

Calendar No. 447

112TH CONGRESS }
2d Session }

SENATE

{ REPORT
112-180 }

UNITED STATES FIRE ADMINISTRATION
REAUTHORIZATION ACT OF 2012

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2218

TO REAUTHORIZE THE UNITED STATES FIRE ADMINISTRATION,
AND FOR OTHER PURPOSES



JULY 12, 2012.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

19-010

WASHINGTON : 2012

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Mr. LIEBERMAN, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2218]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2218) to reauthorize the United States Fire Administration, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 2218 reauthorizes appropriations for the United States Fire Administration (USFA), an entity within the Department of Homeland Security’s Federal Emergency Management Agency (FEMA), which provides training for firefighters and collects, analyzes, and disseminates important information about fires and other emergencies throughout the nation. The bill also updates USFA’s authorizing Act (the Federal Fire Prevention and Control Act of 1974¹) to reflect organizational changes to USFA made over the years through executive action and other statutes. Specifically, the

¹ 15 U.S.C. 2201 *et. seq.*

bill changes the Act to reflect USFA's move to FEMA from the Department of Commerce and to recognize that the Deputy Administrator of USFA is no longer a Senate-confirmed position.

II. BACKGROUND AND NEED FOR THE LEGISLATION

USFA is the primary federal entity for serving the needs of our nation's firefighters and for reducing death, injuries, and economic losses due to fire and related emergencies. USFA trains fire and emergency medical services officers at the National Fire Academy; offers fire awareness and education programs; and operates the National Fire Incident Reporting System, which collects, analyzes, and disseminates data and information on fires and other emergency incidents.

Originally named the National Fire Prevention and Control Administration (NFPCA), USFA was established by the Federal Fire Prevention and Control Act of 1974.² The impetus for its creation came from *America Burning*, a 1973 report issued by the National Commission of Fire Prevention and Control. This landmark study described the high toll fire had on the United States and recommended, among other things, a greater focus on prevention and education and the creation of a new federal agency to assist in these efforts.³ The Federal Fire Prevention and Control Act placed NFPCA in the Department of Commerce. Congress changed the agency's name to USFA in 1978. In 1979, President Carter created FEMA in Reorganization Plan Number 3 and moved USFA into the new agency.⁴ When the Homeland Security Act of 2002 transferred FEMA to the new Department of Homeland Security, USFA was transferred with it.⁵

USFA has served the nation well since its creation, leading Congress to reauthorize it six times over the past thirty years, most recently in 2008. The need for USFA's services remains today. Although the death rate from fires in the U.S. has declined over the past decade, it remains higher than that of many industrialized countries.⁶ Moreover, fires continue to cause significant property losses. USFA estimates annual losses of \$11.9 billion.⁷ USFA's central role in fire prevention will continue to help efforts to address these problems. Further, training continues to pose difficulties for firefighters. For example, the *Third Needs Assessment of the U.S. Fire Service*, issued in 2011 by the National Fire Protection Association, found shortcomings in training for specialized activities such as hazardous materials and wildland firefighting, although training levels have improved significantly in recent years.⁸ USFA, through the National Fire Academy, will continue to play a significant role in making these improvements.

²Lennard G. Kruger, *United States Fire Administration: An Overview* (Congressional Research Service: 23 June 2009) 1.

³Kruger 1; National Commission on Fire Prevention and Control, *America Burning: The Report of the National Commission on Fire Prevention and Control* (Washington, D.C.: 4 May 1973) X-XI.

⁴Reorganization Plan No. 3 of 1978, Federal Register (Vol. 43, No 183—Tuesday, September 19, 1978; Kruger 1.

⁵P.L. 107-296 503.

⁶USFA, *United States Fire Administration: Fiscal Year 2010 Report to Congress* (Washington, D.C.: September 2011) 4.

⁷*Ibid.* 4.

⁸National Fire Protection Association, *Third Needs Assessment of the U.S. Fire Service* (Quincy, MA: June 2011) 20 and 22.

In addition to reauthorizing USFA through fiscal year 2017 at the existing authorization level, S. 2218 makes modest changes to the Act, generally to update the statute where it does not reflect USFA's current organization. For example, Congress never updated the statute to reflect USFA's 1979 move from the Department of Commerce to FEMA through Reorganization Plan Number 3. Similarly, the requirement of Senate confirmation for USFA's Deputy Administrator was eliminated by the 1979 Reorganization Plan.⁹ S. 2218 updates the Act to reflect these changes. The bill also broadens the USFA Administrator's authority to conduct public education, allowing the Administrator to address individual preparedness for disasters. The USFA has a long and successful record in conducting public education campaigns, such as its "Install. Inspect. Protect." campaign to encourage proper use of smoke alarms, and this will enable the USFA Administrator to play a larger role in FEMA's efforts to encourage individual preparedness.

III. LEGISLATIVE HISTORY

Senators Lieberman, Collins, Carper, McCain, and Brown (MA) introduced S. 2218 on March 21, 2012. The bill was referred to the Committee on Homeland Security and Governmental Affairs, and the Committee considered the bill at a business meeting on May 16, 2012.

The Committee ordered the bill reported favorably and without amendment by voice vote. Senators present for the vote were Lieberman, Levin, Akaka, Carper, Pryor, Tester, Begich, Collins, and Brown. Senators Coburn and Johnson were recorded as voting against the bill by proxy.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the bill's short title, United State Fire Administration Reauthorization Act of 2012.

Section 2. Clarification of relationship between United States Fire Administration and Federal Emergency Management Agency

Subsections (a) and (b) update sections 3 and 5, respectively, of the Federal Fire Prevention and Control Act (15 U.S.C. 2202 and 2204) to reflect the fact that President Carter moved USFA from the Department of Commerce to FEMA in 1979.

Subsection (c) amends section 5 of the Federal Fire Prevention and Control Act (15 U.S.C. 2204) to reflect the fact that the Deputy Administrator of USFA is no longer a Senate confirmed position.

Section 3. Modification of authority of Administrator of United States Fire Administration to educate public about fire and fire prevention

This section amends section 6 of the Federal Fire Prevention and Control Act (15 U.S.C. 2205). It authorizes the USFA Administrator to take steps to educate the public on fire and fire prevention, as well as individual preparedness.

⁹ Reorganization Plan No. 3 of 1978.

Section 4. Authorization of appropriations for United States Fire Administration

This section amends section 17 of the Federal Fire Prevention and Control Act (15 U.S.C. 2216) to authorize appropriations of \$76,490,890 for each of fiscal years 2013 through 2017.

Section 5. Amendment to definition regarding Administrator of FEMA

Subsection (a) updates section 4 of the Federal Fire Prevention and Control Act (15 U.S.C. § 2203) to reflect that the head of FEMA now holds the title of “Administrator” rather than “Director.”

Subsection (b) strikes the term “Director” in each place it appears in the Federal Fire Prevention and Control Act (15 U.S.C. §§ 2201 *et seq.*) and replaces it with “Administrator of FEMA”. It also strikes the phrase “Director’s Award” wherever it appears and replaces it with “Administrator’s Award.”

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 24, 2012.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2218, the United States Fire Administration Reauthorization Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 2218—United States Fire Administration Reauthorization Act of 2012

Summary: S. 2218 would reauthorize the U.S. Fire Administration (USFA) through fiscal year 2017. Under current law, funding is authorized through 2012. Based on historical spending patterns, CBO estimates that implementing this legislation would cost about \$350 million over the 2013–2017 period, assuming appropriation of the specified amounts.

Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

S. 2218 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2218 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—					
	2013	2014	2015	2016	2017	2013–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	76	76	76	76	76	382
Estimated Outlays	50	72	76	76	76	350

Note: Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted at the end of fiscal year 2012 and that the specified amounts will be appropriated for each year.

The USFA coordinates with other emergency service entities to assist local communities and the public in planning for and reducing the risk of fire hazards. Funding is used to educate and train emergency responders; conduct research on fire detection and prevention, first responder health, and the effectiveness of safety programs; and conduct public outreach.

S. 2218 would authorize the appropriation of about \$76 million per year over the 2013–2017 period (for a total of \$382 million) for operations of the USFA, about \$32 million above amounts provided by the Congress for 2012 (see Public Law 112–74). Based on historical spending patterns, CBO estimates that implementing this bill would cost \$350 million over the 2013–2017 period, assuming appropriation of the specified amounts.

Pay-As-You-Go Considerations: None.

Intergovernmental and private-sector impact: S. 2218 contains no intergovernmental or private-sector mandates as defined in UMRA. State and local governments would benefit from grants, training, and technical assistance authorized by the bill. Any costs to those governments would be incurred voluntarily as conditions of federal assistance.

Estimate prepared by: Federal Costs: Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the following changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman).

TITLE 15—COMMERCE AND TRADE

CHAPTER 49—FIRE PREVENTION AND CONTROL

SEC. 2202. PURPOSES.

It is declared to be the purpose of Congress in this chapter to—

(1) reduce the Nation's losses caused by fire through better fire prevention and control;

(2) supplement existing programs of research, training, and education, and to encourage new and improved programs and activities by State and local governments;

(3) establish the United States Fire Administration and the Fire Research Center [within the Department of Commerce] *within the Federal Emergency Management Agency*; and

(4) establish an intensified program of research into the treatment of burn and smoke injuries and the rehabilitation of victims of fires within the National Institutes of Health.

SEC. 2203. DEFINITIONS.

As used in this Act, the term—

(1) “Academy” means the National Academy for Fire Prevention and Control

(2) “Administration” means the United States Fire Administration established pursuant to section 2204 of this title;

(3) “Administrator” means except as otherwise provided the Administrator of the United States Fire Administration, within the Federal Emergency Management Agency;

(4) [“Director” means the Administrator of the Federal Emergency Management Agency;] *“Administrator of FEMA” means the Administrator of the Federal Emergency Management Agency;*

(5) “fire service” means any organization in any State consisting of personnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private fire-fighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a Federal installation, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district. The terms “fire prevention”, “firefighting”, and “firecontrol” relate to activities conducted by a fire service;

(6) “local” means of or pertaining to any city, town, county, special purpose district, unincorporated territory, or other political subdivision of a State;

(7) “place of public accommodation affecting commerce” means any inn, hotel, or other establishment not owned by the Federal Government that provides lodging to transient guests, except that such term does not include an establishment treated as an apartment building for purposes of any State or local law or regulation or an establishment located within a building that contains not more than 5 rooms for rent or hire and that is actually occupied as a residence by the proprietor of such establishment;

(8) “State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands and any other territory or possession of the United States; and

(9) “wildland-urban interface” has the meaning given such term in section 6511 of title 16.

SEC. 2204. ESTABLISHMENT OF THE UNITED STATES FIRE ADMINISTRATION.

(a) ESTABLISHMENT.—There is hereby established in the [Department of Commerce] *Federal Emergency Management Agency*; an agency which shall be known as the United States Fire Administration.

(b) ADMINISTRATOR.—There shall be at the head of the Administration the Administrator of the United States Fire Administration. The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule pay rates. The Administrator shall report and be responsible to the [Director] *Administrator of FEMA*.

[(c) DEPUTY ADMINISTRATOR.—There shall be in the Administration a Deputy Administrator of the United States Fire Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule pay rates. The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.]

(c) DEPUTY ADMINISTRATOR.—*The Administrator may appoint a Deputy Administrator, who shall—*

(1) *perform such functions as the Administrator shall from time to time assign or delegate; and*

(2) *act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.*

SEC. 2205. PUBLIC EDUCATION.

The Administrator is authorized [to take all steps necessary to educate the public and to overcome public indifference as to fire and fire prevention] *to take such steps as the Administrator considers appropriate to educate the public and overcome public indifference as to fire, fire prevention, and individual preparedness*. Such steps may include, but are not limited to, publications, audiovisual presentations, and demonstrations. Such public education efforts shall include programs to provide specialized information for those groups of individuals who are particularly vulnerable to fire hazards, such as the young and the elderly. The Administrator shall sponsor and encourage research, testing, and experimentation to determine the most effective means of such public education.

SEC. 2206. NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL.

(a) ESTABLISHMENT.—The [Director] *Administrator of FEMA* shall establish, at the earliest practicable date, a National Academy for Fire Prevention and Control. The purpose of the Academy shall be to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities.

(b) SUPERINTENDENT.—The Academy shall be headed by a Superintendent, who shall be appointed by the **[Director]** *Administrator of FEMA*. In exercising the powers and authority contained in this section the Superintendent shall be subject to the direction of the Administrator.

* * * * *

(g) SITE SELECTION.—The Academy shall be located on such site as the **[Director]** *Administrator of FEMA* selects, subject to the following provisions:

(1) The **[Director]** *Administrator of FEMA* is authorized to appoint a Site Selection Board consisting of the Academy Superintendent and two other members to survey the most suitable sites for the location of the Academy and to make recommendations to the **[Director]** *Administrator of FEMA*.

(2) The Site Selection Board in making its recommendations and the **[Director]** *Administrator of FEMA* in making his final selection, shall give consideration to the training and facility needs of the Academy, environmental effects, and the possibility of using a surplus Government facility, and such other factors as are deemed important and relevant. The **[Director]** *Administrator of FEMA* shall make a final site selection not later than 2 years after October 29, 1974.

* * * * *

(j) BOARD OF VISITORS.—Upon establishment of the Academy, the **[Director]** *Administrator of FEMA* shall establish a procedure for the selection of professionals in the field of fire safety, fire prevention, fire control, research and development in fire protection, treatment and rehabilitation of fire victims, or local government services management to serve as members of a Board of Visitors for the Academy. Pursuant to such procedure, the **[Director]** *Administrator of FEMA* shall select eight such persons to serve as members of such Board of Visitors to serve such terms as the **[Director]** *Administrator of FEMA* may prescribe. The function of such Board shall be to review annually the program of the Academy and to make comments and recommendations to the **[Director]** *Administrator of FEMA* regarding the operation of the Academy and any improvements therein which such Board deems appropriate. Each member of such Board shall be reimbursed for any expenses actually incurred by him in the performance of his duties as a member of such Board.

SEC. 2210. REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY.

(a) * * *

(b) * * *

(c) PAYMENT.—The **[Director]** *Administrator of FEMA* shall forward the claim and a copy of the Administrator's determination under subsection (b)(3) of this section to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination, pay such fire service or its parent jurisdiction, from any moneys in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire oc-

curred, a sum no greater than the amount determined with respect to the claim under subsection (b)(3) of this section.

(d) * * *

SEC. 2214. PUBLIC SAFETY AWARDS.

(a) ESTABLISHMENT.—There is hereby established an honorary award for the recognition of outstanding and distinguished service by public safety officers to be known as the [Director's Award] *Administrator's Award For Distinguished Public Safety Service* ([Director's Award] "*Administrator's Award*").

(b) DESCRIPTION.—[Director's Award] *Administrator's Award* shall be presented by the [Director] *Administrator of FEMA* or by the Attorney General to public safety officers for distinguished service in the field of public safety.

(c) AWARD.—Each [Director's Award] *Administrator's Award* shall consist of an appropriate citation.

(d) REGULATIONS.—The [Director] *Administrator of FEMA* and the Attorney General are authorized and directed to issue jointly such regulations as may be necessary to carry out this section.

(e) "PUBLIC SAFETY OFFICER" DEFINED.—As used in this section, the term "public safety officer" means a person serving a public agency, with or without compensation, as—

- (1) a firefighter;
- (2) a law enforcement officer, including a corrections or court officer; or
- (3) a civil defense officer.

SEC. 2215. REPORTS TO CONGRESS AND PRESIDENT.

The [Director] *Administrator of FEMA* shall report to the Congress and the President not later than ninety calendar days following the year ending September 30, 1980 and similarly each year thereafter on all activities relating to fire prevention and control, and all measures taken to implement and carry out this Act during the preceding calendar year. Such report shall include, but need not be limited to—

(a) a thorough appraisal, including statistical analysis, estimates, and long-term projections of the human and economic losses due to fire;

(b) a survey and summary, in such detail as is deemed advisable, of the research and technology program undertaken or sponsored pursuant to this Act;

(c) a summary of the activities of the Academy for the preceding 12 months, including, but not limited to—

- (1) an explanation of the curriculum of study;
- (2) a description of the standards of admission and performance;
- (3) the criteria for the awarding of degrees and certificates; and
- (4) a statistical compilation of the number of students attending the Academy and receiving degrees or certificates;

(d) a summary of the activities undertaken to assist the Nation's fire services;

(e) a summary of the public education programs undertaken;

(f) an analysis of the extent of participation in preparing and submitting Fire Safety Effectiveness Statements;

(g) a summary of outstanding problems confronting the administration of this Act, in order of priority;

(h) such recommendations for additional legislation as are deemed necessary or appropriate; and

(i) a summary of reviews, evaluations, and suggested improvements in State and local fire prevention and building codes, fire services, and any relevant Federal or private codes, regulations, and fire services.

SEC. 2216. AUTHORIZATION OF APPROPRIATIONS.

(a) * * *

(b) * * *

(c) * * *

(d) * * *

(e) * * *

(f) * * *

(g)(1) Except as otherwise specifically provided with respect to the payment of claims under section 2210 of this title, there are authorized to be appropriated to carry out the purposes of this chapter—

(A) \$63,000,000 for fiscal year 2005, of which \$2,266,000 shall be used to carry out section 2207 (f) of this title;

(B) \$64,850,000 for fiscal year 2006, of which \$2,334,000 shall be used to carry out section 2207 (f) of this title;

(C) \$66,796,000 for fiscal year 2007, of which \$2,404,000 shall be used to carry out section 2207 (f) of this title;

(D) \$68,800,000 for fiscal year 2008, of which \$2,476,000 shall be used to carry out section 2207 (f) of this title;

(E) \$70,000,000 for fiscal year 2009, of which \$2,520,000 shall be used to carry out section 2207 (f) of this title;

(F) \$72,100,000 for fiscal year 2010, of which \$2,595,600 shall be used to carry out section 2207 (f) of this title;

(G) \$74,263,000 for fiscal year 2011, of which \$2,673,468 shall be used to carry out section 2207 (f) of this title; [and]

(H) \$76,490,890 for fiscal year 2012, of which \$2,753,672 shall be used to carry out section 2207 (f) of this title[. . .];

(I) \$76,490,890 for fiscal year 2013;

(J) \$76,490,890 for fiscal year 2014;

(K) \$76,490,890 for fiscal year 2015;

(L) \$76,490,890 for fiscal year 2016; and

(M) \$76,490,890 for fiscal year 2017.

(h) * * *

SEC. 2217. PUBLIC ACCESS TO INFORMATION.

Copies of any document, report, statement, or information received or sent by the [Director] *Administrator of FEMA* or the Administrator shall be made available to the public pursuant to the provisions of section 552 of title 5, United States Code: *Provided*, That, notwithstanding the provisions of subsection (b) of such section and of section 1905 of title 18, United States Code, the Director may disclose information which concerns or relates to a trade secret—

(1) upon request, to other Federal Government departments and agencies for official use;

(2) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

(3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public when he determines such disclosure to be necessary in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

SEC. 2218. ADMINISTRATIVE PROVISIONS.

(a) * * *

(b) * * *

(c) **AUDIT.**—The [Director] *Administrator of FEMA* and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipients of contracts, grants, or other forms of assistance that are pertinent to its activities under this Act for the purpose of audit or to determine if a proposed activity is in the public interest.

(d) * * *

(e) * * *

SEC. 2224. LISTINGS OF PLACES OF PUBLIC ACCOMMODATION.

(a) **SUBMISSIONS BY STATES.**—

(1) Not later than 2 years after enacted September 25, 1990, each State (acting through its Governor or the Governor's designee) shall, under procedures formulated by the [Director] *Administrator of FEMA*, submit to the [Director] *Administrator of FEMA* a list of those places of public accommodation affecting commerce located in the State which meet the requirements of the guidelines described in section 2225 of this title.

(2) The [Director] *Administrator of FEMA* shall formulate procedures under which each State (acting through its Governor or the Governor's designee) shall periodically update the list submitted pursuant to paragraph (1).

(b) **COMPILATION AND DISTRIBUTION OF MASTER LIST.**—

(1) Not later than 60 days after the expiration of the 2-year period referred to in subsection (a), the [Director] *Administrator of FEMA* shall compile and publish in the Federal Register a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines described in section 2225 of this title, and shall distribute such list to each agency of the Federal Government and take steps to make the employees of such agencies aware of its existence and contents.

(2) The [Director] *Administrator of FEMA* shall periodically update the national master list compiled pursuant to paragraph (1) to reflect changes in the State lists submitted to the [Director] *Administrator of FEMA* pursuant to subsection (a),

and shall periodically redistribute the updated master list to each agency of the Federal Government.

(3) For purposes of this subsection, the term “agency” has the meaning given to it under section 5701(1) of title 5, United States Code.

* * * * *

SEC. 2226. DISSEMINATION OF FIRE PREVENTION AND CONTROL INFORMATION.

The **[Director]** *Administrator of FEMA*, acting through the Administrator, is authorized to take steps to encourage the States to promote the use of automatic sprinkler systems and automatic smoke detection systems, and to disseminate to the maximum extent possible information on the life safety value and use of such systems. Such steps may include, but need not be limited to, providing copies of the guidelines described in section 2225 of this title and of the master list compiled under section 2224(b) of this title to Federal agencies, State and local governments, and fire services throughout the United States, and making copies of the master list compiled under section 2224(b) of this title available upon request to interested private organizations and individuals.

* * * * *

SEC. 2229. FIREFIGHTER ASSISTANCE.

(a) **DEFINITION OF FIREFIGHTING PERSONNEL.**—In this section, the term firefighting personnel means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

(b) **ASSISTANCE PROGRAM.**—

(1) **AUTHORITY.**—In accordance with this section, the **[Director]** *Administrator of FEMA* may—

(A) make grants on a competitive basis directly to fire departments of a State, in consultation with the chief executive of the State, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the Nation against fire and fire-related hazards;

(B) provide assistance for fire prevention and firefighter safety research and development programs in accordance with paragraph (4); and

(C) provide assistance for nonaffiliated EMS organizations for the purpose of paragraph (3)(F).

(2) **ADMINISTRATIVE ASSISTANCE.**—The **[Director]** *Administrator of FEMA* shall establish specific criteria for the selection of recipients of assistance under this section and shall provide grant-writing assistance to applicants.

(3) **USE OF FIRE DEPARTMENT GRANT FUNDS.**—The **[Director]** *Administrator of FEMA* may make a grant under paragraph (1)(A) only if the applicant for the grant agrees to use the grant funds for one or more of the following purposes:

(A) To hire additional firefighting personnel.

(B) To train firefighting personnel in firefighting, emergency response (including response to a terrorism incident or use of a weapon of mass destruction), arson prevention and detection, maritime firefighting, or the handling of

hazardous materials, or to train firefighting personnel to provide any of the training described in this subparagraph.

(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

(D) To certify fire inspectors.

(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel can carry out their duties.

(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

(G) To acquire additional firefighting vehicles, including fire trucks.

(H) To acquire additional firefighting equipment, including equipment for fighting fires with foam in remote areas without access to water, and equipment for communications, monitoring, and response to a terrorism incident or use of a weapon of mass destruction.

(I) To acquire personal protective equipment required for firefighting personnel by the Occupational Safety and Health Administration, and other personal protective equipment for firefighting personnel, including protective equipment to respond to a terrorism incident or the use of a weapon of mass destruction.

(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

(K) To enforce fire codes.

(L) To fund fire prevention programs.

(M) To educate the public about arson prevention and detection.

(N) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

(4) Fire prevention and firefighter safety research and development programs.

(A) **IN GENERAL.**—For each fiscal year, the **[Director]** *Administrator of FEMA* shall use not less than 5 percent of the funds made available under subsection (e)—

(i) to make grants to fire departments for the purpose described in paragraph (3)(L); and

(ii) to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs, for the purpose of carrying out fire prevention programs and research to improve firefighter health and life safety.

(B) **PRIORITY.**—In selecting organizations described in subparagraph (A)(ii) to receive assistance under this paragraph, the **[Director]** *Administrator of FEMA* shall give priority to organizations that focus on prevention of inju-

ries to high risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety.

(C) GRANT LIMITATION.—A grant under this paragraph shall not be greater than \$1,000,000 for a fiscal year.

(5) APPLICATION.—The **[Director]** *Administrator of FEMA* may provide assistance to a fire department or organization under this subsection only if the fire department or organization seeking the assistance submits to the **[Director]** *Administrator of FEMA* an application that meets the following requirements:

(A) FORM.—The application shall be in such form as the **[Director]** *Administrator of FEMA* may require.

(B) Information. The application shall include the following information:

(i) FINANCIAL NEED.—Information that demonstrates the financial need of the applicant for the assistance for which applied.

(ii) COST-BENEFIT ANALYSIS.—An analysis of the costs and benefits, with respect to public safety, of the use of the assistance.

(iii) REPORTING SYSTEMS DATA.—An agreement to provide information to the national fire incident reporting system for the period covered by the assistance.

(iv) OTHER FEDERAL SUPPORT.—A list of other sources of Federal funding received by the applicant. The **[Director]** *Administrator of FEMA*, in coordination with the Secretary of Homeland Security, shall use such list to prevent unnecessary duplication of grant funds.

(v) OTHER INFORMATION.—Any other information that the **[Director]** *Administrator of FEMA* may require.

(6) MATCHING REQUIREMENT.

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the **[Director]** *Administrator of FEMA* may provide assistance under this subsection only if the applicant for such assistance agrees to match 20 percent of such assistance for any fiscal year with an equal amount of non-Federal funds.

(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel—

(i) serve jurisdictions of 50,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 10 percent; and

(ii) serve jurisdictions of 20,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 5 percent.

(C) FIRE PREVENTION AND FIREFIGHTER SAFETY GRANTS.—There shall be no matching requirement for a grant described in paragraph (4)(A)(ii).

(7) MAINTENANCE OF EXPENDITURES.—The **[Director]** *Administrator of FEMA* may provide assistance under this subsection only if the applicant for the assistance agrees to main-

tain in the fiscal year for which the assistance will be received the applicant's aggregate expenditures for the uses described in paragraph (3) or (4) at or above the average level of such expenditures in the two fiscal years preceding the fiscal year for which the assistance will be received.

(8) REPORT TO THE **[DIRECTOR]** *administrator of FEMA*. The **[Director]** *Administrator of FEMA* may provide assistance under this subsection only if the applicant for the assistance agrees to submit to the **[Director]** *Administrator of FEMA* a report, including a description of how the assistance was used, with respect to each fiscal year for which the assistance was received.

(9) VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS.—The **[Director]** *Administrator of FEMA* shall ensure that grants under paragraph (1)(A) for a fiscal year are made to a variety of fire departments, including, to the extent that there are eligible applicants—

- (A) paid, volunteer, and combination fire departments;
- (B) fire departments located in communities of varying sizes; and
- (C) fire departments located in urban, suburban, and rural communities.

(10) Grant limitations.

(A) RECIPIENT LIMITATIONS.—A grant recipient under subsection (b)(1)(A)—

(i) that serves a jurisdiction with 500,000 people or less may not receive grants in excess of \$1,000,000 for any fiscal year;

(ii) that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people may not receive grants in excess of \$1,750,000 for any fiscal year; and

(iii) that serves a jurisdiction with more than 1,000,000 people may not receive grants in excess of \$2,750,000 for any fiscal year. The **[Director]** *Administrator of FEMA* may award grants in excess of the limitations provided in clause (i) and (ii) if the **[Director]** *Administrator of FEMA* determines that extraordinary need for assistance by a jurisdiction warrants a waiver.

(B) DISTRIBUTION.—Notwithstanding subparagraph (A), no single recipient may receive more than the lesser of \$2,750,000 or one half of one percent of the funds appropriated under this section for a single fiscal year.

(C) LIMITATION ON EXPENDITURES FOR FIREFIGHTING VEHICLES.—Not more than 25 percent of the funds appropriated to provide grants under this section for a fiscal year may be used to assist grant recipients to purchase vehicles, as authorized by paragraph (3)(G).

(D) REQUIREMENTS FOR GRANTS FOR EMERGENCY MEDICAL SERVICES.—Subject to the restrictions in subparagraph (E), not less than 3.5 percent of the funds appropriated under this section for a fiscal year shall be awarded for purposes described in paragraph (3)(F).

(E) NONAFFILIATED EMS LIMITATION.—Not more than 2 percent of the funds appropriated to provide grants under this section for a fiscal year shall be awarded to non-affiliated EMS organizations.

(F) APPLICATION OF SELECTION CRITERIA TO GRANT APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.—In reviewing applications submitted by nonaffiliated EMS organizations, the **[Director]** *Administrator of FEMA* shall consider the extent to which other sources of Federal funding are available to provide assistance requested in such grant applications.

(11) RESERVATION OF GRANT FUNDS FOR VOLUNTEER DEPARTMENTS.—In making grants to firefighting departments, the **[Director]** *Administrator of FEMA* shall ensure that those firefighting departments that have either all-volunteer forces of firefighting personnel or combined forces of volunteer and professional firefighting personnel receive a proportion of the total grant funding that is not less than the proportion of the United States population that those firefighting departments protect.

(12) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be considered an eligible grantee for purposes of receiving assistance under this section on behalf of Alaska Native villages.

(13) ANNUAL MEETING.—The **[Director]** *Administrator of FEMA* shall convene an annual meeting of individuals who are members of national fire service organizations and are recognized for expertise in firefighting or emergency medical services provided by fire services, and who are not employees of the Federal Government, for the purpose of recommending criteria for awarding grants under this section for the next fiscal year and recommending any necessary administrative changes to the grant program.

(14) GUIDELINES.—

(A) Each year, prior to making any grants under this section, the **[Director]** *Administrator of FEMA* shall publish in the Federal Register—

(i) guidelines that describe the process for applying for grants and the criteria for awarding grants; and

(ii) an explanation of any differences between the guidelines and the recommendations made pursuant to paragraph (13).

(B) The criteria for awarding grants under subsection (b)(1)(A) shall include the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

(15) PEER REVIEW.—The **[Director]** *Administrator of FEMA* shall, after consultation with national fire service organizations, appoint fire service personnel to conduct peer review of applications received under paragraph (5). In making grants under this section, the **[Director]** *Administrator of FEMA* shall consider the results of such peer review evaluations.

(16) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities under paragraphs (13) and (15).

(17) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, rule, regulation, or guidance, for purposes of receiving assistance under this section, equipment costs shall include, but not be limited to, all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

(c) AUDITS.—A recipient of a grant under this section shall be subject to audits to ensure that the grant proceeds are expended for the intended purposes and that the grant recipient complies with the requirements of paragraphs (6) and (7) of subsection (b).

(d) DEFINITIONS.—In this section—

(1) the term **[Director]** *Administrator of FEMA* means the **[Director]** *Administrator of FEMA*, acting through the Administrator;

(2) the term nonaffiliated EMS organization means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the **[Director]** *Administrator of FEMA* finds that emergency medical services are adequately provided by a fire department; and (3) the term State includes the District of Columbia and the Commonwealth of Puerto Rico.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the purposes of this section \$900,000,000 for fiscal year 2005, \$950,000,000 for fiscal year 2006, and \$1,000,000,000 for each of the fiscal years 2007 through 2009. Of the amounts authorized in this paragraph, \$3,000,000 shall be made available each year through fiscal year 2008 for foam firefighting equipment.

(2) ADMINISTRATIVE EXPENSES.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the **[Director]** *Administrator of FEMA* may use not more than three percent of the funds to cover salaries and expenses and other administrative costs incurred by the **[Director]** *Administrator of FEMA* to make grants and provide assistance under this section.

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