

major disaster declaration, including reviewing how the [Federal Emergency Management] Agency estimates the cost of major disaster assistance, and consider other impacts on the capacity of a jurisdiction to respond to disasters. In determining the capacity of a jurisdiction to respond to disasters, and prior to the issuance of such a rule, the Administrator shall engage in meaningful consultation with relevant representatives of State, regional, local, and Indian tribal government stakeholders.”

[For definition of “State” as used in section 1239 of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.]

#### INDIVIDUAL ASSISTANCE FACTORS

Pub. L. 113-2, div. B, §1109, Jan. 29, 2013, 127 Stat. 47, provided that: “In order to provide more objective criteria for evaluating the need for assistance to individuals, to clarify the threshold for eligibility and to speed a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), not later than 1 year after the date of enactment of this division [Jan. 29, 2013], the Administrator of the Federal Emergency Management Agency, in cooperation with representatives of State, tribal, and local emergency management agencies, shall review, update, and revise through rule-making the factors considered under section 206.48 of title 44, Code of Federal Regulations (including section 206.48(b)(2) of such title relating to trauma and the specific conditions or losses that contribute to trauma), to measure the severity, magnitude, and impact of a disaster.”

#### § 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;

(5) provide assistance to State and local governments for building code and floodplain management ordinance administration and enforcement, including inspections for substantial damage compliance; and

(6) 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.

(Pub. L. 93-288, title IV, §402, as added Pub. L. 100-707, title I, §106(a)(3), Nov. 23, 1988, 102 Stat. 4696; amended Pub. L. 109-295, title VI, §681(a), Oct. 4, 2006, 120 Stat. 1444; Pub. L. 115-254, div. D, §1206(a), Oct. 5, 2018, 132 Stat. 3440.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 402 of Pub. L. 93-288 was classified to section 5172 of this title prior to repeal by Pub. L. 100-707.

##### AMENDMENTS

2018—Pars. (5), (6). Pub. L. 115-254 added par. (5) and redesignated former par. (5) as (6).

2006—Par. (1). Pub. L. 109-295, §681(a)(1), substituted “response or recovery efforts, including precautionary evacuations” for “efforts”.

Par. (2). Pub. L. 109-295, §681(a)(2), substituted “, including precautionary evacuations and recovery;” for semicolon at end.

Par. (3)(F). Pub. L. 109-295, §681(a)(3), added subpar. (F).

Par. (5). Pub. L. 109-295, §681(a)(4), (5), added par. (5).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

#### § 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,<sup>1</sup> 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,<sup>1</sup> 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—
  - (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.

**(d) Salaries and benefits**

**(1) In general**

If the President declares a major disaster or emergency for an area within the jurisdiction of a State, tribal, or local government, the President may reimburse the State, tribal, or local government for costs relating to—

(A) basic pay and benefits for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section, if—

- (i) the work is not typically performed by the employees; and
- (ii) the type of work may otherwise be carried out by contract or agreement with private organizations, firms, or individuals;<sup>2</sup> or

(B) overtime and hazardous duty compensation for permanent employees of the State, tribal, or local government conducting emergency protective measures under this section.

**(2) Overtime**

The guidelines for reimbursement for costs under paragraph (1) shall ensure that no State,

<sup>1</sup>So in original. The extra comma probably should follow “medicine”.

<sup>2</sup>So in original.

tribal, or local government is denied reimbursement for overtime payments that are required pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

**(3) No effect on mutual aid pacts**

Nothing in this subsection shall affect the ability of the President to reimburse labor force expenses provided pursuant to an authorized mutual aid pact.

(Pub. L. 93-288, title IV, § 403, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4697; amended Pub. L. 109-295, title VI, § 689(b), Oct. 4, 2006, 120 Stat. 1449; Pub. L. 109-308, § 4, Oct. 6, 2006, 120 Stat. 1726; Pub. L. 113-2, div. B, § 1108(b), Jan. 29, 2013, 127 Stat. 47; Pub. L. 115-254, div. D, § 1217(d), Oct. 5, 2018, 132 Stat. 3452.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c)(1), (3), (5), 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.

The Fair Labor Standards Act of 1938, referred to in subsec. (d)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 403 of Pub. L. 93-288 was renumbered section 407 by Pub. L. 100-707 and is classified to section 5173 of this title.

AMENDMENTS

2018—Subsec. (a)(3)(J). Pub. L. 115-254 struck out subpar. (J) added by Pub. L. 109-308, which was identical to subpar. (J) added by Pub. L. 109-295. See 2006 Amendment note below.

2013—Subsec. (d). Pub. L. 113-2 added subsec. (d).

2006—Subsec. (a)(2), (3)(B). Pub. L. 109-295, § 689(b)(1), (2)(A), inserted “durable medical equipment,” after “medicine”.

Subsec. (a)(3)(J). Pub. L. 109-295, § 689(b)(2)(B)–(D), and Pub. L. 109-308 amended par. (3) by adding identical subpars. (J).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

**Executive Documents**

MAXIMIZING ASSISTANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO RESPOND TO COVID-19

Memorandum of President of the United States, Mar. 1, 2022, 87 F.R. 12391, provided:

Memorandum for the Secretary of Homeland Security [and] the Administrator of the Federal Emergency Management Agency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Re-

lief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”), I hereby order as follows:

SECTION 1. *Policy.* It is the policy of my Administration to combat and respond to the coronavirus disease 2019 (COVID-19) pandemic with the full capacity and capability of the Federal Government to protect and support our families, schools, and businesses, and to assist State, local, Tribal, and territorial governments to do the same, including through emergency and disaster assistance available from the Federal Emergency Management Agency (FEMA) and through Federal support of the Governors’ use of the National Guard.

SEC. 2. *Assistance for Category B COVID-19 Emergency Protective Measures.* FEMA shall provide a 100 percent Federal cost share for all work eligible for assistance under Public Assistance Category B, pursuant to sections 403 (42 U.S.C. 5170b), 502 (42 U.S.C. 5192), and 503 (42 U.S.C. 5193) of the Stafford Act, including work described in section 3(a) of the Presidential Memorandum of January 21, 2021 (Memorandum to Extend Federal Support to Governors’ Use of the National Guard to Respond to COVID-19 and to Increase Reimbursement and Other Assistance Provided to States) [32 U.S.C. 502 note], and in section 2 of that memorandum on the Governors’ use of the National Guard, performed from January 20, 2020, through July 1, 2022.

SEC. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Administrator of FEMA is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

Prior provisions related to maximizing assistance from the Federal Emergency Management Agency to respond to COVID-19 were contained in the following:

Memorandum of President of the United States, Dec. 27, 2021, 87 F.R. 27.

Memorandum of President of the United States, Nov. 9, 2021, 86 F.R. 64055.

Memorandum of President of the United States, Aug. 17, 2021, 86 F.R. 46759.

Memorandum of President of the United States, Feb. 2, 2021, 86 F.R. 8281.

**§ 5170c. Hazard mitigation**

**(a) In general**

The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost effective and which substantially reduce the risk of, or increase resilience to, future damage, hardship, loss, or suffering in any area affected by a major disaster, or any area affected by a fire for which assistance was provided under section 5187 of this title. Such measures shall be identified following the evaluation of natural hazards under section 5165 of this title and shall be subject to approval by the President. Subject to section 5165 of this title, the total of contributions under this section for a major disaster or event under section 5187 of this title shall not exceed