

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

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**UNITED STATES CODE**  
**Title 42. THE PUBLIC HEALTH AND WELFARE**  
**CHAPTER 68. DISASTER RELIEF**  
**FINDINGS, DECLARATIONS AND DEFINITIONS**  
[As amended by Pub. L. 103-181, Pub. L. 103-337, and Pub. L. 106-390]

**SECTION 1. SHORT TITLE.**

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

**(Pub. L. 106-390, § 301, October 30, 2000)**

**§ 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;

(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

Functions of the President under the Disaster Relief Acts of 1970 and 1974, with certain exceptions, were delegated to the Director of the Federal Emergency Management Agency, see sections 4-201 and 4-203 of Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239, set out as a note under section 2251 of title 50 Appendix, War and National Defense.

#### REFERENCES TO DISASTER RELIEF ACT OF 1974

Section 102(b) of title I of Pub. L. 100-707 provided that: "Whenever any reference is made in any law (other than this Act [see Tables for classification]), regulation, document, rule, record, or other paper of the United States to a section or provision of the Disaster Relief Act of 1974 [former short title of Pub. L. 93-288], such reference shall be deemed to be a reference to such section or provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [Pub. L. 93-288, see Short title note above].

#### § 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

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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

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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)**

## **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.

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**(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(e) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App 2281(e))~~, 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.)

**SEC. 203. PREDISASTER HAZARD MITIGATION.**

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

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

**(c) Approval by President.--If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction**

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**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.—**

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**(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 under this section, the President shall take into account—**

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- (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 Pre-disaster 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**

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**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, 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.**

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**(l) 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, October 30, 2000)**

**SEC. 204. INTERAGENCY TASK FORCE.**

**(a) In General.--The President shall establish a Federal interagency task force for the purpose of coordinating the implementation of predisaster hazard mitigation programs administered by the Federal Government.**

**(b) Chairperson.--The Director of the Federal Emergency Management Agency shall serve as the chairperson of the task force.**

**(c) Membership.--The membership of the task force shall include 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)**

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**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.

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**(c) 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

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§ 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, and 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.)

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**§ 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

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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

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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.)

**(Strikeout and bold, P.L. 106-390, § 201, October 30, 2000)**

**§ 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

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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.

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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

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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,

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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

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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.)

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**SEC. 322. MITIGATION PLANNING.**

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

**(b) Local and Tribal Plans.--Each mitigation plan developed by a local or tribal government shall—**

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

**(2) establish a strategy to implement those actions.**

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

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

**(2) support development of local mitigation plans;**

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

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

**(d) Funding.—**

**(1) In general.--Federal contributions under section 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.—**

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**(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.**

### **SEC. 323. MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES.**

**(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, October 30, 2000)**

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**SEC. 324. MANAGEMENT COSTS.**

**(a) Definition of Management Cost.--In this section, the term 'management cost' includes any indirect cost, any administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.**

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

**(b) Applicability.—**

**(1) In general.--Subject to paragraph (2), subsections (a) (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.**

**(P.L. 106-390, § 202, October 30, 2000)**

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

**(a) Public Notice and Comment Concerning New or Modified Policies.—**

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

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

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

**(2) Application.--Any policy adopted under paragraph (1) 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)**

#### **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

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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.)

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**§ 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;

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(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

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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)**

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**(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

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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.

**(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.**

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**(P.L. 106-390, § 204, October 30, 2000)**

(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] [[(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

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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}

~~(a) Contributions~~

~~The President may make contributions—~~

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

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

**(a) Contributions.—**

**(1) In general.--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**

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

**(3) Conditions for assistance to private nonprofit facilities.—**

**(A) In general.--The President may make contributions to a private nonprofit facility under paragraph (1)(B) only if—**

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

**(ii) the owner or operator of the facility—**

**(I) has applied for a disaster loan under section 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.**

~~(b) Minimum Federal share~~~~The Federal share of assistance under this section shall be not less than—~~~~(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;~~~~(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2); and~~~~(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5);~~  
~~(b) Federal Share.—~~

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

**(2) Reduced federal share.--The President shall promulgate regulations to reduce the Federal share of assistance under this section 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).**

~~(c) Large in lieu contributions~~~~(1) For public facilities~~

~~In any case where a State or local government determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by such State or local government, it may elect to receive, in lieu of a contribution under subsection (a)(1), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this~~

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~~subsection may be used to repair, restore, or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures which the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.~~

~~—(2) For private nonprofit facilities~~

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

~~—(3) Restriction on use for State or local contribution~~

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

**(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**

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**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—**

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**(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)**

**(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.

### ~~—(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.~~

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**(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**

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**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).**

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**(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.]

~~**(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,~~