

110TH CONGRESS
1ST SESSION

S. 1427

To establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2007

Mrs. CLINTON (for herself, Mrs. BOXER, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. LEAHY, Ms. LANDRIEU, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Emergency
5 Management Improvement Act of 2007”.

6 **TITLE I—FEDERAL EMERGENCY
7 MANAGEMENT AGENCY**

8 **SEC. 101. DEFINITIONS.**

9 In this title—

10 (3) the term “Federal coordinating officer”
11 means a Federal coordinating officer as described in
12 section 302 of the Robert T. Stafford Disaster Relief
13 and Emergency Assistance Act (42 U.S.C. 5143);

14 (4) the term “interoperable” has the meaning
15 given the term “interoperable communications”
16 under section 7303(g)(1) of the Intelligence Reform
17 and Terrorism Prevention Act of 2004 (6 U.S.C.
18 194(g)(1));

19 (5) the term “National Advisory Council”
20 means the National Advisory Council established
21 under section 508 of the Homeland Security Act of
22 2002;

23 (6) the term “National Incident Management
24 System” means a system to enable effective, effi-
25 cient, and collaborative incident management;

15 (B) those entities of the Environmental
16 Protection Agency that perform such support
17 functions (including radiological emergency re-
18 sponse functions) and related functions; and

1 **SEC. 102. ESTABLISHMENT OF AGENCY AND DIRECTOR AND**
2 **DEPUTY DIRECTOR.**

3 (a) ESTABLISHMENT.—The Federal Emergency
4 Management Agency is established as an independent es-
5 tablishment in the executive branch as defined under sec-
6 tion 104 of title 5, United States Code.

7 (b) DIRECTOR.—

8 (1) IN GENERAL.—The Director of the Federal
9 Emergency Management Agency shall be the head of
10 the Federal Emergency Management Agency. The
11 Director shall be appointed by the President, by and
12 with the advice and consent of the Senate. The Di-
13 rector shall report directly to the President.

14 (2) QUALIFICATIONS.—The Director of the
15 Federal Emergency Management Agency shall have
16 significant experience, knowledge, training, and ex-
17 pertise in the area of emergency preparedness, re-
18 sponse, recovery, and mitigation as related to nat-
19 ural disasters and other national cataclysmic events.

20 (3) EXECUTIVE SCHEDULE POSITION.—Section
21 5312 of title 5, United States Code, is amended by
22 adding at the end the following:

23 “Director of the Federal Emergency Manage-
24 ment Agency.”.

25 (4) PRINCIPAL ADVISOR ON EMERGENCY MAN-
26 AGEMENT.—

7 (B) ADVICE AND RECOMMENDATIONS.—

8 (i) IN GENERAL.—In presenting ad-
9 vice with respect to any matter to the
10 President, the Homeland Security Council,
11 or the Secretary of Homeland Security, the
12 Director of the Federal Emergency Man-
13 agement Agency shall, as the Director con-
14 siders appropriate, inform the President,
15 the Homeland Security Council, or the
16 Secretary, as the case may be, of the range
17 of emergency preparedness, protection, re-
18 sponse, recovery, and mitigation options
19 with respect to that matter.

20 (ii) ADVICE ON REQUEST.—The Di-
21 rector of the Federal Emergency Manage-
22 ment Agency, as the principal advisor on
23 emergency management, shall provide ad-
24 vice to the President, the Homeland Secu-
25 rity Council, or the Secretary of Homeland

1 Security on a particular matter when the
2 President, the Homeland Security Council,
3 or the Secretary requests such advice.

4 (iii) RECOMMENDATIONS TO CON-
5 GRESS.—After informing the President,
6 the Director of the Federal Emergency
7 Management Agency may make such rec-
8 ommendations to Congress relating to
9 emergency management as the Director
10 considers appropriate.

15 (c) DEPUTY DIRECTOR.—

1 sponse, recovery, and mitigation as related to nat-
2 ural disasters and other national cataclysmic events.

3 (3) EXECUTIVE SCHEDULE POSITION.—Section
4 5313 of title 5, United States Code, is amended—
5 (A) by striking the following:

6 “Administrator of the Federal Emergency Man-
7 agement Agency.”;

8 and

9 (B) by adding at the end the following:

10 “Deputy Director of the Federal Emergency
11 Management Agency.”.

12 **SEC. 103. MISSION.**

13 (a) PRIMARY MISSION.—The primary mission of the
14 Federal Emergency Management Agency is to reduce the
15 loss of life and property and protect the Nation from all
16 hazards, including natural disasters, acts of terrorism, and
17 other man-made disasters, by leading and supporting the
18 Nation in a risk-based, comprehensive emergency manage-
19 ment system of preparedness, protection, response, recov-
20 ery, and mitigation.

21 (b) SPECIFIC ACTIVITIES.—In support of the primary
22 mission of the Federal Emergency Management Agency,
23 the Director shall—

24 (1) lead the Nation’s efforts to prepare for, pro-
25 tect against, respond to, recover from, and mitigate

1 against the risk of natural disasters, acts of ter-
2 rorism, and other man-made disasters, including cat-
3 astrophic incidents;

4 (2) partner with State, local, and tribal govern-
5 ments and emergency response providers, with other
6 Federal agencies, with the private sector, and with
7 nongovernmental organizations to build a national
8 system of emergency management that can effec-
9 tively and efficiently utilize the full measure of the
10 Nation's resources to respond to natural disasters,
11 acts of terrorism, and other man-made disasters, in-
12 cluding catastrophic incidents;

13 (3) develop a Federal response capability that,
14 when necessary and appropriate, can act effectively
15 and rapidly to deliver assistance essential to saving
16 lives or protecting or preserving property or public
17 health and safety in a natural disaster, act of ter-
18 rorism, or other man-made disaster;

19 (4) integrate the Federal Emergency Manage-
20 ment Agency's emergency preparedness, protection,
21 response, recovery, and mitigation responsibilities to
22 confront effectively the challenges of a natural dis-
23 aster, act of terrorism, or other man-made disaster;

24 (5) develop and maintain robust Regional Of-
25 fices that will work with State, local, and tribal gov-

1 ernments, emergency response providers, and other
2 appropriate entities to identify and address regional
3 priorities;

4 (6) coordinate with the Secretary of Homeland
5 Security, the Commandant of the Coast Guard, the
6 Director of Customs and Border Protection, the Di-
7 rector of Immigration and Customs Enforcement,
8 the National Operations Center, and other agencies
9 and offices in the Department of Homeland Security
10 to take full advantage of the substantial range of re-
11 sources in that Department;

12 (7) provide funding, training, exercises, tech-
13 nical assistance, planning, and other assistance to
14 build tribal, local, State, regional, and national capa-
15 bilities (including communications capabilities), nec-
16 essary to respond to a natural disaster, act of ter-
17 rorism, or other man-made disaster; and

18 (8) develop and coordinate the implementation
19 of a risk-based, all-hazards strategy for preparedness
20 that builds those common capabilities necessary to
21 respond to natural disasters, acts of terrorism, and
22 other man-made disasters while also building the
23 unique capabilities necessary to respond to specific
24 types of incidents that pose the greatest risk to our
25 Nation.

1 **SEC. 104. AUTHORITY AND RESPONSIBILITIES.**

2 (a) IN GENERAL.—The Director of the Federal
3 Emergency Management Agency shall provide Federal
4 leadership necessary to prepare for, protect against, re-
5 spond to, recover from, or mitigate against a natural dis-
6 aster, act of terrorism, or other man-made disaster, in-
7 cluding—

8 (1) helping to ensure the effectiveness of emer-
9 gency response providers to terrorist attacks, major
10 disasters, and other emergencies;

11 (2) with respect to the Nuclear Incident Re-
12 sponse Team, regardless of whether it is operating
13 as an organizational unit of the Department of
14 Homeland Security, and in consultation with the
15 Secretary of Homeland Security—

16 (A) establishing standards and certifying
17 when those standards have been met;

18 (B) conducting joint and other exercises
19 and training and evaluating performance; and

20 (C) providing funds to the Department of
21 Energy and the Environmental Protection
22 Agency, as appropriate, for homeland security
23 planning, exercises and training, and equip-
24 ment;

4 (A) managing such response;

5 (B) directing the Domestic Emergency
6 Support Team, the National Disaster Medical
7 System, and, in consultation with the Secretary
8 of Homeland Security, the Nuclear Incident Re-
9 sponse Team (when that team is operating as
10 an organizational unit of the Department of
11 Homeland Security);

12 (C) overseeing the Metropolitan Medical
13 Response System; and

14 (D) coordinating other Federal response
15 resources, including requiring deployment of the
16 Strategic National Stockpile, in the event of a
17 terrorist attack or major disaster;

18 (4) aiding the recovery from terrorist attacks
19 and major disasters;

20 (5) building a comprehensive national incident
21 management system with Federal, State, and local
22 government personnel, agencies, and authorities, to
23 respond to such attacks and disasters;

19 (A) mitigation, by taking sustained actions
20 to reduce or eliminate long-term risks to people
21 and property from hazards and their effects;

22 (B) preparedness, by planning, training,
23 and building the emergency management pro-
24 fession to prepare effectively for, mitigate

1 against, respond to, and recover from any haz-
2 ard;

3 (C) response, by conducting emergency op-
4 erations to save lives and property through po-
5 sitioning emergency equipment, personnel, and
6 supplies, through evacuating potential victims,
7 through providing food, water, shelter, and
8 medical care to those in need, and through re-
9 storing critical public services; and

10 (D) recovery, by rebuilding communities so
11 individuals, businesses, and governments can
12 function on their own, return to normal life,
13 and protect against future hazards;

14 (10) increasing efficiencies, by coordinating ef-
15 forts relating to preparedness, protection, response,
16 recovery, and mitigation;

17 (11) helping to ensure the effectiveness of emer-
18 gency response providers in responding to a natural
19 disaster, act of terrorism, or other man-made dis-
20 aster;

21 (12) supervising grant programs administered
22 by the Federal Emergency Management Agency;

23 (13) administering and ensuring the implemen-
24 tation of the National Response Plan, including co-
25 ordinating and ensuring the readiness of each emer-

1 gency support function under the National Response
2 Plan;

3 (14) coordinating with the National Advisory
4 Council established under section 508 of the Home-
5 land Security Act of 2002;

6 (15) preparing and implementing the plans and
7 programs of the Federal Government for—

8 (A) continuity of operations;

9 (B) continuity of government; and

10 (C) continuity of plans;

11 (16) minimizing, to the extent practicable, over-
12 lapping planning and reporting requirements appli-
13 cable to State, local, and tribal governments and the
14 private sector;

15 (17) maintaining and operating within the Fed-
16 eral Emergency Management Agency the National
17 Response Coordination Center or its successor;

18 (18) developing a national emergency manage-
19 ment system that is capable of preparing for, pro-
20 tecting against, responding to, recovering from, and
21 mitigating against catastrophic incidents;

22 (19) assisting the President in carrying out the
23 functions under the national preparedness goal and
24 the national preparedness system and carrying out

1 all functions and authorities of the Director under
2 the national preparedness System;

3 (20) carrying out all authorities of the Federal
4 Emergency Management Agency; and

5 (21) otherwise carrying out the mission of the
6 Federal Emergency Management Agency as de-
7 scribed in section 103.

8 (b) ALL-HAZARDS APPROACH.—In carrying out the
9 responsibilities under this section, the Director shall co-
10 ordinate the implementation of a risk-based, all-hazards
11 strategy that builds those common capabilities necessary
12 to prepare for, protect against, respond to, recover from,
13 or mitigate against natural disasters, acts of terrorism,
14 and other man-made disasters, while also building the
15 unique capabilities necessary to prepare for, protect
16 against, respond to, recover from, or mitigate against the
17 risks of specific types of incidents that pose the greatest
18 risk to the Nation.

19 (c) CONFLICT OF AUTHORITIES.—If the Director de-
20 termines that there is a conflict between any authority of
21 the Director under this Act, the amendments made by this
22 Act, or the Robert T. Stafford Disaster Relief and Emer-
23 gency Assistance Act (42 U.S.C. 5121 et seq.) and any
24 authority of another Federal officer, the Director shall re-

1 quest that the President make such determinations as may
2 be necessary regarding such authorities.

3 **SEC. 105. REGIONAL OFFICES.**

4 (a) IN GENERAL.—There are in the Federal Emer-
5 gency Management Agency 10 regional offices, as identi-
6 fied by the Director of the Federal Emergency Manage-
7 ment Agency.

8 (b) MANAGEMENT OF REGIONAL OFFICES.—

9 (1) REGIONAL ADMINISTRATOR.—Each Re-
10 gional Office shall be headed by a Regional Adminis-
11 trator who shall be appointed by the Director, after
12 consulting with State, local, and tribal government
13 officials in the region. Each Regional Administrator
14 shall report directly to the Director and be in the
15 Senior Executive Service.

16 (2) QUALIFICATIONS.—

17 (A) IN GENERAL.—Each Regional Admin-
18 istrator shall be appointed from among individ-
19 uals who have a demonstrated ability in and
20 knowledge of emergency management and
21 homeland security.

22 (B) CONSIDERATIONS.—In selecting a Re-
23 gional Administrator for a Regional Office, the
24 Director shall consider the familiarity of an in-
25 dividual with the geographical area and demo-

1 graphic characteristics of the population served
2 by such Regional Office.

3 (c) RESPONSIBILITIES.—

4 (1) IN GENERAL.—The Regional Administrator
5 shall work in partnership with State, local, and trib-
6 al governments, emergency managers, emergency re-
7 sponse providers, medical providers, the private sec-
8 tor, nongovernmental organizations, multijuris-
9 dictional councils of governments, and regional plan-
10 ning commissions and organizations in the geo-
11 graphical area served by the Regional Office to carry
12 out the responsibilities of a Regional Administrator
13 under this section.

14 (2) RESPONSIBILITIES.—The responsibilities of
15 a Regional Administrator include—

16 (A) ensuring effective, coordinated, and in-
17 tegrated regional preparedness, protection, re-
18 sponse, recovery, and mitigation activities and
19 programs for natural disasters, acts of ter-
20 rorism, and other man-made disasters (includ-
21 ing planning, training, exercises, and profes-
22 sional development);

23 (B) assisting in the development of re-
24 gional capabilities needed for a national cata-
25 strophic response system;

(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

(F) fostering the development of mutual aid and other cooperative agreements;

(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

(H) maintaining and operating a Regional Response Coordination Center or its successor; and

6 (A) TRAINING.—The Director shall require
7 each Regional Administrator to undergo specific
8 training periodically to complement the qual-
9 fications of the Regional Administrator. Such
10 training, as appropriate, shall include training
11 with respect to the National Incident Manage-
12 ment System, the National Response Plan, and
13 such other subjects as determined by the Direc-
14 tor.

15 (B) EXERCISES.—The Director shall re-
16 quire each Regional Administrator to partici-
17 pate as appropriate in regional and national ex-
18 ercises.

19 (d) AREA OFFICES.—

20 (1) IN GENERAL.—There is an Area Office for
21 the Pacific and an Area Office for the Caribbean, as
22 components in the appropriate Regional Offices.

1 (e) REGIONAL ADVISORY COUNCIL.—

2 (1) ESTABLISHMENT.—Each Regional Adminis-
3 trator shall establish a Regional Advisory Council.4 (2) NOMINATIONS.—A State, local, or tribal
5 government located within the geographic area
6 served by the Regional Office may nominate offi-
7 cials, including Adjutants General and emergency
8 managers, to serve as members of the Regional Ad-
9 visory Council for that region.10 (3) RESPONSIBILITIES.—Each Regional Advi-
11 sory Council shall—12 (A) advise the Regional Administrator on
13 emergency management issues specific to that
14 region;15 (B) identify any geographic, demographic,
16 or other characteristics peculiar to any State,
17 local, or tribal government within the region
18 that might make preparedness, protection, re-
19 sponse, recovery, or mitigation more com-
20 plicated or difficult; and21 (C) advise the Regional Administrator of
22 any weaknesses or deficiencies in preparedness,
23 protection, response, recovery, and mitigation
24 for any State, local, and tribal government

1 within the region of which the Regional Advi-
2 sory Council is aware.

3 (f) REGIONAL OFFICE STRIKE TEAMS.—

4 (1) IN GENERAL.—In coordination with other
5 relevant Federal agencies, each Regional Adminis-
6 trator shall oversee multi-agency strike teams au-
7 thorized under section 303 of the Robert T. Stafford
8 Disaster Relief and Emergency Assistance Act (42
9 U.S.C. 5144) that shall consist of—

10 (A) a designated Federal coordinating offi-
11 cer;

12 (B) personnel trained in incident manage-
13 ment;

14 (C) public affairs, response and recovery,
15 and communications support personnel;

16 (D) a defense coordinating officer;

17 (E) liaisons to other Federal agencies;

18 (F) such other personnel as the Director or
19 Regional Administrator determines appropriate;
20 and

21 (G) individuals from the agencies with pri-
22 mary responsibility for each of the emergency
23 support functions in the National Response
24 Plan.

8 SEC. 106. NATIONAL INTEGRATION CENTER.

9 (a) IN GENERAL.—There is established in the Fed-
10 eral Emergency Management Agency a National Integra-
11 tion Center.

12 (b) RESPONSIBILITIES.—

9 (C) revising the Catastrophic Incident
10 Annex, finalizing and releasing the Catastrophic
11 Incident Supplement to the National Response
12 Plan, and ensuring that both effectively address
13 response requirements in the event of a cata-
14 strophic incident.

15 (c) INCIDENT MANAGEMENT.—

16 (1) IN GENERAL.—

5 (i) provide for a role for the Director
6 of the Federal Emergency Management
7 Agency consistent with the role of the Di-
8 rector under this Act and the amendments
9 made by this Act; and

10 (ii) provide for a role for the Federal
11 Coordinating Officer consistent with the
12 responsibilities under section 302(b) of the
13 Robert T. Stafford Disaster Relief and
14 Emergency Assistance Act (42 U.S.C.
15 5143(b)).

16 (2) PRINCIPAL FEDERAL OFFICIAL.—The Prin-
17 cipal Federal Official (or the successor thereto) shall
18 not—

19 (A) direct or replace the incident command
20 structure established at the incident; or

21 (B) have directive authority over the Sen-
22 ior Federal Law Enforcement Official, Federal
23 Coordinating Officer, or other Federal and
24 State officials.

1 SEC. 107. CREDENTIALING AND TYPING.

2 The Director of the Federal Emergency Management
3 Agency shall enter into a memorandum of understanding
4 with the administrators of the Emergency Management
5 Assistance Compact, State, local, and tribal governments,
6 and organizations that represent emergency response pro-
7 viders, to collaborate on developing standards for deploy-
8 ment capabilities, including credentialing of personnel and
9 typing of resources likely needed to respond to natural dis-
10 asters, acts of terrorism, and other man-made disasters.

11 SEC. 108. DISABILITY COORDINATOR.

12 (a) IN GENERAL.—After consultation with organiza-
13 tions representing individuals with disabilities, the Na-
14 tional Council on Disabilities, and the Interagency Coordi-
15 nating Council on Preparedness and Individuals with Dis-
16 abilities, established under Executive Order No. 13347 (6
17 U.S.C. 312 note), the Director of the Federal Emergency
18 Management Agency shall appoint a Disability Coordi-
19 nator. The Disability Coordinator shall report directly to
20 the Director, in order to ensure that the needs of individ-
21 uals with disabilities are being properly addressed in emer-
22 gency preparedness and disaster relief.

23 (b) RESPONSIBILITIES.—The Disability Coordinator
24 shall be responsible for—

25 (1) providing guidance and coordination on
26 matters related to individuals with disabilities in

1 emergency planning requirements and relief efforts
2 in the event of a natural disaster, act of terrorism,
3 or other man-made disaster;

4 (2) interacting with the staff of the Federal
5 Emergency Management Agency, the National
6 Council on Disabilities, the Interagency Coordinating
7 Council on Preparedness and Individuals with Dis-
8 abilities established under Executive Order No.
9 13347 (6 U.S.C. 312 note), other agencies of the
10 Federal Government, and State, local, and tribal
11 government authorities regarding the needs of indi-
12 viduals with disabilities in emergency planning re-
13 quirements and relief efforts in the event of a nat-
14 ural disaster, act of terrorism, or other man-made
15 disaster;

16 (3) consulting with organizations that represent
17 the interests and rights of individuals with disabil-
18 ties about the needs of individuals with disabilities
19 in emergency planning requirements and relief ef-
20 forts in the event of a natural disaster, act of ter-
21 rorism, or other man-made disaster;

22 (4) ensuring the coordination and dissemination
23 of best practices and model evacuation plans for in-
24 dividuals with disabilities;

6 (6) promoting the accessibility of telephone hot-
7 lines and websites regarding emergency prepared-
8 ness, evacuations, and disaster relief;

21 (10) ensuring that meeting the needs of individuals with disabilities are included in the components
22 of the national preparedness system established
23 under section 644 of the Post-Katrina Emergency
24 Management Reform Act of 2006; and
25

3 SEC. 109. NATIONAL OPERATIONS CENTER.

4 (a) DEFINITION.—In this section, the term “situa-
5 tional awareness” means information gathered from a va-
6 riety of sources that, when communicated to emergency
7 managers and decision makers, can form the basis for inci-
8 dent management decisionmaking.

9 (b) ESTABLISHMENT.—The National Operations
10 Center is the principal operations center for the Federal
11 Emergency Management Agency and shall—

12 (1) provide situational awareness and a com-
13 mon operating picture for the entire Federal Govern-
14 ment, and for State, local, and tribal governments as
15 appropriate, in the event of a natural disaster, act
16 of terrorism, or other man-made disaster; and

20 SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

21 (1) IN GENERAL.—Title V of the Homeland Se-
22 curity Act of 2002 (6 U.S.C. 311 et seq.) is amend-
23 ed—

24 (A) in section 501, by striking all after "In
25 this title" and inserting "the term 'tribal gov-

1 ernment’ means the government of any entity
2 described under section 2(10)(B).”;

3 (B) by striking sections 503 through 507,
4 509, 510, 513, and 515;

5 (C) in section 508—

6 (i) by striking “Administrator” each
7 place that term appears and inserting “Di-
8 rector of Federal Emergency Management
9 Agency”; and

10 (ii) in subsection (c)—

11 (I) in paragraph (1), by inserting
12 “in consultation with the Secretary,”
13 before “and shall, to the extent prac-
14 ticable”; and

15 (II) in paragraph (3), by insert-
16 ing “, in consultation with the Sec-
17 retary,” before “shall designate”;

18 (D) in section 512(c), by striking “Admin-
19 istrator” each place that term appears and in-
20 serting “Secretary”; and

21 (E) in section 514—

22 (i) by striking subsection (a); and

23 (ii) redesignating subsections (b) and
24 (c) as subsections (a) and (b), respectively.

5 SEC. 111. RULE OF CONSTRUCTION.

6 Nothing in this Act shall be construed to detract from
7 the Department of Homeland Security's primary mission
8 to secure the homeland from terrorist attacks.

9 **TITLE II—TRANSFER AND** 10 **SAVINGS PROVISIONS**

11 SEC. 201. DEFINITIONS.

12 In this title, unless otherwise provided or indicated
13 by the context—

14 (1) the term “Federal agency” has the meaning
15 given to the term “agency” by section 551(1) of title
16 5, United States Code;

17 (2) the term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

23 SEC. 202. TRANSFER OF FUNCTIONS.

24 There are transferred to the Federal Emergency
25 Management Agency established under section 101 of this

1 Act all functions which the Director of the Federal Emer-
2 gency Management Agency of the Department of Home-
3 land Security exercised before the date of the enactment
4 of this title, including all the functions described under
5 section 505 of the Homeland Security Act of 2002 (before
6 the repeal of that section under section 104 of this Act).

7 **SEC. 203. PERSONNEL PROVISIONS.**

8 (a) APPOINTMENTS.—The Director of the Federal
9 Emergency Management Agency may appoint and fix the
10 compensation of such officers and employees, including in-
11 vestigators, attorneys, and administrative law judges, as
12 may be necessary to carry out the respective functions
13 transferred under this title. Except as otherwise provided
14 by law, such officers and employees shall be appointed in
15 accordance with the civil service laws and their compensa-
16 tion fixed in accordance with title 5, United States Code.

17 (b) EXPERTS AND CONSULTANTS.—The Director of
18 the Federal Emergency Management Agency may obtain
19 the services of experts and consultants in accordance with
20 section 3109 of title 5, United States Code, and com-
21 pensate such experts and consultants for each day (includ-
22 ing traveltme) at rates not in excess of the rate of pay
23 for level IV of the Executive Schedule under section 5315
24 of such title. The Director of the Federal Emergency Man-
25 agement Agency may pay experts and consultants who are

1 serving away from their homes or regular place of busi-
2 ness, travel expenses and per diem in lieu of subsistence
3 at rates authorized by sections 5702 and 5703 of such
4 title for persons in Government service employed intermit-
5 tently.

6 **SEC. 204. DELEGATION AND ASSIGNMENT.**

7 Except where otherwise expressly prohibited by law
8 or otherwise provided by this title, the Director of the Fed-
9 eral Emergency Management Agency may delegate any of
10 the functions transferred to the Director of the Federal
11 Emergency Management Agency by this title and any
12 function transferred or granted to such Director after the
13 effective date of this title to such officers and employees
14 of the Federal Emergency Management Agency as the Di-
15 rector may designate, and may authorize successive redele-
16 gations of such functions as may be necessary or appro-
17 priate. No delegation of functions by the Director of the
18 Federal Emergency Management Agency under this sec-
19 tion or under any other provision of this title shall relieve
20 such Director of responsibility for the administration of
21 such functions.

22 **SEC. 205. REORGANIZATION.**

23 The Director of the Federal Emergency Management
24 Agency is authorized to allocate or reallocate any function
25 transferred under section 202 among the officers of the

1 Federal Emergency Management Agency, and to estab-
2 lish, consolidate, alter, or discontinue such organizational
3 entities in the Federal Emergency Management Agency as
4 may be necessary or appropriate.

5 **SEC. 206. RULES.**

6 The Director of the Federal Emergency Management
7 Agency is authorized to prescribe, in accordance with the
8 provisions of chapters 5 and 6 of title 5, United States
9 Code, such rules and regulations as the Director deter-
10 mines necessary or appropriate to administer and manage
11 the functions of the Federal Emergency Management
12 Agency.

13 **SEC. 207. TRANSFER AND ALLOCATIONS OF APPROPRIA-
14 TIONS AND PERSONNEL.**

15 Except as otherwise provided in this title, the per-
16 sonnel employed in connection with, and the assets, liabil-
17 ities, contracts, property, records, and unexpended bal-
18 ances of appropriations, authorizations, allocations, and
19 other funds employed, used, held, arising from, available
20 to, or to be made available in connection with the func-
21 tions transferred by this title, subject to section 1531 of
22 title 31, United States Code, shall be transferred to the
23 Federal Emergency Management Agency. Unexpended
24 funds transferred pursuant to this section shall be used

1 only for the purposes for which the funds were originally
2 authorized and appropriated.

3 **SEC. 208. INCIDENTAL TRANSFERS.**

4 The Director of the Office of Management and Budg-
5 et, at such time or times as the Director shall provide,
6 is authorized to make such determinations as may be nec-
7 essary with regard to the functions transferred by this
8 title, and to make such additional incidental dispositions
9 of personnel, assets, liabilities, grants, contracts, property,
10 records, and unexpended balances of appropriations, au-
11 thorizations, allocations, and other funds held, used, aris-
12 ing from, available to, or to be made available in connec-
13 tion with such functions, as may be necessary to carry out
14 the provisions of this title. The Director of the Office of
15 Management and Budget shall provide for the termination
16 of the affairs of all entities terminated by this title and
17 for such further measures and dispositions as may be nec-
18 essary to effectuate the purposes of this title.

19 **SEC. 209. EFFECT ON PERSONNEL.**

20 (a) IN GENERAL.—Except as otherwise provided by
21 this title, the transfer pursuant to this title of full-time
22 personnel (except special Government employees) and
23 part-time personnel holding permanent positions shall not
24 cause any such employee to be separated or reduced in

1 grade or compensation for one year after the date of trans-
2 fer of such employee under this title.

3 (b) EXECUTIVE SCHEDULE POSITIONS.—Except as
4 otherwise provided in this title, any person who, on the
5 day preceding the effective date of this title, held a posi-
6 tion compensated in accordance with the Executive Sched-
7 ule prescribed in chapter 53 of title 5, United States Code,
8 and who, without a break in service, is appointed in the
9 Federal Emergency Management Agency to a position
10 having duties comparable to the duties performed imme-
11 diately preceding such appointment shall continue to be
12 compensated in such new position at not less than the rate
13 provided for such previous position, for the duration of
14 the service of such person in such new position.

15 **SEC. 210. SAVINGS PROVISIONS.**

16 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—
17 All orders, determinations, rules, regulations, permits,
18 agreements, grants, contracts, certificates, licenses, reg-
19 istrations, privileges, and other administrative actions—
20 (1) which have been issued, made, granted, or
21 allowed to become effective by the President, any
22 Federal agency or official thereof, or by a court of
23 competent jurisdiction, in the performance of func-
24 tions which are transferred under this title, and

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Federal Emergency Management Agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance

1 or modification of any such proceeding under the same
2 terms and conditions and to the same extent that such
3 proceeding could have been discontinued or modified if
4 this title had not been enacted.

5 (c) SUITS NOT AFFECTED.—The provisions of this
6 title shall not affect suits commenced before the effective
7 date of this title, and in all such suits, proceedings shall
8 be had, appeals taken, and judgments rendered in the
9 same manner and with the same effect as if this title had
10 not been enacted.

11 (d) NONABATEMENT OF ACTIONS.—No suit, action,
12 or other proceeding commenced by or against the Federal
13 Emergency Management Agency, or by or against any in-
14 dividual in the official capacity of such individual as an
15 officer of the Federal Emergency Management Agency,
16 shall abate by reason of the enactment of this title.

17 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
18 MULGATION OF REGULATIONS.—Any administrative ac-
19 tion relating to the preparation or promulgation of a regu-
20 lation by the Federal Emergency Management Agency re-
21 lating to a function transferred under this title may be
22 continued by the Federal Emergency Management Agency
23 with the same effect as if this title had not been enacted.

1 **SEC. 211. SEPARABILITY.**

2 If a provision of this title or its application to any
3 person or circumstance is held invalid, neither the remain-
4 der of this title nor the application of the provision to
5 other persons or circumstances shall be affected.

6 **SEC. 212. TRANSITION.**

7 The Director of the Federal Emergency Management
8 Agency is authorized to utilize—

9 (1) the services of such officers, employees, and
10 other personnel of the Federal Emergency Manage-
11 ment Agency with respect to functions transferred
12 by this title; and

13 (2) funds appropriated to such functions for
14 such period of time as may reasonably be needed to
15 facilitate the orderly implementation of this title.

16 **SEC. 213. REFERENCES.**

17 Any reference in any other Federal law, Executive
18 order, rule, regulation, or delegation of authority, or any
19 document of or pertaining to a department, agency, or of-
20 fice from which a function is transferred by this title—

21 (1) to the head of such department, agency, or
22 office is deemed to refer to the head of the depart-
23 ment, agency, or office to which such function is
24 transferred; or

4 SEC. 214. ADDITIONAL CONFORMING AMENDMENTS.

5 (a) RECOMMENDED LEGISLATION.—After consulta-
6 tion with the appropriate committees of the Congress and
7 the Director of the Office of Management and Budget, the
8 Director of the Federal Emergency Management Agency
9 shall prepare and submit to Congress recommended legis-
10 lation containing technical and conforming amendments to
11 reflect the changes made by this Act.

12 (b) SUBMISSION TO CONGRESS.—Not later than 6
13 months after the effective date of this title, the Director
14 of the Federal Emergency Management Agency shall sub-
15 mit the recommended legislation referred to under sub-
16 section (a).

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