(2) Application

Any policy adopted under paragraph (1) shall apply only to a major disaster or emergency declared on or after the date on which the policy is adopted.

(b) Consultation concerning interim policies

(1) In general

Before adopting any interim policy under the public assistance program to address specific conditions that relate to a major disaster or emergency that has been declared under this chapter, the President, to the maximum extent practicable, shall solicit the views and recommendations of grantees and subgrantees with respect to the major disaster or emergency concerning the potential interim policy, if the interim policy is likely—

(A) to result in a significant reduction of assistance to applicants for the assistance with respect to the major disaster or emergency; or

(B) to change the terms of a written agreement to which the Federal Government is a party concerning the declaration of the major disaster or emergency.

(2) No legal right of action

Nothing in this subsection confers a legal right of action on any party.

(c) Public access

The President shall promote public access to policies governing the implementation of the public assistance program.


REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(A) and (b)(1), was in the original “‘this Act’”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

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

§ 5165d. Designation of Small State and Rural Advocate

(a) In general

The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

(b) Responsibilities

The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this chapter.

(c) Duties

The Small State and Rural Advocate shall—

(1) participate in the disaster declaration process under section 5170 of this title and the emergency declaration process under section 5191 of this title, to ensure that the needs of rural communities are being addressed;

(2) assist small population States in the preparation of requests for major disaster or emergency declarations; and

(3) conduct such other activities as the Administrator of the Federal Emergency Management Agency considers appropriate.


REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “‘this Act’”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS


CONSTRUCTION

Pub. L. 109–295, title VI, § 689g(c), Oct. 4, 2006, 120 Stat. 1453, provided that: “Nothing in this section [enacting this section] or the amendments made by this section shall be construed to authorize major disaster or emergency assistance that is not authorized as of the date of enactment of this Act [Oct. 4, 2006].”

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

§ 5170. Procedure for declaration

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

§ 5170a. General Federal assistance

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 response or recovery efforts, including precautionary evacuations;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments, including precautionary evacuations and recovery;

(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;

(E) management, control, and reduction of immediate threats to public health and safety; and

(F) recovery activities, including disaster impact assessments and planning;

(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and

(5) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.


§ 5170b. Essential assistance

(a) In general

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

(1) Federal resources, generally

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

(2) Medicine, food, and other consumables

Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine durable medical equipment,1 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 durable medical equipment,1 food, and other essential needs, including movement of supplies or persons;

(C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;

(D) provision of temporary facilities for schools and other essential community services;

(E) demolition of unsafe structures which endanger the public;

(F) warning of further risks and hazards;

(G) dissemination of public information and assistance regarding health and safety measures;

(H) provision of technical advice to State and local governments on disaster management and control;

(I) reduction of immediate threats to life, property, and public health and safety; and

(J) provision of rescue, care, shelter, and essential needs—

1So in original. The extra comma probably should follow “medicine”.

Prior Provisions

A prior section 402 of Pub. L. 93–288 was renumbered section 5171 of this title prior to repeal by Pub. L. 100–707.
(i) to individuals with household pets and service animals; and
(ii) to such pets and animals.

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

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

(c) Utilization of DOD resources

(1) General rule
During the immediate aftermath of an incident which may ultimately qualify for assistance under this subchapter or subchapter IV-A of this chapter, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

(2) Rules applicable to debris removal
Any removal of debris and wreckage carried out under this subsection shall be subject to section 5173(b) of this title, relating to unconditional authorization and indemnification for debris removal.

(3) Expenditures out of disaster relief funds
The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this chapter.

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

(5) Guidelines
Not later than 180 days after November 23, 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this chapter.

(6) Definitions
For purposes of this section—

(A) Department of Defense
The term “Department of Defense” has the meaning the term “department” has under section 101 of title 10.

(B) Emergency work
The term “emergency work” includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

(2) Rules applicable to debris removal
Any removal of debris and wreckage carried out under this subsection shall be subject to section 5173(b) of this title, relating to unconditional authorization and indemnification for debris removal.

(3) Expenditures out of disaster relief funds
The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this chapter.

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

(5) Guidelines
Not later than 180 days after November 23, 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this chapter.

(6) Definitions
For purposes of this section—

(A) Department of Defense
The term “Department of Defense” has the meaning the term “department” has under section 101 of title 10.

(B) Emergency work
The term “emergency work” includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.
ALTER OR OTHERWISE AFFECT AN AGREEMENT FOR AN ACQUISITION OR RELOCATION PROJECT CARRIED OUT THE DAY BEFORE DECEMBER 3, 1993.

(1) IN GENERAL

- The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).

(2) CRITERIA

- A demonstrated ability of the State to manage the grant program under this section;
- There being in effect an approved mitigation plan under section 5165 of this title;
- 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.

(A) The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

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

AMENDMENTS


2006—Subsec. (a). Pub. L. 109–295, in last sentence, substituted “15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000” for “7.5 percent”.

2000—Subsec. (a). Pub. L. 106–390, §104(c)(1), substituted “7.5 percent” for “15 percent”.

1993—Subsec. (a). Pub. L. 103–181, §105, substituted “15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000” for “7.5 percent”.

1609—Subsec. (a). Pub. L. 106–390, §104(c)(1), substituted “7.5 percent” for “15 percent”.

1993—Subsec. (a). Pub. L. 103–181, §105, substituted “15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000” for “7.5 percent”.

1990—Pub. L. 101–508, §104(c)(1), substituted “15 percent” for “7.5 percent” in first sentence, substituted “15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster” for “10 percent of the estimated aggregate amounts of grants to be made under section 5172 of this title with respect to such major disaster” in last sentence, and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Section 2(b) of Pub. L. 103–181 provided that: “The amendments made by this section (amending this section) shall apply to any major disaster declared by the President pursuant to [the] Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agen-
cy, including the functions of the Director of the Fed-

eral Emergency Management Agency relating thereto,
to the Secretary of Homeland Security, and for treat-

ment of related references, see former section 313(1) and
sections 551(d), 552(d), and 557 of Title 6, Domestic Secu-

rity, and the Department of Homeland Security Reor-
ganization Plan of November 25, 2002, as modified, set
out as a note under section 542 of Title 4.

§ 5171. Federal facilities

(a) Repair, reconstruction, restoration, or re-
placement 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 impor-
tance and urgency that it cannot reasonably be
deferred pending the enactment of specific au-
thorizing legislation or the making of an appro-
propriation for such purposes, or the obtaining of
congressional committee approval.

(b) Availability of funds appropriated to agency
for repair, reconstruction, restoration, or re-
placement of agency facilities

In order to carry out the provisions of this sec-
tion, 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 insuffi-
ciency can be remedied by the transfer, in ac-
cordance 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 appro-
priate action to mitigate such hazards, includ-
ing safe land-use and construction practices, in
accordance with standards prescribed by the
President.

(Pub. L. 93–286, title IV, § 405, formerly § 401, May
4696.)

PRIORITY PROVISIONS

A prior section 405 of Pub. L. 93–286 was classified to
section 5175 of this title prior to repeal by Pub. L.
100–707.

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

(a) Contributions

(1) In general

The President may make contributions—
(A) to a State or local government for the
repair, restoration, reconstruction, or re-
placement of a public facility damaged or
destroyed by a major disaster and for associ-
ated expenses incurred by the government; and
(B) subject to paragraph (3), to a person
that owns or operates a private nonprofit fa-
cility damaged or destroyed by a major dis-
aster for the repair, restoration, reconstruc-
tion, 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 eligi-
ble work;
(B) the costs of using prison labor to per-
form eligible work, including wages actually
paid, transportation to a worksite, and ex-
traordinary costs of guards, food, and lodg-
ing; and
(C) base and overtime wages for the em-
ployees and extra hires of a State, local gov-
ernment, 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 non-
profit facilities

(A) In general

The President may make contributions to
a private nonprofit facility under paragraph
(1)(B) only if—
(i) the facility provides critical services
(as defined by the President) in the event
of a major disaster; or
(ii) the owner or operator of the facility—
(I) has applied for a disaster loan under
section 636(b) of title 15; and
(II)(aa) has determined to be in-
eligible 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 serv-
ces’’ includes power, water (including water
provided by an irrigation organization or fa-
cility), sewer, wastewater treatment, com-
munications, education, 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 Representa-
tives;
(C) the Committee on Appropriations of
the Senate; and
(D) the Committee on Appropriations of
the House of Representatives.

(b) Federal share

(1) Minimum Federal share

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

(2) Reduced Federal share

The President shall promulgate regulations
to reduce the Federal share of assistance
under this section to not less than 25 percent in the case of the repair, restoration, reconstruction, or replacement of any eligible public facility or private nonprofit facility following an event associated with a major disaster—

(A) that has been damaged, on more than one occasion within the preceding 10-year period, by the same type of event; and

(B) the owner of which has failed to implement appropriate mitigation measures to address the hazard that caused the damage to the facility.

(c) Large in-lieu contributions

(1) For public facilities

(A) In general

In any case in which a State or local government determines that the public welfare would not best be served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by the State or local government, the State or local government may elect to receive, in lieu of a contribution under subsection (a)(1)(B) of this section, a contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility and of management expenses.

(B) 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; or

(ii) 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.

(C) Limitations

Funds made available to a person 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 Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) Flood insurance

(1) Reduction of Federal assistance

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

(2) Amount of reduction

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

(A) the value of such facility on the date of the flood damage or destruction, or

(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

(3) Exception

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

(4) Dissemination of information

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

(e) Eligible cost

(1) Determination

(A) In general

For the purposes of this section, the President shall estimate the eligible cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility—

(i) on the basis of the design of the facility as the facility existed immediately before the major disaster; and

(ii) in conformity with codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or under the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) applicable at the time at which the disaster occurred.

(B) Cost estimation procedures

(i) In general

Subject to paragraph (2), the President shall use the cost estimation procedures established under paragraph (3) to determine the eligible cost under this subsection.

(ii) Applicability

The procedures specified in this paragraph and paragraph (2) shall apply only to projects the eligible cost of which is equal to or greater than the amount specified in section 5189 of this title.

(2) Modification of eligible cost

(A) Actual cost greater than ceiling percentage of estimated cost

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

(B) Actual cost less than estimated cost

(i) Greater than or equal to floor percentage of estimated cost

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

(ii) Less than floor percentage of estimated cost

In any case in which the actual cost of repairing, restoring, reconstructing, or replacing a facility under this section is less than the floor percentage established under paragraph (3) of the cost estimated under paragraph (1), the State or local government or person receiving assistance under this section shall reimburse the President in the amount of the difference.

(C) No effect on appeals process

Nothing in this paragraph affects any right of appeal under section 5189a of this title.

(3) Expert panel

(A) Establishment

Not later than 18 months after October 30, 2000, the President, acting through the Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

(B) Duties

The expert panel shall develop recommendations concerning—

(i) procedures for estimating the cost of repairing, restoring, reconstructing, or replacing a facility consistent with industry practices; and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(C) Regulations

Taking into account the recommendations of the expert panel under subparagraph (B), the President shall promulgate regulations that establish—

(i) cost estimation procedures described in subparagraph (B)(i); and

(ii) the ceiling and floor percentages referred to in paragraph (2).

(D) Review by President

Not later than 2 years after the date of promulgation of regulations under subparagraph (C) and periodically thereafter, the President shall review the cost estimation procedures and the ceiling and floor percentages established under this paragraph.

(E) Report to Congress

Not later than 1 year after the date of promulgation of regulations under subparagraph (C), 3 years after that date, and at the end of each 2-year period thereafter, the expert panel shall submit to Congress a report on the appropriateness of the cost estimation procedures.

(4) Special rule

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


REFERENCES IN TEXT


The National Flood Insurance Act, referred to in subsec. (e), is Pub. L. 93–288, title IV, §406, May 22, 1974, 88 Stat. 156, as amended, which is classified principally to chapter 55 (§3501 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 3501 of Title 16 and Tables.

PRIOR PROVISIONS


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

AMENDMENTS


Subsec. (c)(1)(B) to (D). Pub. L. 109–347, §609(2), (3), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner’s responsibility and not the contractor’s responsibility.”

Subsec. (f). Pub. L. 106–390, §205(e), struck out subsec. (f) which set out various associated expenses, including necessary and extraordinary costs, and costs of using the National Guard and prison labor.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–390, title II, §205(d)(3), Oct. 30, 2000, 114 Stat. 1566, provided that: “The amendment made by paragraph (1) [amending this section] takes effect on the date of the enactment of this Act [Oct. 30, 2000] and applies to funds appropriated after the date of the enactment of this Act, except that paragraph (1) of section 406(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [subsection (e)(1) of this section] (as amended by paragraph (1) takes effect on the date on which the cost estimation procedures established under paragraph (3) of that section take effect.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto,
to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 531(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5173. Debris removal

(a) Presidential authority

The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government or owner or operator of a private nonprofit facility for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) Authorization by State or local government; indemnification agreement

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

(c) Rules relating to large lots

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

(d) Federal share

The Federal share of assistance under this section shall be not less than 75 percent of the President’s initial estimate of debris and wreckage removal expenses.

(e) Expedited payments

(1) Grant assistance

In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President’s initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).

(2) Date of payment

Not later than 60 days after the date of the estimate described in paragraph (1) and not later than 90 days after the date on which the President shall provide not less than 50 percent of the President’s initial estimate of the Federal share of assistance as an initial payment.

§ 5174. Federal assistance to individuals and households

(a) In general

(1) Provision of assistance

In accordance with this section, the President, in consultation with the Governor of a State, may provide financial assistance, and, if necessary, direct services, to individuals and households in the State who, as a direct result of a major disaster, have necessary expenses and serious needs in cases in which the individuals and households are unable to meet such expenses or needs through other means.

(2) Relationship to other assistance

Under paragraph (1), an individual or household shall not be denied assistance under paragraph (1), (3), or (4) of subsection (c) of this section solely on the basis that the individual or household has not applied for or received any loan or other financial assistance from the Small Business Administration or any other Federal agency.

(b) Housing assistance

(1) Eligibility

The President may provide financial or other assistance under this section to individuals and households to respond to the disaster-related housing needs of individuals and households who are displaced from their predisaster primary residences and whose predisaster primary residences are rendered uninhabitable, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable, as a result of damage caused by a major disaster.

(2) Determination of appropriate types of assistance

(A) In general

The President shall determine appropriate types of assistance under this section to individuals and households described in subsection (a)(1) of this section based on considerations of cost effectiveness, convenience to the individuals and households, and such other factors as the President may consider appropriate.

(B) Multiple types of assistance

One or more types of housing assistance may be made available under this section, based on the suitability and availability of the types of assistance, to meet the needs of individuals and households in the particular disaster situation.

(c) Types of housing assistance

(1) Temporary housing

(A) Financial assistance

(i) In general

The President may provide financial assistance to individuals or households to
rent alternate housing accommodations, existing rental units, manufactured housing, recreational vehicles, or other readily fabricated dwellings. Such assistance may include the payment of the cost of utilities, excluding telephone service.

(ii) Amount

The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the cost of any transportation, utility hook-ups, security deposits, or unit installation not provided directly by the President.

(B) Direct assistance

(i) In general

The President may provide temporary housing units, acquired by purchase or lease, directly to individuals or households who, because of a lack of available housing resources, would be unable to make use of the assistance provided under subparagraph (A).

(ii) Period of assistance

The President may not provide direct assistance under clause (i) with respect to a major disaster after the end of the 18-month period beginning on the date of the declaration of the major disaster by the President, except that the President may extend that period if the President determines that due to extraordinary circumstances an extension would be in the public interest.

(iii) Collection of rental charges

After the end of the 18-month period referred to in clause (ii), the President may charge fair market rent for each temporary housing unit provided.

(2) Repairs

(A) In general

The President may provide financial assistance for—

(i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and

(ii) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure.

(B) Relationship to other assistance

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

(3) Replacement

(A) In general

The President may provide financial assistance for the replacement of owner-occupied private residences damaged by a major disaster.

(B) Applicability of flood insurance requirement

With respect to assistance provided under this paragraph, the President may not waive any provision of Federal law requiring the purchase of flood insurance as a condition of the receipt of Federal disaster assistance.

(4) Permanent housing construction

The President may provide financial assistance or direct assistance to individuals or households to construct permanent or semi-permanent housing in insular areas outside the continental United States and in other locations in cases in which—

(A) no alternative housing resources are available; and

(B) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective.

(d) Terms and conditions relating to housing assistance

(1) Sites

(A) In general

Any readily fabricated dwelling provided under this section shall, whenever practicable, be located on a site that—

(i) is complete with utilities;

(ii) meets the physical accessibility requirements for individuals with disabilities; and

(iii) is provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

(B) Sites provided by the President

A readily fabricated dwelling may be located on a site provided by the President if the President determines that such a site would be more economical or accessible.

(2) Disposal of units

(A) Sale to occupants

(i) In general

Notwithstanding any other provision of law, a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims may be sold directly to the individual or household who is occupying the unit if the individual or household lacks permanent housing.

(ii) Sale price

A sale of a temporary housing unit under clause (i) shall be at a price that is fair and equitable.

(iii) Deposit of proceeds

Notwithstanding any other provision of law, the proceeds of a sale under clause (i) shall be deposited in the appropriate Disaster Relief Fund account.

(iv) Hazard and flood insurance

A sale of a temporary housing unit under clause (i) shall be made on the condition that the individual or household purchasing the housing unit agrees to obtain and maintain hazard and flood insurance on the housing unit.

(v) Use of GSA services

The President may use the services of the General Services Administration to accomplish a sale under clause (i).
(B) Other methods of disposal
   If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims—
   (1) may be sold to any person; or
   (2) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, donation, or otherwise made available, the President, the Governor of a State, or other governmental agency, or voluntary organization agrees—
   (I) to comply with the nondiscrimination provisions of section 5151 of this title; and
   (II) to obtain and maintain hazard and flood insurance on the housing unit.

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

(f) State role
   (1) Financial assistance to address other needs
      (A) Grant to State
         Subject to subsection (g) of this section, a Governor may request a grant from the President to provide financial assistance to individuals and households in the State under subsection (e) of this section.
      (B) Administrative costs
         A State that receives a grant under subparagraph (A) may expend not more than 5 percent of the amount of the grant for the administrative costs of providing financial assistance to individuals and households in the State under subsection (e) of this section.
   (2) Access to records
      In providing assistance to individuals and households under this section, the President shall provide for the substantial and ongoing involvement of the States in which the individuals and households are located, including by providing to the States access to the electronic records of individuals and households receiving assistance under this section in order for the States to make available any additional State and local assistance to the individuals and households.

(g) Cost sharing
   (1) Federal share
      Except as provided in paragraph (2), the Federal share of the costs eligible to be paid using assistance provided under this section shall be 100 percent.
   (2) Financial assistance to address other needs
      In the case of financial assistance provided under subsection (e) of this section—
      (A) the Federal share shall be 75 percent; and
      (B) the non-Federal share shall be paid from funds made available by the State.

(h) Maximum amount of assistance
   (1) In general
      No individual or household shall receive financial assistance greater than $25,000 under this section with respect to a single major disaster.
   (2) Adjustment of limit
      The limit established under paragraph (1) shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(i) Verification measures
   In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—
   (1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;
   (2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;
   (3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;
   (4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and
   (5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.

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

PRIOR PROVISIONS
A prior section 488 of Pub. L. 93–288 was classified to section 5178 of this title and to a note set out under section 5178 of this title prior to repeal by Pub. L. 100–707.
2006—Subsec. (b)(1). Pub. L. 109–295, § 889(c)(1), inserted “, or with respect to individuals with disabilities, rendered inaccessible or uninhabitable,” after “uninhabitable”.

Subsec. (c)(1)(A)(i). Pub. L. 109–295, § 889(d)(1), inserted at end “Such assistance may include the payment of the cost of utilities, excluding telephone service.”


Subsec. (c)(2)(C). Pub. L. 109–295, § 889(1), struck out subpar. (C) which read as follows: “The amount of assistance provided to a household under this paragraph shall not exceed $5,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.”

Subsec. (c)(3)(B), (C). Pub. L. 109–295, § 889(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “The amount of assistance provided to a household under this paragraph shall not exceed $10,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.”

Subsec. (c)(4). Pub. L. 109–295, § 885, in introductory provisions, inserted “or semi-permanent” after “permanent” and struck out “remote” before “locations”.


Subsecs. (i), (j). Pub. L. 109–295, § 889(c), added subsec. (i) and redesignated former subsec. (i) as (j).

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

Effective Date of 2000 Amendment


A prior section 409 of Pub. L. 93–288 was renumbered section 412 by Pub. L. 100–707 and is classified to section 5179 of this title.

§ 5177. Unemployment assistance

(a) Benefit assistance

The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual’s unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) Reemployment assistance

(1) State assistance

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


References in Text

This chapter, referred to in subsec. (b)(1), was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 410 of Pub. L. 93–288 was renumbered section 413 by Pub. L. 100–707 and is classified to section 5180 of this title.

Amendments

1988—Subsec. (a). Pub. L. 100–707, § 106(f)(1)–(3), inserted “for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of title 26) or waiting period credit.” for “is unemployed” before period at end of first sentence, substituted “26 weeks” for “one year” in second sentence, and substituted “occurred” for “occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment” in third sentence.

Subsec. (b). Pub. L. 100–707, § 106(f)(4), inserted heading and amended text generally. Prior to amendment, text read as follows: “The President is further authorized for the purposes of this chapter to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.”
§ 5177a. Emergency grants to assist low-income migrant and seasonal farmworkers

(a) In general

The Secretary of Agriculture may make grants to public agencies or private organizations with tax exempt status under section 501(c)(3) of title 26, that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.

(b) “Low-income migrant or seasonal farmworker” defined

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

(1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;

(2) who has received not less than one-half of such individual’s total income, or been employed at least one-half of total work time in farm work; and

(3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) Authorization of appropriations

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


CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171 struck out “not to exceed $20,000,000 annually” after “Secretary of Agriculture may make grants”.


Section. Pub. L. 93–288, title IV, § 411, as added Pub. L. 106–390, set out as related to individual and family grant programs.

EFFECTIVE DATE OF REPEAL

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

PRIOR PROVISIONS


A prior section 411 of Pub. L. 93–288 was renumbered section 414 by Pub. L. 100–707 and is classified to section 5181 of this title.

§ 5179. Benefits and distribution

(a) Persons eligible; terms and conditions

Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies, to such households pursuant to the provisions of the Food and Nutrition Act of 2008 of 1964 1 [7 U.S.C. 2011 et seq.] and to make surplus commodities available pursuant to the provisions of this chapter.

(b) Duration of assistance; factors considered

The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such benefit allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Food and Nutrition Act provisions unaffected

Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food and Nutrition Act of 2008 of 1964 1 [7 U.S.C. 2011 et seq.] except as they relate to the availability of supplemental nutrition assistance program benefits in an area affected by a major disaster.


REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsecs. (a) and (c), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 [§2011 et seq.] of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title.


1 So in original. See 2008 Amendment note below.
PRIOR PROVISIONS
A prior section 412 of Pub. L. 93–288 was renumbered section 415 by Pub. L. 100–707 and is classified to section 5182 of this title.

AMENDMENTS

Subsec. (a), (b), Pub. L. 110–246, § 4115(c)(1)(A)(ii), (B)(v), substituted “benefit” for “coupon”.

Subsec. (c). Pub. L. 110–246, § 4002(b)(1)(E), (2)(DD), substituted “supplemental nutrition assistance program benefits” for “food stamps”.

EFFECTIVE DATE OF 2008 AMENDMENT


DELIGATION OF FUNCTIONS
Secretary of Agriculture designated and empowered to exercise, without approval, ratification, or other action of President, all authority vested in President by this section concerning food coupons (benefits) and distribution, see section 3 of Ex. Ord. No. 11795, as amended, set out as a note under section 5121 of this title.

§ 5180. Food commodities
(a) Emergency mass feeding

The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) Funds for purchase of food commodities

The Secretary of Agriculture shall utilize funds appropriated under section 612c of title 7, to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

References in Text

PRIOR PROVISIONS
A prior section 414(a), (b) of Pub. L. 93–288 was renumbered section 417(a), (b) by Pub. L. 100–707 and is classified to section 5184 of this title.

§ 5182. Legal services

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

References in Text
This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 157. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS
A prior section 415 of Pub. L. 93–288 was renumbered section 418 by Pub. L. 100–707 and is classified to section 5185 of this title.

§ 5183. Crisis counseling assistance and training

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

References in Text
This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 157. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS
A prior section 416 of Pub. L. 93–288 was renumbered section 419 by Pub. L. 100–707 and is classified to section 5186 of this title.

AMENDMENTS
1988—Pub. L. 100–707 struck out “‘through the National Institute of Mental Health’)” after “authorized”.

§ 5184. Community disaster loans
(a) In general

The President is authorized to make loans to any local government which may suffer a sub-
substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions.

(b) Amount

The amount of any such loan shall be based on need, shall not exceed—

(1) 25 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed $5,000,000; or

(2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed $5,000,000.

(c) Repayment

(1) Cancellation

Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(2) Condition on continuing eligibility

A local government shall not be eligible for further assistance under this section during any period in which the local government is in arrears with respect to a required repayment of a loan under this section.

(d) Effect on other assistance

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

References in Text


Codification

Prior to renumbering as section 417, section 414 of Pub. L. 93–288 contained a subsec. (c) which was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1062.

References in Text

This chapter, referred to in subsec. (d), was in the original “this Act,” meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Prior Provisions

A prior section 417 of Pub. L. 93–288 was renumbered section 420 by Pub. L. 100–707 and is classified to section 5187 of this title.

Amendments

2006—Subsec. (b). Pub. L. 109–347 substituted “exceed—” (1) 25 percent” for “exceed 25 per centum” and “; or” for period at end and added par. (2).

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

Subsec. (b). Pub. L. 106–390, § 207(5), substituted “shall not exceed” for “and shall not exceed” and inserted before period at end “; and shall not exceed $5,000,000”.

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

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

COMMUNITY EMERGENCY DROUGHT RELIEF


SEC. 101. (a) Upon the application of any State, political subdivision of a State, Indian tribe, or public or private nonprofit organization, the Secretary of Commerce is authorized to make grants and loans to applicants in drought impacted areas for projects that implement short-term actions to augment community water supplies where there are severe problems due to water shortages. Such assistance may be for the improvement, expansion, or construction of water supplies, and purchase and transportation of water, which in the opinion of the Secretary of Commerce will make a substantial contribution to the relief of an existing or threatened drought condition in a designated area.

(b) The Secretary of Commerce may designate any area in the United States as an emergency drought impact area if he or she finds that a major and continuing adverse drought condition exists and is expected to continue, and such condition is causing significant hardships on the affected areas.

(c) Eligible applicants shall be those States or political subdivisions of States with a population of ten thousand or more, Indian tribes, or public or private nonprofit organizations within areas designated pursuant to subsection (b) of this section.

(d) Projects assisted under this Act shall be only those with respect to which assurances can be given to the satisfaction of the Secretary of Commerce that the work can be completed by April 30, 1978, or within such extended time as the Secretary may approve in exceptional circumstances.

SEC. 102. Grants hereunder shall be in an amount not to exceed 50 per centum of allowable project costs. Loans shall be for a term not to exceed 40 years at a per annum interest rate of 5 per centum and shall be on such terms and conditions as the Secretary of Commerce shall determine. In determining the amount of a grant assistance for any project, the Secretary of Commerce may take into consideration such factors as are established by regulation and are consistent with the purposes of this Act.

SEC. 103. In extending assistance under this Act the Secretary shall take into consideration the relative needs of applicant areas for the projects for which assistance is requested, and the appropriateness of the project for relieving the conditions intended to be alleviated by this Act.

SEC. 104. The Secretary of Commerce shall have such powers and authorities under this Act as are vested in the Secretary by sections 701 and 708 of the Public Works and Economic Development Act of 1965, as amended [sections 3211 and 3218 of this title], with respect to that Act [section 3121 et seq. of this title].

SEC. 105. The National Environmental Protection Act of 1969, as amended [section 4321 et seq. of this title], shall be implemented to the fullest extent consistent with but subject to the time constraints imposed by this Act, and the Secretary of Commerce when making the final determination regarding an application for assistance hereunder shall give consideration to the environmental consequences determined within that period.
§ 5185. Emergency communications

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


PRIOR PROVISIONS

A prior section 418 of Pub. L. 93–288 was renumbered section 421 by Pub. L. 100–707 and is classified to section 5188 of this title.

§ 5186. Emergency public transportation

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


PRIOR PROVISIONS

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

§ 5187. Fire management assistance

(a) In general

The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State or local government for the mitigation, management, and control of any fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster.

(b) Coordination with State and tribal departments of forestry

In providing assistance under this section, the President shall coordinate with State and tribal departments of forestry.

(c) Essential assistance

In providing assistance under this section, the President may use the authority provided under section 5170b of this title.

(d) Rules and regulations

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


AMENDMENTS

2000—Pub. L. 106–390 amended section catchline and text generally. Prior to amendment, text read as follows: "The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster."

 EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–390, title III, § 303(b), Oct. 30, 2000, 114 Stat. 1573, provided that: "The amendment made by subsection (a) [amending this section] takes effect 1 year after the date of the enactment of this Act (Oct. 30, 2000)."

§ 5188. Timber sale contracts

(a) Cost-sharing arrangement

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

(b) Cancellation of authority

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

(c) Public notice of sale

The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by section 476 of title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is nec-

1 See References in Text note below.
necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

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

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


REFERENCES IN TEXT


§ 5189. Simplified procedure

If the Federal estimate of the cost of—

(1) repairing, restoring, reconstructing, or replacing under section 5172 of this title any damaged or destroyed public facility or private nonprofit facility;

(2) emergency assistance under section 5170b or 5192 of this title, or

(3) debris removed under section 5173 of this title,

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


PRIOR PROVISIONS


§ 5189a. Appeals of assistance decisions

(a) Right of appeal

Any decision regarding eligibility for, from, or amount of assistance under this subchapter may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

(b) Period for decision

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

(c) Rules

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


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

Eligibility for Federal assistance under this subchapter shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that reasonable expenses which are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this chapter.


REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

§ 5189c. Transportation assistance to individuals and households

The President may provide transportation assistance to relocate individuals displaced from their predisaster primary residences as a result of an incident declared under this chapter or otherwise transported from their predisaster primary residences under section 5170b(a)(3) or 5192 of this title, to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.


REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Codification

Another section 425 of Pub. L. 93–288 is classified to section 5189e of this title.

§ 5189d. Case management services

The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.

§ 5189e. Essential service providers

(a) Definition

In this section, the term "essential service provider" means an entity that—

(1) provides—

(A) telecommunications service;
(B) electrical power;
(C) natural gas;
(D) water and sewer services; or
(E) any other essential service, as determined by the President;

(2) is—

(A) a municipal entity;
(B) a nonprofit entity; or
(C) a private, for profit entity; and

(3) is contributing to efforts to respond to an emergency or major disaster.

(b) Authorization for accessibility

Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not—

(1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or

(2) impede the restoration or repair of the services described in subsection (a)(1).

(c) Implementation

In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulations, and policies.


CODIFICATION

Another section 425 of Pub. L. 93–288 is classified to section 518bc of this title.

SUBCHAPTER IV–A—EMERGENCY ASSISTANCE PROGRAMS

§ 5191. Procedure for declaration

(a) Request and declaration

All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this chapter, the Governor shall take appropriate action under State law and direct execution of the State’s emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor’s request, the President may declare that an emergency exists.

(b) Certain emergencies involving Federal primary responsibility

The President may exercise any authority vested in him by section 5192 of this title or section 5193 of this title with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President’s determination may be made without regard to subsection (a) of this section.


REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ‘‘this Act’, meaning Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5221 of this title and Tables.

PRIOR PROVISIONS


§ 5192. Federal emergency assistance

(a) Specified

In any emergency, the President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety; and lessen or avert the threat of a catastrophe, including precautionary evacuations;

(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

(3) provide technical and advisory assistance to affected State and local governments for—

(A) the performance of essential community services;
(B) issuance of warnings of risks or hazards;
(C) public health and safety information, including dissemination of such information;
(D) provision of health and safety measures; and
(E) management, control, and reduction of immediate threats to public health and safety;

(4) provide emergency assistance through Federal agencies;

(5) remove debris in accordance with the terms and conditions of section 5173 of this title;

(6) provide assistance in accordance with section 5174 of this title;

(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; and

(8) provide accelerated Federal assistance and Federal support where necessary to save