

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-251, §8(b), Dec. 20, 2022, 136 Stat. 2357, provided that: “The amendments made by this section [amending this section] shall apply with respect to amounts appropriated on or after the date of enactment of this Act [Dec. 20, 2022].”

§ 5189e. Essential service providers**(a) Definition**

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

(1)(A) provides

(i) wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service;

(ii) electrical power;

(iii) natural gas;

(iv) water and sewer services; or

(v) any other essential service, as determined by the President; or

(B) is a tower owner or operator;

(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.

(Pub. L. 93-288, title IV, §427, formerly §425, as added Pub. L. 109-347, title VI, §607, Oct. 13, 2006, 120 Stat. 1941; renumbered §427, Pub. L. 113-2, div. B, §1102(1), Jan. 29, 2013, 127 Stat. 39; amended Pub. L. 115-141, div. P, title III, §302, Mar. 23, 2018, 132 Stat. 1087.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-141 designated existing provisions as subpar. (A), redesignated former subpars. (A) to (E) as cls. (i) to (v), respectively, of subpar. (A), substituted “wireline or mobile telephone service, Internet access service, radio or television broadcasting, cable service, or direct broadcast satellite service” for “telecommunications service” in cl. (i), and added subpar. (B).

§ 5189f. Public assistance program alternative procedures**(a) Approval of projects**

The President, acting through the Administrator of the Federal Emergency Management

Agency, may approve projects under the alternative procedures adopted under this section for any major disaster or emergency declared on or after January 29, 2013. The Administrator may also apply the alternate procedures adopted under this section to a major disaster or emergency declared before enactment of this Act for which construction has not begun as of the date of enactment of this Act.¹

(b) Adoption

The Administrator, in coordination with States, tribal and local governments, and owners or operators of private nonprofit facilities, may adopt alternative procedures to administer assistance provided under sections 5170b(a)(3)(A), 5172, 5173, and 5192(a)(5) of this title.

(c) Goals of procedures

The alternative procedures adopted under subsection (a) shall further the goals of—

(1) reducing the costs to the Federal Government of providing such assistance;

(2) increasing flexibility in the administration of such assistance;

(3) expediting the provision of such assistance to a State, tribal or local government, or owner or operator of a private nonprofit facility; and

(4) providing financial incentives and disincentives for a State, tribal or local government, or owner or operator of a private nonprofit facility for the timely and cost-effective completion of projects with such assistance.

(d) Participation**(1) In general**

Participation in the alternative procedures adopted under this section shall be at the election of a State, tribal or local government, or owner or operator of a private nonprofit facility consistent with procedures determined by the Administrator.

(2) No conditions

The President may not condition the provision of Federal assistance under this chapter on the election by a State, local, or Indian tribal government, or owner or operator of a private nonprofit facility to participate in the alternative procedures adopted under this section.

(e) Minimum procedures

The alternative procedures adopted under this section shall include the following:

(1) For repair, restoration, and replacement of damaged facilities under section 5172 of this title—

(A) making grants on the basis of fixed estimates, if the State, tribal or local government, or owner or operator of the private nonprofit facility agrees to be responsible for any actual costs that exceed the estimate;

(B) providing an option for a State, tribal or local government, or owner or operator of a private nonprofit facility to elect to receive an in-lieu contribution, without reduction, on the basis of estimates of—

¹ See References in Text note below.