

**§ 5163. Limitation on use of sliding scales**

No geographic area shall be precluded from receiving assistance under this chapter solely by virtue of an arithmetic formula or sliding scale based on income or population.

(Pub. L. 93-288, title III, §320, as added Pub. L. 100-707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4696.)

## 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.

**§ 5164. Rules and regulations**

The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this chapter, and may exercise, either directly or through such Federal agency as the President may designate, any power or authority conferred to the President by this chapter.

(Pub. L. 93-288, title III, §321, as added Pub. L. 100-707, title I, §105(m)(1), Nov. 23, 1988, 102 Stat. 4696.)

## 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.

**§ 5165. Mitigation planning****(a) Requirement of mitigation plan**

As a condition of receipt of an increased Federal share for hazard mitigation measures under subsection (e) of this section, a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government.

**(b) Local and tribal plans**

Each mitigation plan developed by a local or tribal government shall—

- (1) describe actions to mitigate hazards, risks, and vulnerabilities identified under the plan; and
- (2) establish a strategy to implement those actions.

**(c) State plans**

The State process of development of a mitigation plan under this section shall—

- (1) identify the natural hazards, risks, and vulnerabilities of areas in the State;
- (2) support development of local mitigation plans;
- (3) provide for technical assistance to local and tribal governments for mitigation planning; and
- (4) identify and prioritize mitigation actions that the State will support, as resources become available.

**(d) Funding****(1) In general**

Federal contributions under section 5170c of this title may be used to fund the development

and updating of mitigation plans under this section.

**(2) Maximum Federal contribution**

With respect to any mitigation plan, a State, local, or tribal government may use an amount of Federal contributions under section 5170c of this title not to exceed 7 percent of the amount of such contributions available to the government as of a date determined by the government.

**(e) Increased Federal share for hazard mitigation measures****(1) In general**

If, at the time of the declaration of a major disaster, a State has in effect an approved mitigation plan under this section, the President may increase to 20 percent, with respect to the major disaster, the maximum percentage specified in the last sentence of section 5170c(a) of this title.

**(2) Factors for consideration**

In determining whether to increase the maximum percentage under paragraph (1), the President shall consider whether the State has established—

- (A) eligibility criteria for property acquisition and other types of mitigation measures;
- (B) requirements for cost effectiveness that are related to the eligibility criteria;
- (C) a system of priorities that is related to the eligibility criteria; and
- (D) a process by which an assessment of the effectiveness of a mitigation action may be carried out after the mitigation action is complete.

(Pub. L. 93-288, title III, §322, as added Pub. L. 106-390, title I, §104(a), Oct. 30, 2000, 114 Stat. 1558.)

**§ 5165a. Minimum standards for public and private structures****(a) In general**

As a condition of receipt of a disaster loan or grant under this chapter—

- (1) the recipient shall carry out any repair or construction to be financed with the loan or grant in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards; and
- (2) the President may require safe land use and construction practices, after adequate consultation with appropriate State and local government officials.

**(b) Evidence of compliance**

A recipient of a disaster loan or grant under this chapter shall provide such evidence of compliance with this section as the President may require by regulation.

(Pub. L. 93-288, title III, §323, as added Pub. L. 106-390, title I, §104(a), Oct. 30, 2000, 114 Stat. 1559.)

## 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.

### § 5165b. Management costs

#### (a) Definition of management cost

In this section, the term “management cost” includes any indirect cost, any administrative expense, and any other expense not directly chargeable to a specific project under a major disaster, emergency, or disaster preparedness or mitigation activity or measure.

#### (b) Establishment of management cost rates

Notwithstanding any other provision of law (including any administrative rule or guidance), the President shall by regulation establish management cost rates, for grantees and subgrantees, that shall be used to determine contributions under this chapter for management costs.

#### (c) Review

The President shall review the management cost rates established under subsection (b) of this section not later than 3 years after the date of establishment of the rates and periodically thereafter.

(Pub. L. 93–288, title III, §324, as added Pub. L. 106–390, title II, §202(a), Oct. 30, 2000, 114 Stat. 1560.)

#### 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.

#### EFFECTIVE DATE

Pub. L. 106–390, title II, §202(b), Oct. 30, 2000, 114 Stat. 1560, provided that:

“(1) IN GENERAL.—Subject to paragraph (2), subsections (a) and (b) of section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5165b(a), (b)] (as added by subsection (a)) shall apply to major disasters declared under that Act [42 U.S.C. 5121 et seq.] on or after the date of the enactment of this Act [Oct. 30, 2000].

“(2) INTERIM AUTHORITY.—Until the date on which the President establishes the management cost rates under section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by subsection (a)), section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(f)) (as in effect on the day before the date of the enactment of this Act) shall be used to establish management cost rates.”

### § 5165c. Public notice, comment, and consultation requirements

#### (a) Public notice and comment concerning new or modified policies

##### (1) In general

The President shall provide for public notice and opportunity for comment before adopting any new or modified policy that—

(A) governs implementation of the public assistance program administered by the Federal Emergency Management Agency under this chapter; and

(B) could result in a significant reduction of assistance under the program.

#### (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.

(Pub. L. 93–288, title III, §325, as added Pub. L. 106–390, title II, §203, Oct. 30, 2000, 114 Stat. 1560.)

#### REFERENCES IN TEXT

This chapter, referred to in subsections (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