

SUBCHAPTER D—DISASTER ASSISTANCE

PART 200 [RESERVED]

PART 201—MITIGATION PLANNING

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AUTHORITY: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; Homeland Security Act of 2002, 6 U.S.C. 101; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; E.O. 13286, 68 FR 10619, 3 CFR, 2003 Comp., p. 166.

EFFECTIVE DATE NOTE: At 74 FR 47481, Sept. 16, 2009, the authority citation to part 201 was revised, effective Oct. 16, 2009. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; Homeland Security Act of 2002, 6 U.S.C. 101; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; E.O. 13286, 68 FR 10619, 3 CFR, 2003 Comp., p. 166.

SOURCE: 67 FR 8848, Feb. 26, 2002, unless otherwise noted.

§ 201.1 Purpose.

(a) The purpose of this part is to provide information on the polices and procedures for mitigation planning as required by the provisions of section 322 of the Stafford Act, 42 U.S.C. 5165.

(b) The purpose of mitigation planning is for State, local, and Indian tribal governments to identify the natural hazards that impact them, to identify actions and activities to reduce any losses from those hazards, and to establish a coordinated process to implement the plan, taking advantage of a wide range of resources.

§ 201.2 Definitions.

Administrator means the head of the Federal Emergency Management Agency, or his/her designated representa-

tive, appointed under section 503 of the Post-Katrina Emergency Management Reform Act of 2006 (Pub. L. 109-295). The term also refers to the Director as discussed in part 2 of this chapter.

Flood Mitigation Assistance (FMA) means the program authorized by section 1366 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4104c, and implemented at parts 78 and 79.

Grantee means 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 is the grantee. However, after a declaration, an Indian tribal government may choose to be a grantee, or 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 purposes of administering the grant.

Hazard mitigation means any sustained action taken to reduce or eliminate the long-term risk to human life and property from hazards.

Hazard Mitigation Grant Program (HMGP) means the program authorized under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c, and implemented at part 206, subpart N of this chapter.

Indian tribal government means 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.

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 tribe or authorized tribal organization, or Alaska Native village or organization; and any rural community, unincorporated town or village, or other public entity.

Managing State means a State to which FEMA has delegated the authority to administer and manage the HMGP under the criteria established by FEMA pursuant to 42 U.S.C. 5170c(c). FEMA may also delegate authority to tribal governments to administer and manage the HMGP as a Managing State.

Pre-Disaster Mitigation Program (PDM) means the program authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133.

Regional Administrator is the administrator of a regional office of FEMA, or his/her designated representative.

Repetitive Flood Claims (RFC) program means the program authorized under section 1323 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4011, which provides funding to reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage and that will result in the greatest savings to the National Flood Insurance Program (NFIP) in the shortest period of time.

Severe Repetitive Loss (SRL) program means the program authorized under section 1361(a) of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4102a, and implemented at part 79 of this chapter.

Severe Repetitive Loss properties are defined as single or multifamily residential properties that are covered under an NFIP flood insurance policy and:

(1) That have incurred flood-related damage for which 4 or more separate claims payments have been made, with the amount of each claim (including building and contents payments) exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

(2) For which at least 2 separate claims payments (building payments only) have been made under such coverage, with cumulative amount of such

claims exceeding the market value of the property.

(3) In both instances, at least 2 of the claims must be within 10 years of each other, and claims made within 10 days of each other will be counted as 1 claim.

Small and impoverished communities means a community of 3,000 or fewer individuals that is identified by the State as a rural community, and is not a remote area within the corporate boundaries of a larger city; is economically disadvantaged, by having an average per capita annual income of residents not exceeding 80 percent of national, per capita income, based on best available data; the local unemployment rate exceeds by one percentage point or more, the most recently reported, average yearly national unemployment rate; and any other factors identified in the State Plan in which the community is located.

The Stafford Act refers to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended (42 U.S.C. 5121-5206).

State is 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.

State Hazard Mitigation Officer is the official representative of State government who is the primary point of contact with FEMA, other Federal agencies, and local governments in mitigation planning and implementation of mitigation programs and activities required under the Stafford Act.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. Subgrantees can be a State agency, local government, private nonprofit organizations, or Indian tribal government. Indian tribal governments acting as a subgrantee are accountable to the State grantee.

[67 FR 8848, Feb. 26, 2002, as amended at 72 FR 61747, Oct. 31, 2007; 74 FR 15344, Apr. 3, 2009]

EFFECTIVE DATE NOTE: At 74 FR 47481, Sept. 16, 2009, § 201.2 was amended by revising the definition of "Administrator", the first sentence of the definition of "Indian Tribal

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government”, and the definition of “Regional Administrator”, effective Oct. 16, 2009. For the convenience of the user, the revised text is set forth as follows:

§ 201.2 Definitions.

Administrator means the head of the Federal Emergency Management Agency, or his/her designated representative.

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Indian Tribal government means 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 Indian Tribe List Act of 1994, 25 U.S.C. 479a. * * *

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Regional Administrator means the head of a Federal Emergency Management Agency regional office, or his/her designated representative.

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§ 201.3 Responsibilities.

(a) *General.* This section identifies the key responsibilities of FEMA, States, and local/tribal governments in carrying out section 322 of the Stafford Act, 42 U.S.C. 5165.

(b) *FEMA.* The key responsibilities of the Regional Administrator are to:

- (1) Oversee all FEMA related pre- and post-disaster hazard mitigation programs and activities;
- (2) Provide technical assistance and training to State, local, and Indian tribal governments regarding the mitigation planning process;
- (3) Review and approve all Standard and Enhanced State Mitigation Plans;
- (4) Review and approve all local mitigation plans, unless that authority has been delegated to the State in accordance with §201.6(d);
- (5) Conduct reviews, at least once every three years, of State mitigation activities, plans, and programs to ensure that mitigation commitments are fulfilled, and when necessary, take action, including recovery of funds or denial of future funds, if mitigation commitments are not fulfilled.

(c) *State.* The key responsibilities of the State are to coordinate all State and local activities relating to hazard evaluation and mitigation and to:

(1) Prepare and submit to FEMA a Standard State Mitigation Plan following the criteria established in §201.4 as a condition of receiving non-emergency Stafford Act assistance and FEMA mitigation grants. In addition, a State may choose to address severe repetitive loss properties in their plan as identified in §201.4(c)(3)(v) to receive the reduced cost share for the Flood Mitigation Assistance (FMA) and Severe Repetitive Loss (SRL) programs, pursuant to §79.4(c)(2) of this chapter.

(2) In order to be considered for the 20 percent HMGP funding, prepare and submit an Enhanced State Mitigation Plan in accordance with §201.5, which must be reviewed and updated, if necessary, every three years from the date of the approval of the previous plan.

(3) At a minimum, review and update the Standard State Mitigation Plan every 3 years from the date of the approval of the previous plan in order to continue program eligibility.

(4) Make available the use of up to the 7 percent of HMGP funding for planning in accordance with §206.434.

(5) Provide technical assistance and training to local governments to assist them in applying for HMGP planning grants, and in developing local mitigation plans.

(6) For Managing States that have been approved under the criteria established by FEMA pursuant to 42 U.S.C. 5170c(c), review and approve local mitigation plans in accordance with §201.6(d).

(7) If necessary, submit a request from the Governor to the Administrator of FEMA, requesting an extension to the plan deadline in accordance with §201.4(a)(2).

(d) *Local governments.* The key responsibilities of local governments are to:

- (1) Prepare and adopt a jurisdiction-wide natural hazard mitigation plan as a condition of receiving project grant funds under the HMGP, in accordance with §201.6.
- (2) At a minimum, review and update the local mitigation plan every 5 years from date of plan approval of the previous plan in order to continue program eligibility.
- (e) *Indian tribal governments.* The key responsibilities of the Indian tribal