et seq.].
 6. The Appalachian Regional Development Act of 1965, as amended.
 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 in major disaster areas.

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

§ 5154. INSURANCE {Sec. 311}

a. Applicants for replacement of damaged facilities

1. Compliance with certain regulations

An applicant for assistance under section 5172 of this title [42 U.S.C. § 5172] (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title [42 U.S.C. § 5189] (relating to simplified procedure) or section 3233 of this title [42 U.S.C. § 3233] section 209(c)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2)) 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 [42 U.S.C. § 5172] (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title [42 U.S.C. § 5189] (relating to simplified procedure), or section 3233 of this title [42 U.S.C. § 3233] **section 209(c)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2))** may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 301. [P.L. 103-325, § 521].

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 [42 U.S.C. § 5172 or 5189] or section 3233 of the Public Works and Economic Development Act of 1965 [42 U.S.C. § 3233]- **section 209(c)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)(2))** or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 5172 or 5189 of this title [42 U.S.C. § 5172 or 5189] for any property or part thereof for which it has previously received

assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.

Pub. L. 93-288, title III, § 311, as added Pub. L. 100-707, title I, § 105(h), Nov. 23, 1988, 102 Stat. 4692.) (Bold from P.L. 106-390, § 201, October 30, 2000, 114 Stat. 1559).

§ 5155. DUPLICATION OF BENEFITS {Sec. 312}

a. General prohibition

The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other 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, United States Code [31 U.S.C. §§ 3701 et seq.], relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.

(d) Assistance not income

Federal major disaster and emergency assistance provided to individuals and

families under this Act, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

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

§ 5156. STANDARDS AND REVIEWS {Sec. 313}

The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this Act. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this Act.

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

§ 5157. PENALTIES {Sec. 314}

a. Misuse of funds.

Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

b. Civil enforcement.

Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

c. Referral to Attorney General.

The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.

d. Civil penalty.

Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than \$5,000 for each violation.

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

§ 5158. AVAILABILITY OF MATERIALS {Sec. 315}

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

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

§ 5159. PROTECTION OF ENVIRONMENT {Sec. 316}

An action which is taken or assistance which is provided pursuant to section 402, 403, 406, 407, or 502 [42 U.S.C. § 5170a, 5170b, 5172, 5173, or 5192], including such assistance provided pursuant to the procedures provided for in section 422 [42 U.S.C. § 5189], 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 [42 U.S.C. §§ 4321 et seq.] to other Federal actions taken under this Act or under any other provisions of law.

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

§ 5160. RECOVERY OF ASSISTANCE {Sec. 317}

a. Party liable.

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

b. Rendering of care.

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

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

§ 5161. AUDITS AND INVESTIGATIONS {Sec. 318}

a. In general

Subject to the provisions of chapter 75 of title 31, United States Code [31 U.S.C. §§ 7501 et seq.], relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.

b. Access to records

For purposes of audits and investigations under this section, the President and Comptroller General may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under this Act.

c. State and local audits

The President may require audits by State and local governments in connection with assistance under this Act when necessary to assure compliance with this Act or related regulations.

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

§ 5162. ADVANCE OF NON-FEDERAL SHARE {Sec. 319}

a. In general

The President may lend or advance to an eligible applicant or a State the portion of assistance for which the State is responsible under the cost-sharing provisions of this Act in any case in which--

1. the State is unable to assume its financial responsibility under such cost-sharing provisions--
 - A. with respect to concurrent, multiple major disasters in a jurisdiction, or
 - B. after incurring extraordinary costs as a result of a particular disaster; and
2. the damages caused by such disasters or disaster are so overwhelming and severe that it is not possible for the applicant or the State to assume immediately their financial responsibility under this Act.

b. Terms of loans and advances

1. In general

Any loan or advance under this section shall be repaid to the United States.

2. Interest

Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

c. Regulations

The President shall issue regulations describing the terms and conditions under which any loan or advance authorized by this section may be made.

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

§ 5163. LIMITATION ON USE OF SLIDING SCALES {Sec. 320}

No geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.

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

§ 5164. RULES AND REGULATIONS {Sec. 321}

The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this Act, and may exercise, either directly or through such Federal agency as the President may designate, any power or authority conferred to the President by this Act.

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

[Note to users: Section 104 of the Disaster Mitigation Act of 2000, added Sec. 322 (a) - (e), Mitigation Planning, and Sec. 323(a) - (b), Minimum Standards for Public and Private Structures, which will not be in effect until FEMA publishes implementing regulations.]

165. MITIGATION PLANNING. {Sec. 322}

- a. Requirement of Mitigation Plan.--As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e), a State,

- local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.
- b. Local and Tribal Plans.--Each mitigation plan developed by a local or tribal government shall-
 - 1. describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and
 - 2. establish a strategy to implement those actions.
 - c. State Plans.--The State process of development of a mitigation plan under this section shall-
 - 1. identify the natural hazards, risks, and vulnerabilities of areas in the State;
 - 2. support development of local mitigation plans;
 - 3. provide for technical assistance to local and tribal governments for mitigation planning; and
 - 4. identify and prioritize mitigation actions that the State will support, as resources become available.
 - d. Funding.-
 - 1. In general.--Federal contributions under section 404 may be used to fund the development and updating of mitigation plans under this section.
 - 2. Maximum federal contribution.--With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 404 not to exceed 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 404(a).
 - 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.

(P.L. 106-390, § 104(a), 114 Stat. 1558).

**§ 5165a. MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES.
(Sec.323.)**

- a. In General.--As a condition of receipt of a disaster loan or grant under this Act
 - 1. the recipient shall carry out any repair or construction to be financed with the loan or grant in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards; and
 - 2. the President may require safe land use and construction practices, after adequate consultation with appropriate State and local government officials.
- b. Evidence of Compliance.--A recipient of a disaster loan or grant under this Act shall provide such evidence of compliance with this section as the President may require by regulation.

(Pub.L. 106-390, § 104(a), October 30, 2000, 114 Stat. 1559).

[Note to users: Section 202 of the Disaster Mitigation Act of 2000, added Sec. 324 (a) (c), Management Costs, which will not be in effect until FEMA publishes implementing regulations.

§ 5165b. MANAGEMENT COSTS. {Sec. 324}

- 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 Act for management costs.
- c. Review.--The President shall review the management cost rates established under subsection (b) not later than 3 years after the date of establishment of the rates and periodically thereafter.

(Pub.L. 106-390, § 202(a), October 30, 2000, 114 Stat. 1560)

[Note added to § 202, Pub.L. 106-390:

1. Applicability.

- 1. In general.--Subject to paragraph (2), subsections (a) and (b) of section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)) shall apply to major disasters declared under that Act on or after the date of enactment of this Act.*
- 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 enactment of this Act) shall be used to establish management cost rates.*

(Pub. L. 106-390, § 202(b), October 30, 2000, 114 Stat. 1560)]

[Note to users. Section 203 of the Disaster Mitigation Act of 2000, added Sec. 325 (a) - (c), which became effective on October 30, 2000.]

**§ 5165c. PUBLIC NOTICE, COMMENT, AND CONSULTATION REQUIREMENTS.
(Sec. 325)**

a. Public Notice and Comment Concerning New or Modified Policies.-

- 1. In general.--**The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that-
 - A.** governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this Act; and
 - B.** could result in a significant reduction of assistance under the program.
- 2. Application.--**Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.

b. Consultation Concerning Interim Policies.-

- 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 Act, the President, to the maximum extent practicable, shall solicit the views and recommendations

of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely-

- 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.

(P.L. 106-390, § 203, October 30, 2000, 114 Stat. 1560)

SUBCHAPTER IV--MAJOR DISASTER ASSISTANCE PROGRAMS

§ 5170. PROCEDURE FOR DECLARATION {Sec. 401}

All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements of this Act. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.

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

§ 5170a. GENERAL FEDERAL ASSISTANCE {Sec. 402}

In any major disaster, the President may--

1. direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts;

2. coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;
3. provide technical and advisory assistance to affected State and local governments for--
 - A. the performance of essential community services;
 - B. issuance of warnings of risks and hazards;
 - C. public health and safety information, including dissemination of such information;
 - D. provision of health and safety measures; and
 - E. management, control, and reduction of immediate threats to public health and safety; and
4. assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

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

§ 5170b. ESSENTIAL ASSISTANCE {Sec. 403}

a. In general

Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

1. Federal resources, generally

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

2. Medicine, food, and other consumables

Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, food, and other consumable supplies, and other services and assistance to disaster victims.

3. Work and services to save lives and protect property

Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including--

- A. debris removal;
- B. search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons;
- C. clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;
- D. provision of temporary facilities for schools and other essential community services;
- E. demolition of unsafe structures which endanger the public;
- F. warning of further risks and hazards;
- G. dissemination of public information and assistance regarding health and safety measures;
- H. provision of technical advice to State and local governments on disaster management and control; and
- I. reduction of immediate threats to life, property, and public health and safety.

4. Contributions

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

b. Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

c. Utilization of DOD resources

1. General rule

During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act [42 U.S.C. §§ 5170 et seq. or 5191 et seq.], 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 [42 U.S.C. § 5173(b)], relating to unconditional authorization and indemnification for debris removal.

3. Expenditures out of disaster relief funds

The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

4. Federal share

The Federal share of assistance under this subsection shall be not less than 75 percent.

5. Guidelines

Not later than 180 days after the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988 [enacted Nov. 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 Act.

6. Definitions

For purposes of this section--

A. Department of Defense

The term 'Department of Defense' has the meaning the term "department" has under section 101 of title 10, United States Code.

B. Emergency work

The term "emergency work" includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

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

§ 5170c. HAZARD MITIGATION {Sec. 404}

a. In General.

The President may contribute up to 75 percent of the cost of hazard mitigation

measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 322 of this title and shall be subject to approval by the President. Subject to section 322, 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.

(Pub.L. 106-390, § 104(c)(1), October 30, 2000, 114 Stat. 1559)

- 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 December 3, 1993.

[Note to users: Section 204 of the Disaster Mitigation Act of 2000, added Sec. 404(c), Program Administration by States, which will not be in effect until FEMA publishes implementing regulations.]

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 322; 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.

[(P.L. 106-390, § 204, October 30, 2000, 114 Stat. 1561)] (Pub. L. 93-288, title IV, § 404, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23,

1988, 102 Stat. 4698, and Pub. L. 103-181, §2(a), Dec. 3, 1993, 107 Stat. 2054.)

[The following section was enacted in PL 106-390, § 104(b), but is not part of the Stafford Act and was not codified in the U.S. Code]:

[[(b) Losses From Straight Line Winds.--

The President shall increase the maximum percentage specified in the last sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) from 15 percent to 20 percent with respect to any major disaster that is in the State of Minnesota and for which assistance is being provided as of the date of enactment of this Act, except that additional assistance provided under this subsection shall not exceed \$6,000,000. The mitigation measures assisted under this subsection shall be related to losses in the State of Minnesota from straight line winds."]]

§ 5171. FEDERAL FACILITIES {Sec. 405}

a. Repair, reconstruction, restoration or replacement of United States facilities

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

b. Availability of funds appropriated to agency for repair, reconstruction, restoration, or replacement of agency facilities

In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

c. Steps for mitigation of hazards

In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

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

§ 5172. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES {Sec. 406}

[Note to users. Section 205 of the Disaster Mitigation Act of 2000 struck prior § 406(a), Contributions, and inserted new § 406(a)(1), (2) and (4), Contributions, which became effective on October 30, 2000. See Note to users regarding § 406(a)(3).]

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.

[Note to users: Section 205(a) of the Disaster Mitigation Act of 2000, added Sec. 406(a)(3), Conditions for assistance to private nonprofit facilities, which became effective as of October 30, 2000; on May 4, 2001 FEMA published an interim final rule implementing § 406(a)(3), which is currently in force. See 66 FR 22443, May 4, 2001.]

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 7(b) of the Small Business Act (15 U.S.C. 636(b)); 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.

(Pub.L. 106-390, § 205(a), October 30, 2000, 114 Stat. 1562) [Note to users: Section 406(b), Federal Share, will not be in effect until FEMA publishes implementing regulations.]

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 1 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.

(Pub.L. 106-390, § 205(b), October 30, 2000, 114 Stat. 1562)

[Note to users: The Disaster Mitigation Act of 2000, Sec. 406(c), Large In-Lieu Contributions, was effective as of October 30, 2000; on May 4, 2001 FEMA published an interim final rule implementing this provision, which is currently in force. See 66 FR 22443, May 4, 2001.]

c. Large In-Lieu Contributions.-

1. For public facilities.-

- A. In general.--In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.
- B. Areas with unstable soil.--In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government because soil instability in the disaster area makes repair, restoration, reconstruction, or replacement infeasible, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(A), a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.
- C. Use of funds.--Funds contributed to a State or local government under this paragraph may be used-
 - i. to repair, restore, or expand other selected public facilities;
 - ii. to construct new facilities; or

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

D. Limitations.--Funds made available to a State or local government under this paragraph may not be used for-

- i. any public facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
- ii. any uninsured public facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

2. For private nonprofit facilities.-

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

B. Use of funds.--Funds contributed to a person under this paragraph may be used-

- i. to repair, restore, or expand other selected private nonprofit facilities owned or operated by the person;
- ii. to construct new private nonprofit facilities to be owned or operated by the person; or
- iii. to fund hazard mitigation measures that the person determines to be necessary to meet a need for the person's services and functions in the area affected by the major disaster.

C. Limitations.--Funds made available to a person under this paragraph may not be used for-

- i. any private nonprofit facility located in a regulatory floodway (as defined in section 59.1 of title 44, Code of Federal Regulations (or a successor regulation)); or
- ii. any uninsured private nonprofit facility located in a special flood hazard area identified by the Director of the Federal Emergency Management Agency under the National Flood

Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(Pub.L. 106-390, § 205(c), October 30, 2000, 114 Stat. 1563, 1566)

d. Flood insurance

1. Reduction of Federal assistance

If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following November 23, 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

2. Amount of reduction

The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of--

- A. the value of such facility on the date of the flood damage or destruction, or
- B. the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 [42 U.S.C. § 4001 et seq.] on such date.

3. Exception

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

4. Dissemination of information

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

[Note to users. The Disaster Mitigation Act of 2000 struck § 406(e), Net eligible cost, and inserted new subsection 406(e), Eligible cost. Until FEMA publishes implementing regulations, § 406(e), Net eligible cost, remains in effect as follows:

e. *Net eligible cost*

1. *General rule*

For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.

2. *Special rule*

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

[Note to users: The following provisions of the Disaster Mitigation Act of 2000, Sec. 406(e), Eligible Cost, will not be in effect until FEMA publishes implementing regulations:

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) apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 422.

2. Modification of eligible cost.-

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

B. Actual cost less than estimated cost.-

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

C. No effect on appeals process.--Nothing in this paragraph affects any right of appeal under section 423.

3. Expert panel.-

A. Establishment.--Not later than 18 months after the date of enactment of this paragraph, the President, acting through the

Director of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

- B. Duties.--The expert panel shall develop recommendations concerning-
 - i. procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and
 - ii. the ceiling and floor percentages referred to in paragraph (2).
 - C. Regulations.--Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations 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.

[(2) Effective date.--The amendment made by paragraph (1) takes effect on the date of enactment of this Act and applies to funds appropriated after the date of enactment of this Act, except that paragraph (1) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as amended by paragraph (1)) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect.]

(Pub. L. 106-390, § 205(e), October 30, 2000, 114 Stat. 1566

[Note to users: Section § 205(e) of the Disaster Mitigation Act of 2000 repealed § 406(f), but § 202(b) of the DMA 2000 states that until the management cost rates under § 324 of the Stafford Act are established, the following provisions of § 406(f) will be used to establish “management cost rates.”:

f. Associated expenses

For purposes of this section, associated expenses include the following:

1. Necessary costs

Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:

- A. For an applicant whose net eligible costs equal less than \$100,000, 3 percent of such net eligible costs,
- B. For an applicant whose net eligible costs equal \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such net eligible costs in excess of \$100,000,
- C. For an applicant whose net eligible costs equal \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such net eligible costs in excess of \$1,000,000,
- D. For an applicant whose net eligible costs equal \$5,000,000 or more, \$61,000 plus ½ percent of such net eligible costs in excess of \$5,000,000.

2. Extraordinary costs

Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under sections 5170b, 5170c, 5172, 5173, 5192, 5193 of this title in such State in connection with the major disaster as follows:

- A. If such total amount is less than \$100,000, 3 percent of such total amount ,
- B. If such total amount net eligible cost is \$100,000 or more but less than \$1,000,000, \$3,000 plus 2 percent of such total amount net eligible cost in excess of \$100,000,
- C. If such total amount net eligible cost is \$1,000,000 or more but less than \$5,000,000, \$21,000 plus 1 percent of such total amount net eligible cost in excess of \$1,000,000,

D. If such total amount net eligible cost is \$5,000,000 or more, \$61,000 plus ½ percent of such total amount net eligible cost in excess of \$5,000,000.

3. Costs of National Guard

The costs of mobilizing and employing the National Guard for performance of eligible work.

4. Costs of prison labor

The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.

5. Other labor costs

Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.

(Pub. L. 93-288, title IV, § 406, as added Pub. L. 100-707, title I, § 106(b), Nov. 23, 1988, 102 Stat. 4699.)

(Pub.L. 106-390, § 205(e), October 30, 2000, 114 Stat. 1566).

[Note: See Pub. L. 106-390, § 202(b), which makes § 406(f), as it existed before repeal, the interim authority for establishing management cost rates until FEMA establishes new management cost rates under new § 324 of the Stafford Act.]

§ 5173. DEBRIS REMOVAL {Sec. 407}

a. Authorization for use of Federal assistance and grants to State or local government

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 non-profit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

b. State or local government authorization; indemnification of Federal government

No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

c. Rules relating to large lots

The President shall issue rules which provide for recognition of differences existing among urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.

d. Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.

(Pub. L. 93-288, title IV, § 407, formerly § 403, May 22, 1974, 88 Stat. 154; renumbered § 407 and amended, Pub. L. 100-707, title I, § 106(c), Nov. 23, 1988, 102 Stat. 4701.)

[Note to users: The Disaster Mitigation Act of 2000 repealed § 411 of the Stafford Act, but § 408, which will replace § 411, does not become effective until 18 months after October 30, 2000, or May 1, 2002. Section 411 remains in effect until May 1, 2002, and until May 1, 2002 FEMA officials should not make operational decisions based on the following § 408. FEMA expects to publish implementing regulations for § 408 before May 1, 2002.]

SEC. 408. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

a. In General.-

1. Provision of assistance.--In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.
2. Relationship to other assistance.--Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.

b. Housing Assistance.-

1. Eligibility.--The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences or whose predisaster primary residences are rendered uninhabitable as a result of damage caused by a major disaster.
2. Determination of appropriate types of assistance.-
 - A. In general.--The President shall determine appropriate types of housing assistance to be provided under this section to individuals and households described in subsection (a)(1) based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.
 - B. Multiple types of assistance.--One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.

c. Types of Housing Assistance.-

1. Temporary housing.-

A. Financial assistance.-

- i. In general.--The President may provide financial assistance to individuals or households to rent alternate housing accommodations, existing rental units, 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.-- 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) 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- 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, 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) 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, 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, governmental agency, or voluntary organization agrees-
 - I. to comply with the nondiscrimination provisions of section 308; and
 - II. to obtain and maintain hazard and flood insurance on the housing unit.

e. Financial Assistance To Address Other Needs.-

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

f. State Role.-

1. Financial assistance to address other needs.-

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

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

2. Access to records.--In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, 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), Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.

2. Financial assistance to address other needs.--In the case of financial assistance provided under subsection (e)-

A. the Federal share shall be 75 percent; and

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

h. Maximum Amount of Assistance.-

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

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

(i) Rules and Regulations.--The President shall prescribe rules and regulations to carry out this section, including criteria, standards, and procedures for determining eligibility for assistance.

(d) Effective Date.--The amendments made by this section take effect 18 months after the date of enactment of this Ac, or May 1, 2002.

(Pub.L. 106-390, § 206(a), October 30, 2000, 114 Stat. 1566)

§ 5175. REPEALED. Pub. L. 100-707, title I, § 105(m)(2), Nov. 23, 1988, 102 Stat. 4696.

(Pub. L. 93-288, title IV, § 409, formerly § 406, May 22, 1974, 88 Stat. 155; renumbered § 409, Pub. L. 100-707, title I, § 106(e), Nov. 23, 1988, 102 Stat. 4703.)

(Section § 104(c)(2) of the Disaster Mitigation Act of 2000 repealed § 409, P.L. 106-390, October 30, 2000, 114 Stat. 1559. See § 323.)

§ 5177. UNEMPLOYMENT ASSISTANCE {Sec. 410}

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

b. Reemployment assistance

1. State assistance

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

2. Federal assistance

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

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

[NOTE: The following provision is not part of the Stafford Act. It was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990.]

§ 5177A. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS

a. In general

The Secretary of Agriculture may make grants, not to exceed \$20,000,000 annually, to public agencies or private organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)], 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. Definition

For the purposes of this section, the term "low-income migrant or seasonal farmworker" means an individual--

1. who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;
2. who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and
3. whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

c. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 101-624, title XXII, Subtitle C, § 2281, Nov. 28, 1990, 104 Stat. 3978.)

[Note to users: The Disaster Mitigation Act of 2000 repealed the following § 411 of the Stafford Act, but § 408, which will replace § 411, does not become effective until 18 months after October 30, 2000, or May 1, 2002. Therefore, Section 411 remains in effect until May 1, 2002, and until May 1, 2002 FEMA officials should not make operational decisions based on the following § 408. FEMA expects to publish implementing regulations for § 408 before May 1, 2002.]

§ 5178. INDIVIDUAL AND FAMILY GRANT PROGRAMS {Sec. 411}

a. In general

The President is authorized to make a grant to a State for the purpose of making grants to individuals or families adversely affected by a major disaster for meeting disaster-related necessary expenses or serious needs of such individuals or families in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act or through other means.

b. Cost sharing

1. Federal share

The Federal share of a grant to an individual or a family under this section shall be equal to 75 percent of the actual cost incurred.

2. State contribution

The Federal share of a grant under this section shall be paid only on condition that the remaining 25 percent of the cost is paid to an individual or family from funds made available by a State.

c. Regulations

The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants under this section.

d. Administrative expenses

A State may expend not to exceed 5 percent of any grant made by the President to it under subsection (a) for expenses of administering grants to individuals and families under this section.

e. Administration through Governor

The Governor of a State shall administer the grant program authorized by this section in the State.

f. Limit on grants to individual

No individual or family shall receive grants under this section aggregating more than \$10,000 with respect to any single major disaster. Such \$10,000 limit shall

annually be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(Pub. L. 93-288, title IV, § 411, as added Pub. L. 100-707, title I, § 106(g), Nov. 23, 1988, 102 Stat. 4704.)

(Please note: Section 206(c) of the Disaster Mitigation Act of 2000 repealed the above § 411, Pub.L. 106-390, October 30, 2000, 114 Stat. 1571. Section 411 remains in effect until May 1, 2002 or until FEMA publishes implementing regulations for § 408).

§ 5179. Food coupons and distribution {Sec. 412}

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 (Pub. 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 Act.

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 [7 U.S.C. §§ 2011 et seq.] 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.

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

§ 5180. Food commodities {Sec. 413}

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 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

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

§ 5181. Relocation assistance {Sec. 414}

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

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

§ 5182. Legal services {Sec. 415}

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

(Pub. L. 93-288, title IV, § 415, formerly § 412, May 22, 1974, 88 Stat. 157; renumbered § 415, Pub. L. 100-707, title I, § 106(h), Nov. 23, 1988, 102 Stat. 4705.)

§ 5183. Crisis counseling assistance and training {Sec. 416}

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

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

[Note to users: The Disaster Mitigation Act of 2000, Sec. 417, Community Disaster Loans, as amended, was effective as of October 30, 2000; on May 4, 2001 FEMA published an interim final rule implementing this provision, which is currently in force. See 66 FR 22443, May 4, 2001.]

§ 5184. Community disaster loans {Sec. 417}

- 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 occur, 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 canceled.
 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 Act.

(Pub. L. 93-288, title IV, § 417, formerly § 414(a), (b), May 22, 1974, 88 Stat. 157; renumbered § 417(a), (b), Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

(Pub. L. 106-390, § 207, October 30, 2000, 114 Stat. 1571, amended § 417).

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."

§ 5185. Emergency communications {Sec. 418}

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

(Pub. L. 93-288, title IV, § 418, formerly § 415, May 22, 1974, 88 Stat. 158; renumbered § 418, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

§ 5186. Emergency public transportation {Sec. 419}

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

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

Note to users: Section 303 of the Disaster Mitigation Act of 2000, amended §420, Fire Management Assistance, took effect on October 30, 2001. The implementing regulations for the Fire Management Assistance Grant Program can be found at 44 CFR Part 204.

§ 5187. Fire suppression grants {Sec. 420}

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

(Pub. L. 93-288, title IV, § 420, formerly § 417, May 22, 1974, 88 Stat. 158; renumbered § 420, Pub. L. 100-707, title I, § 106(j), Nov. 23, 1988, 102 Stat. 4705.)

[NEW Section 420] § 5187. FIRE MANAGEMENT ASSISTANCE. {Sec. 420}

- a. In General.--The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the 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 403.
- d. Rules and Regulations.--The President shall prescribe such rules and regulations as are necessary to carry out this section.

(Pub.L. 106-390, § 303(a), October 30, 2000, 114 Stat. 1572)

§ 5188. Timber sale contracts {Sec. 421}

- 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 the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

d. State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber.

The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

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

§ 5189. Simplified procedure {Sec. 422}

If the Federal estimate of the cost of--

1. repairing, restoring, reconstructing, or replacing under section 406 [42 U.S.C. § 5172] any damaged or destroyed public facility or private nonprofit facility,
2. emergency assistance under section 403 or 502 [42 U.S.C. § 5170b or 5192], or
3. debris removed under section 407 [42 U.S.C. § 5173],

is less than \$35,000, the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 403, 406, 407, or 502 [42 U.S.C. § 5170b, 5172, 5173 or 5192], as the case may be, on the basis of such Federal estimate. Such \$35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

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

§ 5189a. APPEALS OF ASSISTANCE DECISIONS {Sec. 423}

a. Right of appeal

Any decision regarding eligibility for, from, or amount of assistance under this title [42 U.S.C. §§ 5170 et seq.] may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

b. Period for decision

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

c. Rules

The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

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

§ 5189B. DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER {Sec. 424}

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 Act.

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

SUBCHAPTER IV-A--EMERGENCY ASSISTANCE PROGRAMS

§ 5191. PROCEDURE FOR DECLARATION {Sec. 501}

a. Request and declaration

All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the

Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

b. Certain emergencies involving Federal primary responsibility

The President may exercise any authority vested in him by section 502 or section 503 [42 U.S.C. § 5192 or § 5193] 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).

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

§ 5192. Federal emergency assistance {Sec. 502}

a. Specified

In any emergency, the President may--

1. direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe;
2. coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;
3. provide technical and advisory assistance to affected State and local governments for--
 - A. the performance of essential community services;
 - B. issuance of warnings of risks or hazards;
 - C. public health and safety information, including dissemination of such information;
 - D. provision of health and safety measures; and

- E. management, control, and reduction of immediate threats to public health and safety;
4. provide emergency assistance through Federal agencies;
5. remove debris in accordance with the terms and conditions of section 407 [42 U.S.C. § 5173];
6. provide assistance in accordance with section 408 [42 U.S.C. § 5174]; and [(Pub.L. 106-390, § 206(b), October 30, 2000)]
7. assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

b. General

Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe.

(Pub. L. 93-288, title V, § 502, as added Pub. L. 100-707, title I, § 107(a), Nov. 23, 1988, 102 Stat. 4706.)

§ 5193. Amount of assistance {Sec. 503}

a. Federal share

The Federal share for assistance provided under this title [42 U.S.C. §§ 5191 et seq.] shall be equal to not less than 75 percent of the eligible costs.

b. Limit on amount of assistance

1. In general

Except as provided in paragraph (2), total assistance provided under this title [42 U.S.C. §§ 5191 et seq.] for a single emergency shall not exceed \$5,000,000.

2. Additional assistance

The limitation described in paragraph (1) may be exceeded when the President determines that--

- A. continued emergency assistance is immediately required;
- B. there is a continuing and immediate risk to lives, property, public health or safety; and

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

3. Report

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

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

SUBCHAPTER VI--EMERGENCY PREPAREDNESS [Added by October 5, 1994 , Pub. L. 103-337, Title VI] Sec.

- 601. Declaration of policy.
- 602. Definitions.
- 603. Administration of subchapter.

Powers and Duties

- 611. Detailed functions of administration
- 612. Mutual aid pacts between States and neighboring countries
- 613. Contributions for personnel and administrative expenses
- 614. Requirement for State matching funds for construction of emergency operating centers
- 615. Use of funds to prepare for and respond to hazards

General Provisions

- 621. Administrative authority
- 622. Security regulations
- 623. Use of existing facilities.
- 624. Annual report to Congress.
- 625. Applicability of subchapter.
- 626. Authorization of appropriations and transfers of funds.
- 627. Relations to Atomic Energy Act of 1954.
- 628. Federal Bureau of Investigation.

- 3412. Repeal of Federal Civil Defense Act of 1950.

TITLE I--GENERAL PROVISIONS

§ 601. DECLARATION OF POLICY (42 U.S.C. 5195).

The purpose of this Act 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 several States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the several 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 Act so that a comprehensive emergency preparedness system exists for all hazards.

§ 602. DEFINITIONS (42 U.S.C. 5195a).

a. Definitions. For the purposes of this subchapter only--

1. Hazard.--The term 'hazard' means an emergency or disaster resulting from--
 1. a natural disaster; or
 2. an accidental or man-caused event.
2. Natural disaster.--The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.
3. Emergency preparedness. The term 'emergency preparedness' means all those activities and measures designed or undertaken to minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:
 - A. Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of

- shelters, shelter areas, and control centers, and, when appropriate, the nonmilitary evacuation of civil population).
- B. Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).
 - C. Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).
- 4. Organizational equipment.--The term "organizational equipment" means equipment determined by the Director to be (1) necessary to a organization, as distinguished from personal equipment, and (2) of such a type or nature as to require it to be financed in whole or in part by the Federal Government. It shall not be construed to include those items which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.
 - 5. Materials.--The word "materials" shall include raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.
 - 6. Facilities.--The term "facilities", except as otherwise provided in this subchapter, shall include buildings, shelters, utilities, and land.
 - 7. Director. The term 'Director' means the Director of the Federal Emergency Management Agency.
 - 8. Neighboring countries. The term 'neighboring countries' includes Canada and Mexico.
 - 9. United States and States.--The terms 'United States' and 'States' includes the several States, the District of Columbia, and territories and possessions of the United States.
 - 10. State.--The term 'State' includes interstate emergency preparedness authorities established under section 611(h).
- b. Cross Reference --The terms 'national defense' and 'defense,' as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), includes emergency preparedness activities conducted pursuant to this title.

§603. ADMINISTRATION OF SUBCHAPTER (42 U.S.C. 5195b).

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

POWERS AND DUTIES

§611. DETAILED FUNCTIONS OF ADMINISTRATION. (42 U.S.C. 5196).

- a. In General.--In order to carry out the policy described in section 601, the Director shall have the authorities provided in this section.
- b. Federal Emergency Response Plans and Programs.--The Director may prepare Federal response plans and programs for the emergency preparedness of the United States, and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Director may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, the Congress and the several States advised of the status of emergency preparedness in the United States;
- c. Delegation of emergency preparedness responsibilities.--With the approval of the President, the Director may delegate to the several departments and agencies of the Federal Government appropriate emergency preparedness responsibilities, and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.
- d. Communications and warnings.--The Director may make appropriate provision for necessary communications and for dissemination of warnings to the civilian population of an attack or natural disaster;
- e. Emergency preparedness measures.--The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including,
 1. research and studies as to the best methods of treating the effects of hazards;
 2. developing shelter designs and materials for protective covering or construction; and
 3. developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements;
- f. Training programs.--
 1. The Director may--

- A. conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;
 - B. conduct or operate schools or classes, including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director; and
 - C. provide instructors and training aids as deemed necessary;
 2. The terms prescribed by the Director for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses:
 3. The Director may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law;
- g. Public dissemination of emergency preparedness information.--The Director may publicly disseminate appropriate emergency preparedness information by all appropriate means.
- h. Interstate emergency preparedness compacts.--
1. The Director may--
 - A. assist and encourage the States to negotiate and enter into interstate emergency preparedness compacts;
 - B. review the terms and conditions of such proposed compacts in order to assist to the extent feasible in obtaining uniformity therein and consistency with the national emergency preparedness plans and programs;
 - C. assist and coordinate the activities under such compacts;
 - D. aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid for emergency preparedness purposes in the event of hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.
 2. A copy of each emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of the Congress is deemed to be granted to each such compact upon the

expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.

3. Nothing in this subsection shall be construed as preventing Congress from disapproving or withdrawing at any time its consent to any interstate emergency preparedness compact;

i. Materials and facilities.--

1. The Director may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.
2. Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this Act subchapter [sections 2251 to 2303 of this Appendix], prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended (40 U.S.C. 255).
3. The Director may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.
4. The Director may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the Director shall prescribe.

j. Financial contributions.--

1. The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States for emergency preparedness purposes, including the, procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Director shall prescribe, including, but not limited to, the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.
2. No contributions shall be made for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.
3. The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

4. Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning same among the States in the ratio which the urban population of the critical target areas (as determined by the Director) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.
5. The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.
6. The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness and (B) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost, except that (subject to the preceding provisions of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Director, necessary for the use of such facility for emergency preparedness purposes.
7. The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.
8. All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under the provisions of this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act, (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of

eight hours in any workday or forty hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this proviso, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, (5 U.S.C. App.) and section 2 of the Act of June 13, 1934, (40 U.S.C. 276(c)).

- k. Sale or disposal of certain materials and facilities.--The Director may arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property in the Federal Property and Administrative Services Act of 1949, (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

Sec. 612. Mutual aid pacts between States and neighboring countries. (42 U.S.C. 5196a).

The Director shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

Sec. 613. Contributions for personnel and administrative expenses. (42 U.S.C. 5196b).

- a. General authority.--To further assist in carrying out the purposes of this subchapter, the Director may make financial contributions to the States (including interstate authorities established pursuant to section 611(h) for necessary and essential State and local emergency management personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section shall not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.
- b. Plan requirements.--A plan submitted under this section shall--
 - 1. provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them, and be administered or supervised by a single State agency;
 - 2. provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

3. provide for the development of State and local emergency preparedness operational plans, pursuant to standards approved by the Director,
 4. provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;
 5. provide that the State shall make such reports in such form and content as the Director may require; and
 6. make available to duly authorized representatives of the Director and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.
- c. Terms and conditions --The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.
- d. Application of other provisions.--In carrying out this section, the provisions of section 611(h) and 612(h) shall apply.
- e. Allocation of funds.--For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this subchapter, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States shall give due regard to (1) the criticality of the target and support areas and the areas which may be affected by natural disasters with respect to the development of the total emergency preparedness readiness of the Nation, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe. The Director may reallocate the excess of any allocation not utilized by a State in an approvable plan submitted hereunder. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.
- f. Submission of plan.--If a State fails to submit a approvable plan for approval as required by this section within sixty days after the Director notifies the States of the allocations under this section, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director will best assure the adequate development of the emergency preparedness capability of the Nation.
- g. Annual reports.--The Director shall report annually to the Congress all contributions made pursuant to this section.

Sec. 614. Requirement for State matching funds for construction of emergency operating centers. (42 U.S.C. 5196c).

Notwithstanding any other provision of this subchapter, funds appropriated to carry out this subchapter may not be used for the purpose of constructing emergency operating

centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this subchapter for such purpose.

Sec. 615. Use of funds to prepare for and respond to hazards. (42 U.S.C. 5196d).

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

General Provisions

Sec. 621. Administrative authority. (42 U.S.C. 5197).

- a. In General. For the purpose of carrying out the powers and duties to the Director under this title, the Director may exercise the administrative authorities provided under this section.
- b. Advisory personnel.--

The Director may employ not more than one hundred such part-time or temporary advisory personnel (including not to exceed twenty-five subjects of the United Kingdom and the Dominion of Canada) as are deemed necessary in carrying out the provisions of this

2. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, as determined by the Director;
- c. Services of other agency personnel and volunteers. The Director may
 2. use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local civil agencies;
 3. establish and use such regional and other offices as may be necessary;
 4. use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.;
 - d. Gifts.--Notwithstanding any other provision of law, the Director may accept gifts of supplies, equipment, and facilities; and utilize use or distribute same for purposes in accordance with the provisions of this subchapter.

- e. Reimbursement.--The Director may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this subchapter to the extent funds are available;
- f. Printing.--The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director may deem necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.
- g. Rules and regulations.--The Director may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this subchapter, and perform any of the powers and duties provided by this subchapter through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate.
- h. Failure to expend contributions correctly.-- When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this subchapter for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this subchapter (or from funds otherwise available for the purposes of this subchapter for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.
 - 2. Until so satisfied, the Director shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.:
 - 3. As used in this subsection, the term 'person' means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

§ 622. Security Regulations. (42 U.S.C. 5197a).

- a. Establishment. The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director deems necessary.
- b. Limitation on Employee access to information.--No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any

other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

- c. National Security Positions.--No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director of the Federal Emergency Management Agency. In the event such full field investigation by the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director of the Federal Emergency Management Agency for any other reason shall deem it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter the Director of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director of the Federal Emergency Management Agency for action.
- d. Employee Oaths.--Each Federal employee of the Federal Emergency Management Agency, except the subjects of the United Kingdom and the Dominion of Canada specified in section 621(b) of this subchapter shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for shall before entering upon his duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. "And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of the (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence."

After appointment and qualification for office, the director of emergency

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

§ 623. USE OF EXISTING FACILITIES (42 U.S.C. 5197b).

In performing duties under this subchapter, the Director--

1. shall cooperate with the various departments and agencies of the Government;
2. shall use, to the maximum extent, the existing facilities and resources of the Federal Government, and, with their consent, the facilities and resources of the States and local political subdivisions thereof, and of other organizations and agencies; and
3. shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Director, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this subchapter.

§ 624. ANNUAL REPORT TO CONGRESS (42 U.S.C. 5197c)

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

§ 625. APPLICABILITY OF SUBCHAPTER. (42 U.S.C. 5197d).

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

§ 626. AUTHORIZATION OF APPROPRIATIONS AND TRANSFER OF FUNDS.(42 U.S.C. 5197e).

- a. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.
- b. Funds made available for the purposes of this subchapter may be allocated or transferred for any of the purposes of this subchapter, with the approval of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this subchapter. Each such allocation or

transfer shall be reported in full detail to the Congress within thirty days after such allocation or transfer.

§ 627. Relations to Atomic Energy Act of 1954. (42 U.S.C. 5197f).

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

§ 628. Federal Bureau of Investigation. (42 U.S.C. 5197g).

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

SUBCHAPTER VII--MISCELLANEOUS

§ 5201. Rules and regulations {Sec.701}

- a.
 1. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.
 2. Deadline for payment of assistance. Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State shall be completed within 60 days after the date of approval of such assistance.
- b. In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.

(Pub. L. 93-288, title VI, § 601, May 22, 1974, 88 Stat. 163; Pub. L. 96-446, Oct. 13, 1980, 94 Stat. 1893; Pub. L. 100-707, title I, § 108(a), Nov. 23, 1988, 102 Stat. 4707.)

§ 5202. REPEALED. Pub. L. 100-707, title I, § 108(c), Nov. 23, 1988, 102 Stat. 4708

Section, Pub. L. 93-288, title VI, § 606, May 22, 1974, 88 Stat. 164; Pub. L. 95-51, § 1, June 20, 1977, 91 Stat. 233; Pub. L. 96-568, § 2, Dec. 22, 1980, 94 Stat. 3334, authorized the appropriations of such sums as necessary to carry out this chapter through the close of Sept. 30, 1981.

§ 5203. EXCESS DISASTER ASSISTANCE PAYMENTS AS BUDGETARY EMERGENCY REQUIREMENTS

Beginning in fiscal year 1993, and in each year thereafter, notwithstanding any other provision of law, all amounts appropriated for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that are in excess of either the historical annual average obligation of \$320,000,000, or the amount submitted in the President's initial budget request, whichever is lower, shall be considered as "emergency requirements" pursuant to section 901(b)(2)(D) of title 2, and such amounts shall hereafter be so designated.

(Dec. 12, 1991, Pub. L. 102-229, Title I, Ch. II, 105 Stat. 1711.)

[This section was enacted as part of the Dire Emergency Supplemental Appropriations and Transfers for Relief from the Effects of Natural Disaster, of Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/ Desert Storm' Act of 1992, and not as part of the Stafford Act].

>§ 5204. DEFINITIONS RELATING TO INSULAR AREAS DISASTER SURVIVAL AND RECOVERY. {Sec. 702}

As used in this title--

1. the term "insular area" means any of the following: American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands;
2. the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and
3. the term "Secretary" means the Secretary of the Interior.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 201, 106 Stat. 37.

§ 5204a. AUTHORIZATION OF APPROPRIATIONS FOR INSULAR AREAS DISASTER RECOVERY. {Sec. 703}

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to--

1. reconstruct essential public facilities damaged by disasters in the insular areas that occurred prior to the date of the enactment of this Act; and
2. enhance the survivability of essential public facilities in the event of disasters in the insular areas, except that with respect to the disaster declared by the President in the case of Hurricane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 403 and 406 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172) for such disaster. Such sums shall remain available until expended.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 202, 106 Stat. 37.

§ 5204b. TECHNICAL ASSISTANCE FOR INSULAR AREAS DISASTER RECOVERY. {Sec. 704}

- a. Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort.
- b. One year following the declaration by the President of a disaster in an insular area, the Secretary, in consultation with the Director shall submit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs a report on the status of the recovery effort, including an audit of Federal funds, expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 203, 106 Stat. 37.

§ 5204c. LIMITATION ON AMOUNT OF CONTRIBUTIONS FOR HAZARD MITIGATION; LOCAL MATCH.

The total of contributions under the last sentence of section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 403, 406, 407, 408, and 411 of such Act [42 U.S.C. 5170c, 5172, 5173, 5174, 5178] for any disaster: Provided, That the President shall require a

50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 406 of such Act for any disaster.

Source: Feb. 24, 1992, Pub. L. 102-247, Title II, § 204, 106 Stat. 38.

[Note: Sections 5204, 5204a, 5204b, and 5204c were enacted as part of the Omnibus Insular Areas Act of 1992 and not as part of the Stafford Act].

§ 5205. DISASTER GRANT CLOSEOUT PROCEDURES. [Sec. 705]

a. Statute of Limitations.-

1. In general.--Except as provided in paragraph (2), no administrative action to recover any payment made to a State or local government for disaster or emergency assistance under this Act shall be initiated in any forum after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency.
2. Fraud exception.--The limitation under paragraph (1) apply unless there is evidence of civil or criminal fraud.

b. Rebuttal of Presumption of Record Maintenance.-

1. In general.--In any dispute arising under this section after the date that is 3 years after the date of transmission of the final expenditure report for the disaster or emergency, there shall be a presumption that accounting records were maintained that adequately identify the source and application of funds provided for financially assisted activities.
2. Affirmative evidence.--The presumption described in paragraph (1) may be rebutted only on production of affirmative evidence that the State or local government did not maintain documentation described in that paragraph.
3. Inability to produce documentation.--The inability of the Federal, State, or local government to produce source documentation supporting expenditure reports later than 3 years after the date of transmission of the final expenditure report shall not constitute evidence to rebut the presumption described in paragraph (1).
4. Right of access.--The period during which the Federal, State, or local government has the right to access source documentation shall not be limited to the required 3- retention period referred to in paragraph (3), but shall last as long as the records are maintained.

c. Binding Nature of Grant Requirements.--A State or local government shall not be liable for reimbursement or any other penalty any payment made under this Act if-

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

2. the costs were reasonable; and
3. the purpose of the grant was accomplished.

(Section 304, Disaster Mitigation Act of 2000, Pub.L. 106-390, October 30, 2000, 114 Stat. 1573)

§ 5206. BUY AMERICAN. [Sec. 306.]

- a. Compliance With Buy American Act.--No funds authorized to be appropriated under this Act or any amendment made by this Act may be expended by an entity unless the entity, in expending the funds, complies with the Buy American Act (41 U.S.C. 10a et seq.).
- b. Debarment of Persons Convicted of Fraudulent Use of "Made in America" Labels.-
 1. In general.--If the Director of the Federal Emergency Management Agency determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Director shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).
 2. Definition of debar.--In this subsection, the term "debar" has the meaning given the term in section 2393(c) of title 10, United States Code.

(Section 306, Disaster Mitigation Act of 2000, P.L. 106-390, 114 Stat. 1574).

§§ 5207 to 5300. Reserved.

[NOTE: The following sections 305 and 307, enacted in Pub. L. 106-390, are not part of the Stafford Act]

[The following section, enacted as § 305 of Pub. L. 106-390, is part of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), and is not part of the Stafford Act]

SEC. 305. PUBLIC SAFETY OFFICER BENEFITS FOR CERTAIN FEDERAL AND STATE EMPLOYEES.

- a. In General.--Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended by striking paragraph (7) and inserting the following:
 7. 'public safety officer' means--

- A. an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, or as a member of a rescue squad or ambulance crew;
- B. an employee of the Federal Emergency Management Agency who is performing official duties of the Agency in an area, if those official duties--
 - i. are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and
 - ii. are determined by the Director of the Federal Emergency Management Agency to be hazardous duties; or
- C. an employee of a State, local, or tribal emergency management or civil defense agency who is performing official duties in cooperation with the Federal Emergency Management Agency in an area, if those official duties--
 - i. are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and
 - ii. are determined by the head of the agency to be hazardous duties.

Effective Date.--The amendment made by subsection (a) applies only to employees described in subparagraphs (B) and (C) of section 1204(7) of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended by subsection (a)) who are injured or who die in the line of duty on or after the date of enactment of this Act.

[NOTE: U.S. Code codifiers have not codified the following section]

SEC. 307. TREATMENT OF CERTAIN REAL PROPERTY.

- a. (a) In General.--Notwithstanding the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 et seq.), or any other provision of law, or any flood risk zone identified, delineated, or established under any such law (by flood insurance rate map or otherwise), the real property described in subsection (b) shall not be considered to be, or to have been, located in any area having special flood hazards (including any floodway or floodplain).

- b. Real Property.--The real property described in this subsection is all land and improvements on the land located in the Maple Terrace Subdivisions in the city of Sycamore, DeKalb County, Illinois, including--
1. Maple Terrace Phase I;
 2. Maple Terrace Phase II;
 3. Maple Terrace Phase III Unit 1;
 4. Maple Terrace Phase III Unit 2;
 5. Maple Terrace Phase III Unit 3;
 6. Maple Terrace Phase IV Unit 1;
 7. Maple Terrace Phase IV Unit 2; and
 8. Maple Terrace Phase IV Unit 3.
- c. Revision of Flood Insurance Rate Lot Maps.--As soon as practicable after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the appropriate flood insurance rate lot maps of the agency to reflect the treatment under subsection (a) of the real property described in subsection (b).

APPENDIX B:

44 CFR Part 204

**FIRE MANAGEMENT ASSISTANCE GRANT
PROGRAM**

TITLE 44--EMERGENCY MANAGEMENT AND ASSISTANCE

CHAPTER I--FEDERAL EMERGENCY MANAGEMENT AGENCY

PART 204--FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM--Table of Contents

Subpart A-General

§ 204.1 Purpose.

This part provides information on the procedures for the declaration and grants management processes for the Fire Management Assistance Grant Program in accordance with the provisions of § 420 of the Stafford Act. This part also details applicant eligibility and the eligibility of costs to be considered under the program. We (FEMA) will actively work with State and Tribal emergency managers and foresters on the efficient delivery of fire management assistance as directed by this part.

§ 204.2 Scope.

This part is intended for those individuals responsible for requesting declarations and administering grants under the Fire Management Assistance Grant Program, as well as those applying for assistance under the program.

§ 204.3 Definitions Used Throughout This Part.

- (a) Applicant. A State or Indian tribal government submitting an application to us for a fire management assistance grant, or a State, local, or Indian tribal government submitting an application to the Grantee for a subgrant under an approved fire management assistance grant.
- (b) Associate Director. The Associate Director or Assistant Director, as applicable, of the Readiness, Response and Recovery Directorate of FEMA, or his/her designated representative.
- (c) Declared fire. An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, which the Associate Director has approved in response to a State's request for a fire management assistance declaration and in accordance with the criteria listed in § 204.21.
- (d) Demobilization. The process and procedures for deactivating, disassembling, and transporting back to their point of origin all resources that had been provided to respond to and support a declared fire.
- (e) FEMA Form 90-91. See Project Worksheet.
- (f) Fire complex. Two or more individual fires located in the same general area, which are assigned to a single Incident Commander.
- (g) Governor's Authorized Representative (GAR). The person empowered by the Governor to execute, on behalf of the State, all necessary documents for fire management assistance, including the request for a fire management assistance declaration.
- (h) Grant. An award of financial assistance, including cooperative agreements, by FEMA to an eligible Grantee. The grant award will be based on the projected

amount of total eligible costs for which a State submits an application and that FEMA approves related to a declared fire.

- (i) Grantee. The Grantee is the government to which a grant is awarded which is accountable for the use of the funds provided. The Grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document. Generally, the State, as designated in the FEMA-State Agreement for the Fire Management Assistance Grant Program, is the Grantee. However, after a declaration, an Indian tribal government may choose to be a Grantee, or it may act as a subgrantee under the State. An Indian tribal government acting as Grantee will assume the responsibilities of a "state", as described in this Part, for the purpose of administering the grant.
- (j) Hazard mitigation plan. A plan to develop actions the State, local, or tribal government will take to reduce the risk to people and property from all hazards. The intent of hazard mitigation planning under the Fire Management Assistance Grant Program is to identify wildfire hazards and cost-effective mitigation alternatives that produce long-term benefits. We address mitigation of fire hazards as part of the State's comprehensive Hazard Mitigation Plan, described in 44 CFR part 206, subpart M.
- (k) Incident commander. The ranking official responsible for overseeing the management of fire operations, planning, logistics, and finances of the field response.
- (l) Incident period. The time interval during which the declared fire occurs. The Regional Director, in consultation with the Governor's Authorized Representative and the Principal Advisor, will establish the incident period. Generally, costs must be incurred during the incident period to be considered eligible.
- (m) Indian tribal government. An Indian tribal government is any Federally recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, 25 U.S.C. 479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.
- (n) Individual assistance. Supplementary Federal assistance provided under the Stafford Act to individuals and families adversely affected by a major disaster or an emergency. Such assistance may be provided directly by the Federal Government or through State or local governments or disaster relief organizations. For further information, see subparts D, E, and F of part 206.
- (o) Local government. A local government is any county, municipality, city, town, township, 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; any Indian tribal government or authorized tribal organization, or Alaska Native village or organization; and any 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.

- (p) Mitigation, management, and control. Those activities undertaken, generally during the incident period of a declared fire, to minimize immediate adverse effects and to manage and control the fire. Eligible activities may include associated emergency work and pre-positioning directly related to the declared fire.
- (q) Mobilization. The process and procedures used for activating, assembling, and transporting all resources that the Grantee requested to respond to support a declared fire.
- (r) Performance period. The time interval designated in block 13 on the Application for Federal Assistance (Standard Form 424) for the Grantee and all subgrantees to submit eligible costs and have those costs processed, obligated, and closed out by FEMA.
- (s) Pre-positioning. Moving existing fire prevention or suppression resources from an area of lower fire danger to one of higher fire danger in anticipation of an increase in fire activity likely to constitute the threat of a major disaster.
- (t) Principal advisor. An individual appointed by the Forest Service, United States Department of Agriculture, or Bureau of Land Management, Department of the Interior, who is responsible for providing FEMA with a technical assessment of the fire or fire complex for which a State is requesting a fire management assistance declaration. The Principal Advisor also frequently participates with FEMA on other wildland fire initiatives.
- (u) Project worksheet. FEMA Form 90-91, which identifies actual costs incurred by eligible applicants as a result of the eligible firefighting activities.
- (v) Public assistance. Supplementary Federal assistance provided under the Stafford Act to State and local governments or certain private, nonprofit organizations for eligible emergency measures and repair, restoration, and replacement of damaged facilities. For further information, see Subparts G and H of Part 206.
- (w) Regional Director. A director of a regional office of FEMA, or his/her designated representative.
- (x) Request for Federal Assistance. See Standard Form (SF) 424.
- (y) Standard Form (SF) 424. The SF 424 is the Request for Federal Assistance. This is the form the State submits to apply for a grant under a fire management assistance declaration.
- (z) Subgrant. An award of financial assistance under a grant by a Grantee to an eligible subgrantee.
- (aa) Subgrantee. An applicant that is awarded a subgrant and is accountable to the Grantee for the use of grant funding provided.
- (bb) Threat of a major disaster. The potential impact of the fire or fire complex is of a severity and magnitude that would result in a presidential major disaster declaration for the Public Assistance Program, the Individual Assistance Program, or both.
- (cc) Uncontrolled fire. Any fire not safely confined to predetermined control lines as established by firefighting resources.
- (dd) We, our, us mean FEMA.

[66 FR 57347, Nov. 14, 2001, as amended at 68 FR 61370, Oct. 28, 2003]

§§ 204.4-204.20 [Reserved]

Subpart B-Declaration Process

§ 204.21 Fire Management Assistance Declaration Criteria.

- (a) Determinations. We will approve declarations for fire management assistance when the Associate Director determines that a fire or fire complex threatens such destruction as would constitute a major disaster.
- (b) Evaluation criteria. We will evaluate the threat posed by a fire or fire complex based on consideration of the following specific criteria:
 - (1) Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas;
 - (2) Availability of State and local firefighting resources;
 - (3) High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System; and
 - (4) Potential major economic impact.

§ 204.22 Submitting a Request for a Fire Management Assistance Declaration.

The Governor of a State, or the Governor's Authorized Representative (GAR), may submit a request for a fire management assistance declaration. The request must be submitted while the fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The request must be submitted to the Regional Director and should address the relevant criteria listed in § 204.21, with supporting documentation that contains factual data and professional estimates on the fire or fire complex. To ensure that we can process a State's request for a fire management assistance declaration as expeditiously as possible, the State should transmit the request by telephone, promptly followed by written documentation (FEMA Form 90-58).

§ 204.23 Processing a Request for a Fire Management Assistance Declaration.

- (a) In processing a State's request for a fire management assistance declaration, the Regional Director, in coordination with the Principal Advisor, will verify the information submitted in the State's request.
- (b) The Regional Director will then forward the State's request to the Associate Director for determination along with the Principal Advisor's Assessment and the Regional Summary.
 - (1) Principal Advisor's assessment. The Principal Advisor, at the request of the Regional Director, is responsible for providing us with a technical assessment of the fire or fire complex for which the State is requesting a fire management assistance declaration. The Principal Advisor may consult with State agencies, usually emergency management or forestry, as well as the Incident Commander, in order to provide us with an accurate assessment.
 - (2) Regional summary and recommendation. Upon obtaining all necessary information on the fire or fire complex from the State and the Principal Advisor, the Regional Director will provide the Associate Director with a summary and recommendation to accompany the State's request. The

summary and recommendation should include a discussion of the threat of a major disaster.

§ 204.24 Determination on Request for a Fire Management Assistance Declaration.

The Associate Director will review all information submitted in the State's request along with the Principal Advisor's assessment and Regional summary and render a determination. The determination will be based on the conditions of the fire or fire complex existing at the time of the State's request. When possible, the Associate Director will evaluate the request and make a determination within several hours. Once the Associate Director makes a determination, the Associate Director will promptly notify the Regional Director. The Regional Director will then inform the State of the determination.

§ 204.25 FEMA-State Agreement for Fire Management Assistance Grant Program.

- (a) After a State's request for a fire management assistance declaration has been approved, the Governor and Regional Director will enter into a standing FEMA-State Agreement (the Agreement) for the declared fire and for future declared fires in that calendar year. The State must have a signed and up-to-date FEMA-State Agreement before receiving Federal funding for fire management assistance grants. FEMA will provide no funding absent a signed and up-to-date Agreement. An Indian tribal government serving as Grantee, must sign a FEMA-Tribal Agreement, modeled upon the FEMA-State Agreement.
- (b) The Agreement states the understandings, commitments, and conditions under which we will provide Federal assistance, including the cost share provision and articles of agreement necessary for the administration of grants approved under fire management assistance declarations. The Agreement must also identify the State legislative authority for firefighting, as well as the State's compliance with the laws, regulations, and other provisions applicable to the Fire Management Assistance Grant Program.
- (c) For each subsequently declared fire within the calendar year, the parties must add a properly executed amendment, which defines the incident period and contains the official declaration number. Other amendments modifying the standing Agreement may be added throughout the year to reflect changes in the program or signatory parties.

§ 204.26 Appeal of Fire Management Assistance Declaration Denial.

- (a) Submitting an appeal. When we deny a State's request for a fire management assistance declaration, the Governor or GAR may appeal the decision in writing within 30 days after the date of the letter denying the request. The State should submit this one-time request for reconsideration in writing, with appropriate additional information, to the Associate Director through the Regional Director. The Associate Director will notify the State of his/her determination on the appeal, in

writing, within 90 days of receipt of the appeal or the receipt of additional requested information.

- (b) Requesting a time-extension. The Associate Director may extend the 30-day period provided that the Governor or the GAR submits a written request for such an extension within the 30-day period. The Associate Director will evaluate the need for an extension based on the reasons cited in the request and either approve or deny the request for an extension.

§§ 204.27-204.40 [Reserved]

Subpart C-Eligibility

§ 204.41 Applicant Eligibility.

- (a) The following entities are eligible to apply through a State Grantee for a subgrant under an approved fire management assistance grant:
 - (1) State agencies;
 - (2) Local governments; and
 - (3) Indian tribal governments.
- (b) Entities that are not eligible to apply for a subgrant as identified in (a), such as privately owned entities and volunteer firefighting organizations, may be reimbursed through a contract or compact with an eligible applicant for eligible costs associated with the fire or fire complex.
- (c) Eligibility is contingent upon a finding that the Incident Commander or comparable State official requested the applying entity's resources.
- (d) The activities performed must be the legal responsibility of the applying entity, required as the result of the declared fire, and located within the designated area.

§ 204.42 Eligible Costs.

- (a) General
 - (1) All eligible work and related costs must be associated with the incident period of a declared fire.
 - (2) Before obligating Federal funds the Regional Director must review and approve the initial grant application, along with Project Worksheets submitted with the application and any subsequent amendments to the application.
 - (3) Grantees will award Federal funds to subgrantees under State law and procedure and complying with 44 CFR part 13.
- (b) Equipment and supplies. Eligible costs include:
 - (1) Personal comfort and safety items normally provided by the State under field conditions for firefighter health and safety, including:
 - (2) Firefighting supplies, tools, materials, expended or lost, to the extent not covered by reasonable insurance, will be replaced with comparable items.
 - (3) Operation and maintenance costs of publicly owned, contracted, rented, or volunteer firefighting department equipment used in eligible firefighting activities to the extent any of these costs are not included in applicable equipment rates.

- (4) Use of U.S. Government-owned equipment based on reasonable costs as billed by the Federal agency and paid by the State. (Only direct costs for use of Federal Excess Personal Property (FEPP) vehicles and equipment on loan to State Forestry and local cooperators may be eligible.)
 - (5) Repair of equipment damaged in firefighting activities to the extent not covered by reasonable insurance. We will use the lowest applicable equipment rates, or other rates that we determine, to calculate the eligible cost of repairs.
 - (6) Replacement of equipment lost or destroyed in firefighting activities, to the extent not covered by reasonable insurance, will be replaced with comparable equipment.
- (c) Labor costs. Eligible costs include:
- (1) Overtime for permanent or reassigned State and local employees.
 - (2) Regular time and overtime for temporary and contract employees hired to perform fire-related activities.
- (d) Travel and per diem costs. Eligible costs include:
- (1) Travel and per diem of employees who are providing services directly associated with eligible fire-related activities may be eligible.
 - (2) Provision of field camps and meals when made available in place of per diem.
- (e) Pre-positioning costs.
- (1) The actual costs of pre-positioning Federal, out-of-State (including compact), and international resources for a limited period may be eligible when those resources are used in response to a declared fire.
 - (2) The Regional Director must approve all pre-positioning costs.
 - (i) Upon approval of a State's request for a fire management assistance declaration by the Associate Director, the State should immediately notify the Regional Director of its intention to seek funding for pre-positioning resources.
 - (ii) The State must document the number of pre-positioned resources to be funded and their respective locations throughout the State, estimate the cost of the pre-positioned resources that were used on the declared fire and the amount of time the resources were pre-positioned, and provide a detailed explanation of the need to fund the pre-positioned resources .
 - (iii) The State will base the detailed explanation on recognized scientific indicators that include, but are not limited to, drought indices, short-term weather forecasts, the current number of fires burning in the State, and the availability of in-State firefighting resources. The State may also include other quantitative indicators with which to measure the increased risk of the threat of a major disaster.
 - (iv) Based on the information contained in the State's notification, the Regional Director will determine the number of days of pre-positioning to be approved for Federal funding, up to a maximum of 21 days before the fire declaration.
 - (3) Upon rendering his/her determination on pre-positioning costs, the Regional Director will notify the Associate Director of his/her determination.

- (f) Emergency work. We may authorize the use of § 403 of the Stafford Act, Essential Assistance, under an approved fire management assistance grant when directly related to the mitigation, management, and control of the declared fire. Essential assistance activities that may be eligible include, but are not limited to, police barricading and traffic control, extraordinary emergency operations center expenses, evacuations and sheltering, search and rescue, arson investigation teams, public information, and the limited removal of trees that pose a threat to the general public.
- (g) Temporary repair of damage caused by firefighting activities. Temporary repair of damage caused by eligible firefighting activities listed in this subpart involves short-term actions to repair damage directly caused by the firefighting effort or activities. This includes minimal repairs to bulldozer lines, camps, and staging areas to address safety concerns; as well as minimal repairs to facilities damaged by the firefighting activities such as fences, buildings, bridges, roads, etc. All temporary repair work must be completed within thirty days of the close of the incident period for the declared fire.
- (h) Mobilization and demobilization. Costs for mobilization to, and demobilization from, a declared fire may be eligible for reimbursement. Demobilization may be claimed at a delayed date if deployment involved one or more declared fires. If resources are being used on more than one declared fire, mobilization and demobilization costs must be claimed against the first declared fire.
- (i) Fires on co-mingled Federal/State lands. Reasonable costs for the mitigation, management, and control of a declared fire burning on co-mingled Federal and State land may be eligible in cases where the State has a responsibility for suppression activities under an agreement to perform such action on a non-reimbursable basis. (This provision is an exception to normal FEMA policy under the Stafford Act and is intended to accommodate only those rare instances that involve State firefighting on a Stafford Act § 420 fire incident involving co-mingled Federal/State and privately-owned forest or grassland.)

§ 204.43 Ineligible Costs.

Costs not directly associated with the incident period are ineligible. Ineligible costs include the following:

- (a) Costs incurred in the mitigation, management, and control of undeclared fires;
- (b) Costs related to planning, pre-suppression (i.e., cutting fire-breaks without the presence of an imminent threat, training, road widening, and other similar activities), and recovery (i.e., land rehabilitation activities, such as seeding, planting operations, and erosion control, or the salvage of timber and other materials, and restoration of facilities damaged by fire);
- (c) Costs for the straight or regular time salaries and benefits of a subgrantee's permanently employed or reassigned personnel;
- (d) Costs for mitigation, management, and control of a declared fire on co-mingled Federal land when such costs are reimbursable to the State by a Federal agency under another statute (See 44 CFR part 51); and
- (e) Fires fought on Federal land are generally the responsibility of the Federal Agency that owns or manages the land. Costs incurred while fighting fires on federally

owned land are not eligible under the Fire Management Assistance Grant Program except as noted in § 204.42(i).

§§ 204.44-204.50 [Reserved]

Subpart D-Application Procedures

§ 204.51 Application and Approval Procedures for a Fire Management Assistance Grant.

- (a) Preparing and submitting an application
 - (1) After the approval of a fire management assistance declaration, the State may submit an application package for a grant to the Regional Director. The application package must include the SF 424 (Request for Federal Assistance) and FEMA Form 20-16a (Summary of Assurances--Non-construction Programs), as well as supporting documentation for the budget.
 - (2) The State should submit its grant application within 9 months of the declaration. Upon receipt of the written request from the State, the Regional Director may grant an extension for up to 3 months. The State's request must include a justification for the extension.
- (b) Fire cost threshold
 - (1) We will approve the initial grant award to the State when we determine that the State's application demonstrates either of the following:
 - (i) Total eligible costs for the declared fire meet or exceed the individual fire cost threshold; or
 - (ii) Total costs of all declared and non-declared fires for which a State has assumed responsibility in a given calendar year meet the cumulative fire cost threshold.
 - (2) The individual fire cost threshold for a State is the greater of the following:
 - (i) \$100,000; or
 - (ii) Five percent x \$1.07 x the State population, adjusted annually for inflation using the Consumer Price Index for All Urban Consumers published annually by the Department of Labor.
 - (3) The cumulative fire cost threshold for a State is the greater of the following:
 - (i) \$500,000; or
 - (ii) Three times the five percent x \$1.07 x the State population as described in § 204.51(b)(2)(ii).
 - (4) States must document the total eligible costs for a declared fire on Project Worksheets, which they must submit with the grant application.
 - (5) We will not consider the costs of pre-positioning resources for the purposes of determining whether the grant application meets the fire cost threshold.
 - (6) When the State's total eligible costs associated with the fire management assistance declaration meet or exceed the fire cost threshold eligible costs will be cost shared in accordance with § 204.61.
- (c) Approval of the State's grant application. The Regional Director has 45 days from receipt the State's grant application or an amendment to the State's grant

application, including attached supporting Project Worksheet(s), to review and approve or deny the grant application or amendment; or to notify the Grantee of a delay in processing funding.

- (d) Obligation of the grant. Before we approve the State's grant application, the State must have an up-to-date State Administrative Plan and a Hazard Mitigation Plan that has been reviewed and approved by the Regional Director. Once these plans are approved by the Regional Director, the State's grant application may be approved and we may begin to obligate the Federal share of funding for subgrants to the Grantee.
 - (1) State administrative plan.
 - (i) The State must develop an Administrative Plan (or have a current Administrative Plan on file with FEMA) that describes the procedures for the administration of the Fire Management Assistance Grant Program. The Plan will include, at a minimum, the items listed below:
 - (a) The designation of the State agency or agencies which will have responsibility for program administration.
 - (b) The identification of staffing functions for the Fire Management Assistance Program, the sources of staff to fill these functions, and the management and oversight responsibilities of each.
 - (c) The procedures for:
 - (1) Notifying potential applicants of the availability of the program;
 - (2) Assisting FEMA in determining applicant eligibility;
 - (3) Submitting and reviewing subgrant applications;
 - (4) Processing payment for subgrants;
 - (5) Submitting, reviewing, and accepting subgrant performance and financial reports;
 - (6) Monitoring, close-out, and audit and reconciliation of subgrants;
 - (7) Recovering funds for disallowed costs;
 - (8) Processing appeal requests and requests for time extensions; and
 - (9) Providing technical assistance to applicants and subgrant recipients, including briefings for potential applicants and materials on the application procedures, program eligibility guidance and program deadlines.
 - (ii) The Grantee may request the Regional Director to provide technical assistance in the preparation of the State Administrative Plan.
 - (2) Hazard Mitigation Plan. As a requirement of receiving funding under a fire management assistance grant a State or tribal organization, acting as Grantee, must:
 - (i) Develop a Hazard Mitigation Plan in accordance with 44 CFR part 206, subpart M, that addresses wildfire risks and mitigation measures; or
 - (ii) Incorporate wildfire mitigation into the existing Hazard Mitigation Plan developed and approved under 44 CFR part 206, subpart M that also addresses wildfire risk and contains a wildfire mitigation strategy and related mitigation initiatives.

[66 FR 57347, Nov. 14, 2001, as amended at 68 FR 61371, Oct. 28, 2003]

§ 204.52 Application and Approval Procedures for a Subgrant Under a Fire Management Assistance Grant.

- (a) Request for Fire Management Assistance
 - (1) State, local, and tribal governments interested in applying for subgrants under an approved fire management assistance grant must submit a Request for Fire Management Assistance to the Grantee in accordance with State procedures and within timelines set by the Grantee, but no longer than 30 days after the close of the incident period.
 - (2) The Grantee will review and forward the Request to the Regional Director for final review and determination. The Grantee may also forward a recommendation for approval of the Request to the Regional Director when appropriate.
 - (3) The Regional Director will approve or deny the request based on the eligibility requirements outlined in § 204.41.
 - (4) The Regional Director will notify the Grantee of his/her determination; the Grantee will inform the applicant.
- (b) Preparing a Project Worksheet
 - (1) Once the Regional Director approves an applicant's Request for Fire Management Assistance, the Regional Director's staff may begin to work with the Grantee and local staff to prepare Project Worksheets (FEMA Form 90-91).
 - (2) The Regional Director may request the Principal Advisor to assist in the preparation of Project Worksheets.
 - (3) The State will be the primary contact for transactions with and on behalf of the applicant.
- (c) Submitting a Project Worksheet
 - (1) Applicants should submit all Project Worksheets through the Grantee for approval and transmittal to the Regional Director as amendments to the State's application.
 - (2) The Grantee will determine the deadline for an applicant to submit completed Project Worksheets, but the deadline must be no later than six months from close of the incident period.
 - (3) At the request of the Grantee, the Regional Director may grant an extension of up to three months. The Grantee must include a justification in its request for an extension.
 - (4) Project Worksheets will not be accepted after the deadline and extension specified in paragraphs (c)(2) and (c)(3) of this section has expired.
 - (5) \$1,000 Project Worksheet minimum. When the costs reported are less than \$1,000, that work is not eligible and we will not approve that Project Worksheet.

§ 204.53 Certifying Costs and Payments.

- (a) By submitting applicants' Project Worksheets to us, the Grantee is certifying that all costs reported on applicant Project Worksheets were incurred for work that was performed in compliance with FEMA laws, regulations, policy and guidance applicable to the Fire Management Assistance Grant Program, as well as with the terms and conditions outlined for the administration of the grant in the FEMA-State Agreement for the Fire Management Assistance Grant Program.
- (b) Advancement/Reimbursement for State grant costs will be processed as follows:
 - (1) Through the U.S. Department of Health and Human Services SMARTLINK system; and
 - (2) In compliance with 44 CFR 13.21 and U. S. Treasury 31 CFR part 205, Cash Management Improvement Act.

§ 204.54 Appeals.

An eligible applicant, subgrantee, or grantee may appeal any determination we make related to an application for the provision of Federal assistance according to the procedures below.

- (a) Format and content. The applicant or subgrantee will make the appeal in writing through the grantee to the Regional Director. The grantee will review and evaluate all subgrantee appeals before submission to the Regional Director. The grantee may make grantee-related appeals to the Regional Director. The appeal will contain documented justification supporting the appellant's position, specifying the monetary figure in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.
- (b) Levels of appeal.
 - (1) The Regional Director will consider first appeals for fire management assistance grant-related decisions under subparts A through E of this part.
 - (2) The Associate Director will consider appeals of the Regional Director's decision on any first appeal under paragraph (b)(1) of this section.
- (c) Time limits
 - (1) Appellants must file appeals within 60 days after receipt of a notice of the action that is being appealed.
 - (2) The grantee will review and forward appeals from an applicant or subgrantee, with a written recommendation, to the Regional Director within 60 days of receipt.
 - (3) Within 90 days following receipt of an appeal, the Regional Director (for first appeals) or Associate Director (for second appeals) will notify the grantee in writing of the disposition of the appeal or of the need for additional information. A request by the Regional Director or Associate Director for additional information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information or following expiration of the period for providing the information, the Regional Director or Associate Director will notify the grantee in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director will take appropriate implementing action.

- (d) Technical advice. In appeals involving highly technical issues, the Regional Director or Associate Director may, at his or her discretion, submit the appeal to an independent scientific or technical person or group having expertise in the subject matter of the appeal for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of the report, the Regional Director or Associate Director will notify the grantee in writing of the disposition of the appeal.
- (e) The decision of the Associate Director at the second appeal level will be the final administrative decision of FEMA.

§§ 204.55-204.60 [Reserved]

Subpart E-Grant Administration

§ 204.61 Cost Share.

- (a) All fire management assistance grants are subject to a cost share. The Federal cost share for fire management assistance grants is seventy-five percent (75%).
- (b) As stated in § 204.25, the cost share provision will be outlined in the terms and conditions of the FEMA-State Agreement for the Fire Management Assistance Grant Program.

§ 204.62 Duplication and Recovery of Assistance.

- (a) Duplication of benefits. We provide supplementary assistance under the Stafford Act, which generally may not duplicate benefits received by or available to the applicant from insurance, other assistance programs, legal awards, or any other source to address the same purpose. An applicant must notify us of all benefits that it receives or anticipates from other sources for the same purpose, and must seek all such benefits available to them. We will reduce the grant by the amounts available for the same purpose from another source. We may provide assistance under this Part when other benefits are available to an applicant, but the applicant will be liable to us for any duplicative amounts that it receives or has available to it from other sources, and must repay us for such amounts.
- (b) Duplication of programs. We will not provide assistance under this part for activities for which another Federal agency has more specific or primary authority to provide assistance for the same purpose. We may disallow or recoup amounts that fall within another Federal agency's authority. We may provide assistance under this part, but the applicant must agree to seek assistance from the appropriate Federal agency and to repay us for amounts that are within another Agency's authority.
- (c) Negligence. We will provide no assistance to an applicant for costs attributable to applicant's own negligence. If the applicant suspects negligence by a third party for causing a condition for which we made assistance available under this Part, the applicant is responsible for taking all reasonable steps to recover all costs attributable to the negligence of the third party. We generally consider such

amounts to be duplicated benefits available to the Grantee or subgrantee, and will treat them consistent with (a) of this section.

- (d) Intentional acts. Any person who intentionally causes a condition for which assistance is provided under this part shall be liable to the United States to the extent that we incur costs attributable to the intentional act or omission that caused the condition. We may provide assistance under this part, but it will be conditioned on an agreement by the applicant to cooperate with us in efforts to recover the cost of the assistance from the liable party. A person shall not be liable under this section as a result of actions the person takes or omits in the course of rendering care or assistance in response to the fire.

§ 204.63 Allowable Costs.

44 CFR 13.22 establishes general policies for determining allowable costs.

- (a) We will reimburse direct costs for the administration of a fire management assistance grant under 44 CFR part 13.
- (b) We will reimburse indirect costs for the administration of a fire management assistance grant in compliance with the Grantee's approved indirect cost rate under OMB Circular A-87.

§ 204.64 Reporting and Audit Requirements.

- (a) Reporting. Within 90-days of the Performance Period expiration date, the State will submit a final Financial Status Report (FEMA Form 20-10), which reports all costs incurred within the incident period and all administrative costs incurred within the performance period; and
- (b) Audit
 - (1) Audits will be performed, for both the Grantee and the subgrantees, under 44 CFR 13.26.
 - (2) FEMA may elect to conduct a program-specific Federal audit on the Fire Management Assistance Grant or a subgrant.

APPENDIX C

Fire Suppression Assistance Grant Program Forms

**U. S. DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY
REQUEST FOR FIRE MANAGEMENT ASSISTANCE DECLARATION**

*O.M.B. NO. 1660-0058
Expires July 31, 2008*

PAPERWORK BURDEN DISCLOSURE NOTICE

DISCLOSURE OF BURDEN-Public reporting burden for the collection of information entitled "Request for Fire Management Assistance Declaration" using FEMA Form 90-58 is estimated to average 1 hour per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and financial resources expended by persons, and completing and submitting the form. You are not required to complete this collection of information unless a valid OMB control numbers appears in the upper right corner on this form. Send comments regarding the burden estimate or any aspect of the collection, including suggestions for reducing the burden, to: Information Collections Management, U.S. Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington D.C. 20472, Paperwork Reduction Project (3067-0290).

NOTE: Do not send your completed form to the above address.

1. STATE	2. DATE OF REQUEST	3. TIME OF REQUEST
4. NAME OF GOVERNOR OR AUTHORIZED REPRESENTATIVE	PHONE NO. INCLUDING AREA CODE a. Day _____ b. Night _____	
5. AGENCY REPRESENTED	ADDRESS (Street, City, Zip)	

NOTE: In making this request, the Government agrees to abide by provisions contained in FEMA-State Agreement for Fire Management Assistance under Section 420, PI 93-288 as amended. This request must be signed below by the Governor personally or by his authorized representative, whom he has previously authorized to sign this request in the FEMA-State Agreement.

6. SIGNATURE	TITLE	DATE
--------------	-------	------

I. EXISTING CONDITIONS

7. EXISTENCE OF HIGH FIRE DANGER CONDITIONS	a. TEMPERATURE	b. RELATIVE HUMIDITY	c. DIRECTION AND VELOCITY OF WINDS
	d. PREVAILING WEATHER CONDITIONS AND PREDICTIONS FOR NEXT 24 HOURS		

8. NUMBER OF WILD FIRES

a. CONTROLLED _____ ACRES BURNED _____ b. UNCONTROLLED _____ ACRES BURNED _____

c. EXISTENCE OF OTHER FIRES NEARBY WHICH LIMITS THE COMMITMENT OF STATE FIRE FIGHTING RESOURCES # _____

d. EXISTENCE OF OTHER FIRES NEARBY THAT MAY RESULT IN A CONFLAGRATION # _____

9. INDICES: <input type="checkbox"/> NATIONAL FIRE DANGER RATING SYSTEM <input type="checkbox"/> OTHER (KBDI, SPI, HAINES, PALMER, ETC.)	10. STATE & LOCAL BURN BANS: <input type="checkbox"/> YES <input type="checkbox"/> NO
	11. NATIONAL WATCHES: <input type="checkbox"/> YES <input type="checkbox"/> NO WARNINGS <input type="checkbox"/> YES <input type="checkbox"/> NO

II. FIRE SITUATION REPORT

12. TIME OF REPORT	13. NAME OF UNCONTROLLED FIRE	14. DATE STARTED
15. LOCATION OF UNCONTROLLED FIRE: (County)	16. ACRES BURNING: a. FEDERAL _____ % b. STATE _____ % c. PRIVATE _____ %	
17. MANPOWER AND RESOURCES COMMITTED (Attach separate sheet if necessary)		
STATE:	LOCAL:	

18. TYPE AND AMOUNT OF FEDERAL OR OTHER ASSETS & RESOURCES NEEDED: (FEMA does not order resources)

III. CURRENT THREAT

19. THREAT TO LIFE # _____	a. PREPARATIONS MADE FOR EVACUATION? <input type="checkbox"/> YES <input type="checkbox"/> NO	b. PERSONS EVACUATED: # _____
-------------------------------	--	----------------------------------

20. NAME AND LOCATION OF COMMUNITY THREATENED CITY _____ TOWN _____ SUBDIVISION _____	ADDITIONAL INFORMATION
---	------------------------

21. CASUALTIES: 1. CIVILIAN LOSS OF LIFE _____ 2. CIVILIANS INJURED _____ 3. FIRE FIGHTERS LOSS OF LIFE _____ 4. FIRE FIGHTERS INJURED _____	22. THREAT TO PRIVATE PROPERTY: (Dwellings) 1. NUMBER OF HOMES _____ a. % OF PRIMARY _____ b. % OF SECONDARY _____
--	---

23. THREAT TO FACILITIES (Include number when applicable)					
	AMOUNT	TYPE		AMOUNT	TYPE
<input type="checkbox"/> BUILDINGS	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>	<input type="checkbox"/> RECREATION	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>
<input type="checkbox"/> ROADS & BRIDGES	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>	<input type="checkbox"/> EQUIPMENT	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>
<input type="checkbox"/> INFRASTRUCTURE	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>	<input type="checkbox"/> BUSINESS	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>
<input type="checkbox"/> UTILITIES	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>	<input type="checkbox"/> OTHER	<input style="width:100%;" type="text"/>	<input style="width:100%;" type="text"/>
ADDITIONAL INFORMATION					

24. THREAT TO RESOURCES	
<input type="checkbox"/> WATERSHED <input type="checkbox"/> IRRIGATION <input type="checkbox"/> FLOOD CONTROL <input type="checkbox"/> FISHING STREAMS & SPAWNING SITES	<input type="checkbox"/> WILDLIFE (Type threatened, fur-bearing animals, big game, etc.) <input type="checkbox"/> ENVIRONMENTAL RESOURCES (bio-diverse areas, etc.) <input type="checkbox"/> CULTURAL RESOURCES <input type="checkbox"/> ECONOMIC INJURY
ADDITIONAL INFORMATION	

IV. STATE ASSESSMENT

25. EMERGENCY MANAGEMENT ASSESSMENT OF THE SITUATION
--

SIGNATURE _____	DATE _____
-----------------	------------

26. FORESTRY ASSESSMENT OF THE SITUATION
--

SIGNATURE _____	DATE _____
-----------------	------------

FEMA REGIONAL USE ONLY

27. NAME OF PERSON WHO RECEIVED OFFICIAL REQUEST _____	TITLE _____	DATE _____
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**FEDERAL EMERGENCY MANAGEMENT AGENCY
PRINCIPAL ADVISOR'S REPORT**

Management of Forest and Grassland Fires, Section 420 PL 93-288, as amended

1. NAME OF PRINCIPAL ADVISOR	2. DATE AND TIME OF STATE REQUEST	3. DATE AND TIME OF ADVISOR'S REPORT
<p>4. I HAVE/HAVE NOT REVIEWED THE OFFICIAL STATE REQUEST FOR FIRE MANAGEMENT ASSISTANCE DECLARATION UNDER SECTION 420, PL 93-288</p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><i>(Name of fire)</i> <i>(Date fire started)</i></p>		
5. PREVAILING WEATHER CONDITIONS: TEMPERATURE: _____ HUMIDITY: _____ WIND: _____ OTHER: _____	6. FIRE INDEX: (Palmer, KBDI, Haines, etc.) NAME OF INDEX: NUMBER ON SCALE:	
7. PREDICTION OF WEATHER AND FIRE CONDITIONS FOR THE NEXT 24 HOURS: <i>(FIRE BEHAVIOR)</i>		
8. WILDFIRES: a. EXISTENCE OF OTHER FIRES NEARBY THAT MAY RESULT IN A CONFLAGRATION: b. NUMBER OF LARGE FIRES BURNING IN THE STATE:		
9. THREAT INFORMATION: a. ASSESSMENT: b. PROXIMITY OF FIRE TO HOMES AND COMMUNITIES: c. NATURAL OR OTHER BARRIERS BETWEEN FIRE AND COMMUNITIES:		
10. THIS ASSESSMENT IS BASED ON: <input type="checkbox"/> ON SITE SURVEY <input type="checkbox"/> DISCUSSION WITH THE INCIDENT COMMANDER OTHER		
11. SIGNATURE OF PRINCIPAL ADVISOR	12. PHONE NUMBER a. Day b. Night c. Other (cell, pgr, etc.)	
13. FEDERAL AGENCY	14. OFFICE LOCATION (City, State, Zip)	

FEDERAL EMERGENCY MANAGEMENT AGENCY
REQUEST FOR FIRE MANAGEMENT ASSISTANCE SUBGRANT

O.M.B. NO. 3067-0290
 Expires July 31, 2008

PAPERWORK BURDEN DISCLOSURE NOTICE

DISCLOSURE OF BURDEN-Public reporting burden for the collection of information entitled "Request for Fire Management Assistance Declaration" using FEMA Form 90-133 is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data and financial resources expended by persons, and completing and submitting the form. You are not required to complete this collection of information unless a valid OMB control number appears in the upper right hand corner on this form. Send comments regarding the burden estimate or any aspect of the collection, including suggestions for reducing the burden, to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, D.C. 20472, Paperwork Reduction Project (3067-0290). **NOTE: Do not send your completed form to the above address.**

1. APPLICANT (<i>Political subdivision or eligible applicant</i>) Example - Washington	2. DATE SUBMITTED
--	-------------------

3. COUNTY (location of firefighting activities. If located in multiple counties, please indicate) Example - Elma
--

APPLICANT PHYSICAL LOCATION

FEMA			
2. CITY	3. COUNTY	4. STATE	5. ZIP CODE

MAILING ADDRESS (IF DIFFERENT FROM PHYSICAL LOCATION)

1. STREET ADDRESS			
2. POST OFFICE BOX	3. CITY	4. STATE	5. ZIP CODE

Primary Contact/Applicant's Authorized Agent		Alternate Contact	
1. NAME		1. NAME	
2. TITLE		2. TITLE	
3. BUSINESS PHONE		3. BUSINESS PHONE	
4. FAX NUMBER		4. FAX NUMBER	
5. HOME PHONE		5. HOME PHONE	
6. CELL PHONE		6. CELL PHONE	
7. E-MAIL ADDRESS		7. E-MAIL ADDRESS	
8. PAGER & PIN NUMBER		8. PAGER & PIN NUMBER	

Title 44 CFR Part 204.41 defines Fire Management Assistance eligibility criteria as: (a) The following entities are eligible to apply through a State grantee for a subgrant under an approved fire management assistance grant: 1) State agencies; 2) Local governments; and 3) Indian Tribal Governments. (b) Entities that are not eligible to apply for a subgrant as identified in (a), such as privately owned entities and volunteer firefighting organizations, may be reimbursed through a contract or compact with an eligible applicant for eligible cost associated with the fire or fire complex. (c) Eligibility is contingent upon the finding that the applicant's resources were requested by the Incident Commander or comparable State official. (d) The activities performed must be the legal responsibility of the applying entity, required as a result of the fire or fire complex for which a fire management assistance declaration was approved, and located within the declared area.

PROJECT WORKSHEET

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 90 minutes per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing, reviewing, and submitting the form. You are not required to respond to this collection of information unless a valid OMB control number appears in the upper right hand corner of this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, Paperwork Reduction Project (3067-0151). Submission of the form is required to obtain benefits under the Public Assistance Program. **NOTE: Do not send your completed form to the above address.**

DISASTER FEMA - <u>XXXX</u> · DR - <u>XX</u>	PROJECT NO.	PA ID NO. 000-00000-00	DATE	CATEGORY H
---	-------------	----------------------------------	------	----------------------

DAMAGED FACILITY	WORK COMPLETE AS OF _____ : _____ %
------------------	--

APPLICANT Example - Washington	COUNTY Example - Elma
--	---------------------------------

LOCATION Example - 12 miles Northeast of Elma	LATITUDE	LONGITUDE
---	----------	-----------

DAMAGE DESCRIPTION AND DIMENSIONS

SCOPE OF WORK

Does the Scope of Work change the pre-disaster conditions at the site? Yes No
 Special Considerations included? Yes No Hazard Mitigation proposal included? Yes No
 Is there insurance coverage on this facility? Yes No

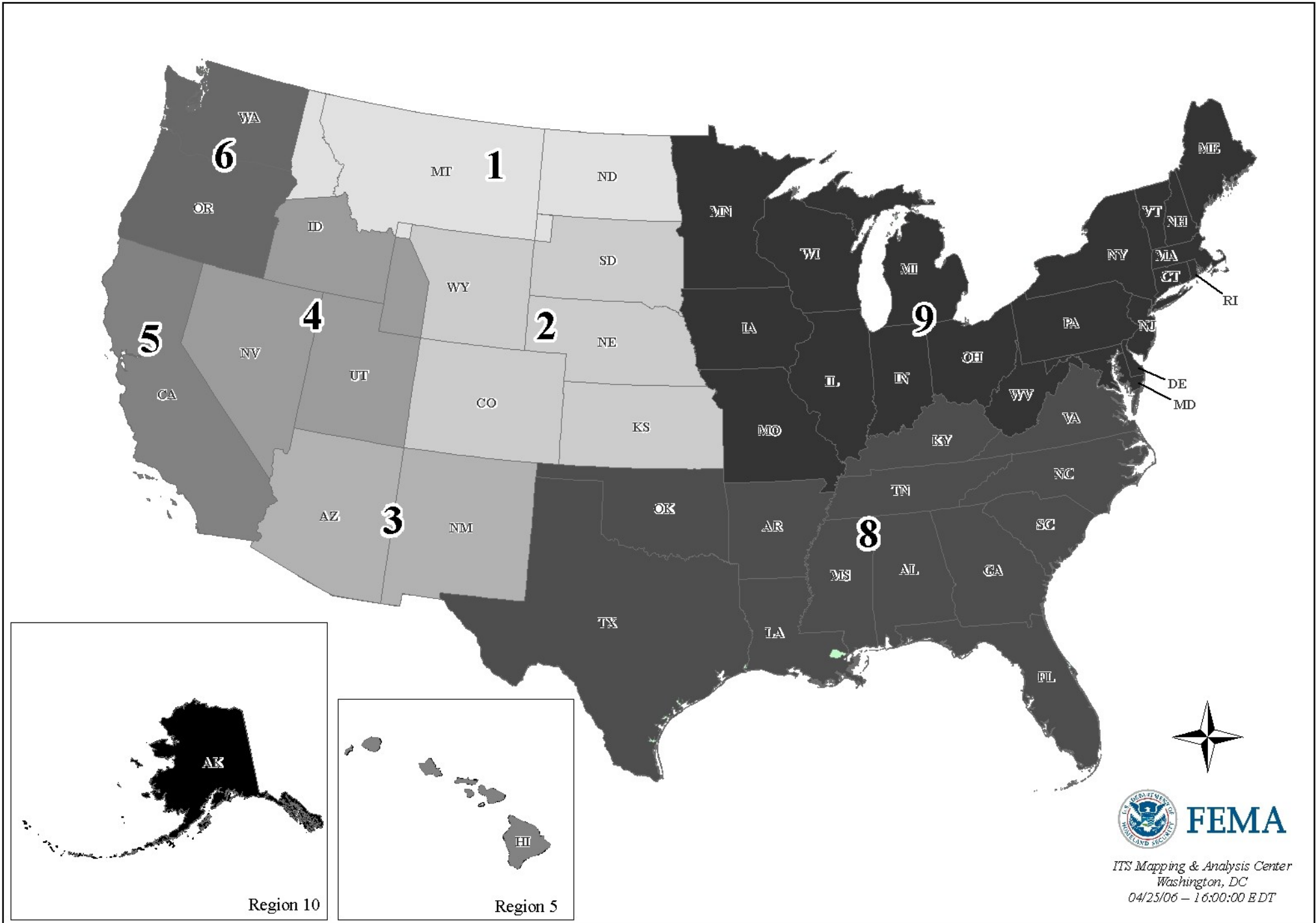
PROJECT COST						
ITEM	CODE	NARRATIVE	QUANTITY	UNIT	UNIT PRICE	COST
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
TOTAL COST						\$0.00

PREPARED BY	TITLE	SIGNATURE
APPLICANT REP.	TITLE	SIGNATURE

APPENDIX D

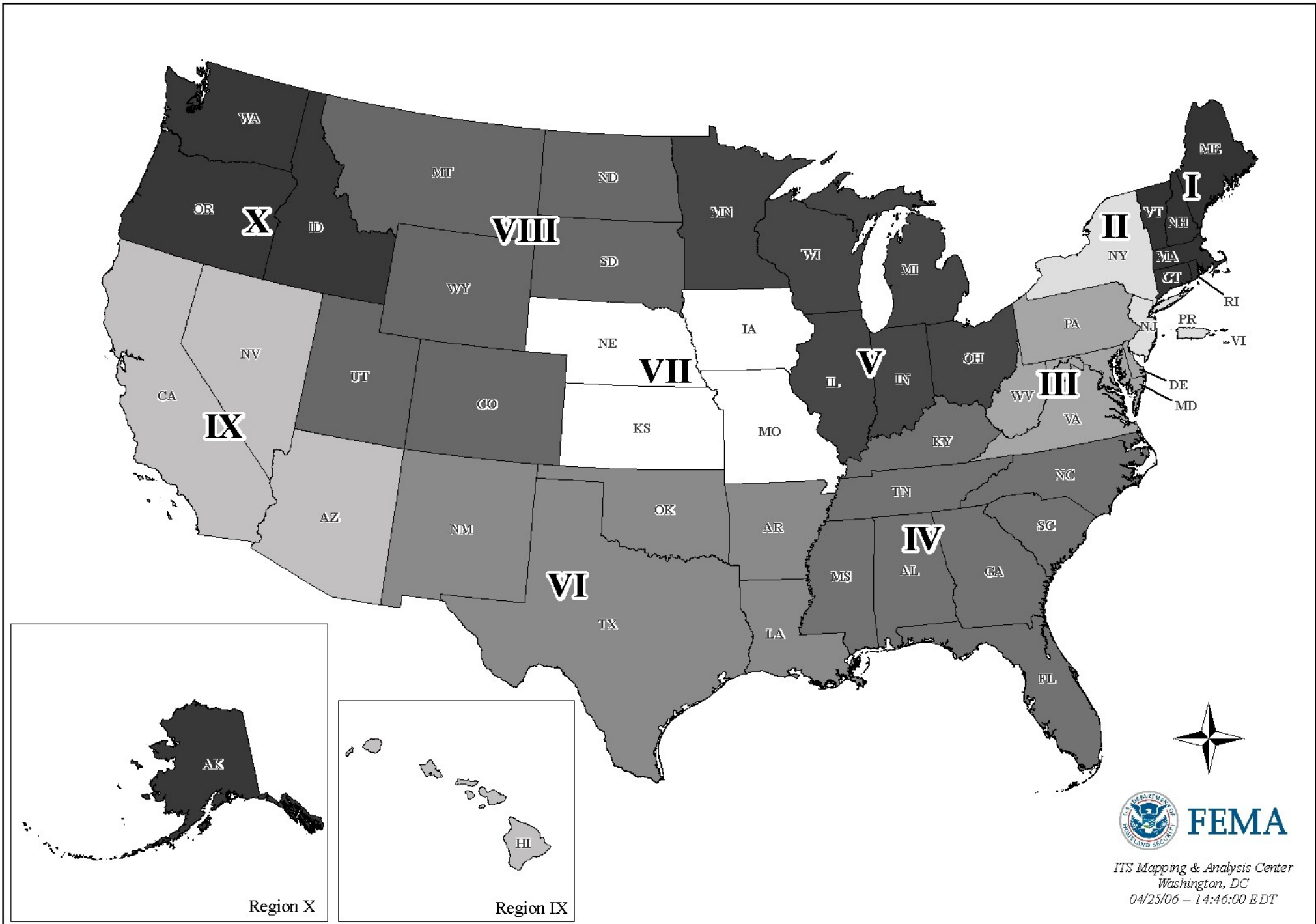
U.S. Forest Service – FEMA Regional Boundaries

United States Forest Service Regional Areas



ITS Mapping & Analysis Center
Washington, DC
04/25/06 - 16:00:00 EDT

Federal Emergency Management Agency Regional Areas



APPENDIX E

FEMA-State Agreement Format

FEMA-STATE AGREEMENT FOR THE FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

This is the annual FEMA-State Agreement for the Fire Management Assistance Grant Program (the Agreement) under Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5187 (the Stafford Act); in accordance with Title 44 of the Code of Federal Regulations (44 CFR) §204.25. The State must have a signed and up-to-date FEMA-State Agreement before receiving Federal funding for grants under approved requests for Fire Management Assistance declarations. The Governor and Regional Director are entering into this Agreement for all Fire Management Assistance declarations approved pursuant to 44 CFR Part 204 throughout the calendar year as the parties incorporate by amendment into this Agreement.

1. Federal assistance will be made available, within the limits of funds available from Congressional Appropriations for such purposes, in accordance with Section 420 of the Stafford Act, Executive Orders 12148 and 12673, applicable regulations found in 44 CFR including Part 13 and Part 204 as amended, and applicable policy and guidance.
2. Pursuant to 44 CFR, the State agrees to be the Grantee for the Fire Management Assistance Grant Program, Section 420 of the Stafford Act. The State agrees to comply with the Stafford Act, 44 CFR, and other applicable Federal and State laws, regulations, executive orders, policy, and guidance. _____ (State Agency) _____ will serve as the Grantee; the Governor's Authorized Representative (GAR) and Alternate GAR are identified in Exhibit A. The Grantee is accountable for the use of the funds provided. All other State Agencies applying for Federal assistance will be designated as a subgrantee.
3. The State hereby waives any consultation process under Executive Order 12372 and 44 CFR Part 4, for grants or other financial assistance under the Stafford Act for the Fire Management Assistance Grant Program.
4. The State legislative authority for firefighting and laws, regulations, and other provisions applicable to this program include _____ (applicable State authorities)_____.
5. Federal assistance may be provided only for eligible costs incurred in the mitigation, management and control of a declared fire that is identified in this Agreement, in accordance with 44 CFR Part 204.

6. The Regional Director in consultation with the Governor's Authorized Representative and the Principal Advisor will establish the incident period for a declared fire. If the incident period for a declared fire extends into the next calendar year, Federal assistance with respect to that fire is governed by the fire threshold and the FEMA-State agreement in effect for the calendar year in which the incident period for the declared fire begins.
7. The State must meet the individual or cumulative fire cost threshold pursuant to 44 CFR §204.51(b) prior to approval of the State's grant application (Standard Form 424, Request for Federal Assistance). The State must also have a current Administrative Plan and a FEMA-approved State Mitigation Plan (SMP) pursuant to 44 CFR § 201 and §204.51(d) before we approve the State's grant application. If the State does not have an approved SMP at the time the Amendment to FEMA-State Agreement for the Fire Management Assistance Grant Program (Exhibit E) is signed, the State will submit formally its approvable SMP for FEMA review and approval within 30 days of the date of the Amendment. If the State fails to do so, FEMA will deny the State's application for assistance under the declaration.
8. Federal funds may be provided under the Stafford Act for the Fire Management Assistance Grant Program on a 75 percent Federal/25percent non-Federal cost-sharing basis once the fire cost threshold is met.
9. The State agrees, on its behalf and on behalf of its political subdivisions and other recipients of Fire Management Assistance to cooperate with the Federal Government in seeking recovery of funds that are expended in the mitigation, management and control of a declared fire identified in this Agreement against any party or parties whose intentional acts or omissions may have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to the Fire Management Assistance Grant Program under Section 420 of the Stafford Act.
10. The State agrees, on its behalf and on behalf of its political subdivisions and other recipients of assistance under the Fire Management Assistance Grant Program, to seek recovery of all funds that are expended in the mitigation, management or control of a declared fire identified in this Agreement from any party or parties whose negligence may have caused or contributed to the damage or hardship for which FEMA provides assistance. FEMA will treat such amounts as duplicated benefits available to the Grantee in accordance with 42 U.S.C. 5155 and 44 CFR §204.62.
11. Within its authorities, the Governor shall ensure, through the State agency responsible for regulation of the insurance industry, that insurance companies make full payment of eligible insurance benefits to recipients of Federal assistance. The State also shall take all responsible steps to ensure that recipients are aware of procedures for filing insurance claims, and are informed of any State

procedures instituted for assisting insured entities. Further, the State shall take all actions necessary and reasonable to ensure that all recipients of Federal assistance are aware of their responsibility to repay government assistance that is duplicated by insurance proceeds.

12. The State will certify that all costs reported on an applicant's Project Worksheet for work performed are in compliance with the terms and conditions in the FEMA State Agreement.
13. Amendments to this agreement shall be executed for each Fire Management Assistance declaration approved during the calendar year. The amendment will specify the incident period, official fire name, declaration number, and counties included in the fire declaration.
14. Attached and also made a part of this Agreement are:
 - a. Exhibit A, State officials authorized to execute certification and otherwise to act on behalf of the State; and
 - b. Exhibit B, Certification regarding Drug-Free Workplace requirements.
 - c. Exhibit C, Certification for Contracts, Grants, Loans, and Cooperative Agreements, New Restrictions on Lobbying.
 - d. Exhibit D, Disaster Grant Agreement Articles.
 - e. Exhibit E, Amendment to the FEMA-State Agreement for the Fire Management Assistance Grant Program

Agreed:

Governor

Regional Director

Date: _____

Date: _____

EXHIBIT A

STATE CERTIFICATION OFFICERS

1. The Governor hereby certifies that [NAME] is the Governor's Authorized Representative (GAR) empowered to execute on behalf of the State all necessary documents for the Fire Management Assistance Grant Program, including, submitting requests for fire management assistance declarations, applying for the initial grant award, approving and submitting subgrants and certification of claims to the Regional Director. [NAME] is the First Alternate Governor's Authorized Representative, [NAME] is the Second Alternate Governor's Authorized Representative, and they are similarly empowered. Their specimen signatures follow:

GAR

First Alternate GAR

State Agency

State Agency

Second Alternate GAR

Date

State Agency

2. The Governor hereby certifies that [NAME] is the official of the State, authorized to execute compliance reports, carry out compliance reviews, and distribute informational material as required by FEMA to ensure that all recipients of Federal disaster assistance are in full compliance with FEMA nondiscrimination regulations (located at 44 CFR, Part 7).

3. The Governor hereby certifies that [NAME] is the official of the State who will execute compliance reports, carry out compliance reviews, and distribute information material as required by FEMA to ensure that all recipients of Federal disaster assistance are in compliance with the General Services Administration List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

EXHIBIT B

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 44 CFR Part 17, Subpart F. The regulations require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment. (See 44 CFR Part 17, Subpart C and Subpart D).

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with this grant:

Place(s) of Performance:

[ADDRESS]

Organization Name

Name and Title of Authorized Representative

Signature

Date

EXHIBIT C

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

This certification is required by the regulations implementing the New Restrictions on Lobbying, 44 CFR Part 18. The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name and Title of Authorized Representative

Signature

Date

EXHIBIT D

DISASTER GRANT AGREEMENT ARTICLES

ARTICLE I. The United States of America, through the Director, Federal Emergency Management Agency (FEMA) (herein referred to as “the Grantor”) or his/her delegate, agrees to grant to the State Government, through its designated agency named on the first page of this Agreement (hereinafter referred to as “the Grantee”) funds in the amount specified on the obligating document, to support the Fire Management Assistance Grant Program authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Section 5187 (the Stafford Act), and activated in the FEMA-State Agreement for Fire Management Assistance Grants and applicable amendments. The Grantee agrees to abide by the grant terms and conditions as set forth in this document, to comply with all provisions of the State Administrative Plan, and all conditions contained in the FEMA-State Agreement.

ARTICLE II. This agreement takes effect at the time the FEMA-State Agreement is executed and remains in effect for the calendar year for all approved Fire Management Assistance Grants. Refer to obligating documents for funding information.

ARTICLE III. As stated in Exhibit B, paragraph 2, the Grantee agrees to comply with all applicable laws and regulations. In particular, the following laws, regulations, and OMB circulars govern standard grant management practices and are incorporated into this agreement by reference. Due to the nature of grant administration following the approval of a Fire Management Assistance Grant, some variance from standard practice may be warranted upon determination by FEMA.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sections 5121-5206 (the Stafford Act).

Title 44 of the Code of Federal Regulations (44 CFR)

44 CFR	Part 13	Uniform administrative requirements for grants and cooperative agreements to state and local governments
44 CFR	Part 17	Government-wide debarment and suspension (nonprocurement) and government-wide requirements for drug-free workplace (grants)
44 CFR	Part 18	New restrictions on lobbying
44 CFR	Part 204	Disaster Assistance; Fire Management Assistance Grant Program
44 CFR	Subchapter B	– Insurance and Hazard Mitigation

44 CFR Subchapter C – Fire Prevention and Control

44 CFR Subchapter D – Disaster Assistance

44CFR Part 7 Nondiscrimination in Federally Assisted Programs

OMB Circular A-110 Uniform Administrative Requirements for Grants and Agreements with institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments

OMB Circular A-87 Cost Principles for State and Local Governments

OMB Circular A-122 Cost Principles for Nonprofit Organizations

OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations

Assurances submitted with the SF 424, Application for Federal Assistance

31 CFR 205.6 Funding techniques – Cost Management Improvement Act

ARTICLE IV. The specific terms and conditions of this agreement are as follows:

1. No transfer of funds to agencies other than those identified in the approved grant agreement shall be made without prior approval by FEMA. Grantee shall be paid using the HHS Smartlink System, provided Grantee maintains and complies with procedures for minimizing the time between transfer of funds from the US Treasury and disbursement by the Grantee and Subgrantees. The Grantee commits itself to: 1) initiating cash drawdowns only when actually needed for its disbursement; 2) timely financial reporting per FEMA requirements using FEMA Form 20-10; and imposing the same standards of timing and amount upon any secondary recipient.
2. Grantee shall follow the cost sharing requirements per 44 CFR, Part 204, Section 204.61.
3. The Grantee shall transfer to FEMA the appropriate share, based on the Federal support percentage, of any refund, rebate, credit, amount derived from legal action, or other amounts arising from the performance of this agreement, along with any accrued interest, if any. The Grantee shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with FEMA in any claim or suit in connection with amounts due.

4. The Grantee is free to copyright any original work developed in the course of or under the agreement. FEMA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Government purposes. Any publication resulting from work performed under this agreement shall include an acknowledgement of FEMA financial support and a statement that the publication does not necessarily reflect FEMA's views.
5. The Grantee shall submit final financial status reports using FEMA Form 20-10 within 90-days of the performance period expiration date to report all administrative costs incurred within the performance period.
6. The grant shall be completed within the time period prescribed in FEMA regulations and on the obligating documents. Written request for an extension will include information and documentation to support the amendment and a schedule for completion. No subsequent grant agreements, monetary increase amendments, or time extension amendments will be approved unless all overdue final financial or performance reports have been submitted by the Grantee to the appropriate Regional office.
7. The certifications signed by the State on the FEMA-State Agreement relating to maintenance of a Drug-Free workplace (44 CFR Part 17, Subpart F) and New Restrictions on Lobbying (44 CFR Part 18) apply to this grant agreement and are incorporated by reference.

EXHIBIT E
AMENDMENT TO
FEMA-STATE AGREEMENT FOR THE FIRE MANAGEMENT ASSISTANCE
GRANT PROGRAM

This amends the FEMA-State Agreement for the Fire Management Assistance Grant Program under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5187, in accordance with 44 CFR Part 204.25.

On _____ (date), FEMA declared _____ (fire name and declaration number) _____, in the State of _____ (state), and the following counties _____ (insert counties) _____, based on the threat posed by the fire during _____ (incident period) _____.

(Include the following if the State does not have an approved SMP at the time of this Amendment)
Before the State's application will be approved and assistance provided, the State must have a FEMA approved State Mitigation Plan (SMP) in accordance with 44 CFR Part 201 and 204.51(d). The State will submit formally its approvable SMP for FEMA review and approval within 30 days of the date of the Exhibit E Amendment to the FEMA State Agreement. If the State fails to do so, FEMA will deny the State's application for assistance under the declaration.

The State will adhere to the terms and conditions of the FEMA-State Agreement dated _____ for this declared fire.

Agreed:

Governor

Regional Director

Date: _____

Date: _____

APPENDIX F

Fire Cost Threshold Sample Calculations

APPENDIX F FIRE COST THRESHOLD SAMPLE CALCULATIONS

The following sample of calculations is provided to help clarify how fire cost thresholds affect the eligibility of grants. The table shows that each individual fire during a single year in a state either receives or is denied a grant based on the cost thresholds for that particular state for the timeframe in which the fire occurs.

Assumptions are:

- (a) State's Individual Threshold = \$300,000
- (b) State's Cumulative Threshold = \$900,000
- (c) Fires occurred in the time sequence shown, the earliest in the year at the top.
- (d) All costs meet FMAGP cost eligibility criteria.

Fires (January to December)	Individual Fire Costs	Eligible for FMAGP Grant	Cumulative Cost Total	Comments
1. Big Tree Fire	\$50,000	\$ 0	\$50,000	Less than individual threshold
2. West Front Fire	\$350,000	\$350,000	\$400,000	Exceeded individual threshold. Total costs for West Front Fire are eligible
3. Topper Fire	\$100,000	\$ 0	\$500,000	Less than individual threshold and cumulative has not been exceeded.
4. Copper City Fire Complex (eligible fires in complex): a) North Copper b) East Copper	\$310,000 a)\$125,000 b)\$185,000	\$310,000	\$810,000	Total for eligible fires in complex exceeded individual fire threshold. Costs for Copper City Fire complex are eligible.
5. Green Canyon Fire	\$150,000	\$150,000	\$960,000	Less than individual threshold but cumulative threshold exceeded. A single fire's total cost is eligible when it causes the cumulative total to meet or exceed the cumulative threshold.
6. Cross Hill Fire	\$40,000	\$40,000	\$1,000,000	Less than individual threshold; cumulative already exceeded.
7. Oakcrest Fire	\$100,000	\$100,000	\$1,100,000	Less than individual threshold; cumulative already exceeded.

APPENDIX G

FY 2006 Fire Cost Thresholds

FY2006 FIRE COST THRESHOLD		
STATE	INDIVIDUAL THRESHOLD	CUMULATIVE THRESHOLD
Alabama	\$ 262,379	\$ 787,137
Alaska	\$ 100,000	\$ 500,000
Arizona	\$ 302,707	\$ 908,122
Arkansas	\$ 157,731	\$ 500,000
California	\$ 1,998,427	\$ 5,995,282
Colorado	\$ 253,774	\$ 761,323
Connecticut	\$ 200,928	\$ 602,785
Delaware	\$ 100,000	\$ 500,000
Florida	\$ 942,960	\$ 2,828,881
Georgia	\$ 483,001	\$ 1,449,002
Hawaii	\$ 100,000	\$ 500,000
Idaho	\$ 100,000	\$ 500,000
Illinois	\$ 732,738	\$ 2,198,215
Indiana	\$ 358,749	\$ 1,076,246
Iowa	\$ 172,653	\$ 517,959
Kansas	\$ 158,617	\$ 500,000
Kentucky	\$ 238,464	\$ 715,393
Louisiana	\$ 263,670	\$ 791,009
Maine	\$ 100,000	\$ 500,000
Maryland	\$ 312,493	\$ 937,478
Massachusetts	\$ 374,597	\$ 1,123,790
Michigan	\$ 586,368	\$ 1,759,105
Minnesota	\$ 290,249	\$ 870,748
Mississippi	\$ 167,835	\$ 503,504
Missouri	\$ 330,117	\$ 990,352
Montana	\$ 100,000	\$ 500,000
Nebraska	\$ 100,965	\$ 500,000
Nevada	\$ 117,897	\$ 500,000
New Hampshire	\$ 100,000	\$ 500,000
New Jersey	\$ 496,447	\$ 1,489,340
New Mexico	\$ 107,324	\$ 500,000
New York	\$ 1,119,611	\$ 3,358,833
North Carolina	\$ 474,909	\$ 1,424,728
North Dakota	\$ 100,000	\$ 500,000
Ohio	\$ 669,835	\$ 2,009,506
Oklahoma	\$ 203,589	\$ 610,766
Oregon	\$ 201,863	\$ 605,588
Pennsylvania	\$ 724,582	\$ 2,173,747
Rhode Island	\$ 100,000	\$ 500,000
South Carolina	\$ 236,709	\$ 710,126
South Dakota	\$ 100,000	\$ 500,000
Tennessee	\$ 335,668	\$ 1,007,003
Texas	\$ 1,230,257	\$ 3,690,772
Utah	\$ 131,757	\$ 500,000
Vermont	\$ 100,000	\$ 500,000
Virginia	\$ 417,632	\$ 1,252,897
Washington	\$ 347,753	\$ 1,043,259
West Virginia	\$ 106,692	\$ 500,000
Wisconsin	\$ 316,457	\$ 949,370
Wyoming	\$ 100,000	\$ 500,000

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The index will be developed during the final draft preparation.