

of title 38 pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to judicial review.

(k) Licenses and permits

If a System member holds a valid license, certificate, or other permit issued by any State or other governmental jurisdiction evidencing the member's qualifications in any professional, mechanical, or other skill or type of assistance required by the System, the System member is deemed to be performing a Federal activity when rendering aid involving such skill or assistance during a period of appointment into Federal service under subsection (f)(1).

(l) Preparedness cooperative agreements

Subject to the availability of appropriations for such purpose, the Administrator shall enter into an annual preparedness cooperative agreement with each sponsoring agency. Amounts made available to a sponsoring agency under such a preparedness cooperative agreement shall be for the following purposes:

- (1) Training and exercises, including training and exercises with other Federal, State, and local government response entities.
- (2) Acquisition and maintenance of equipment, including interoperable communications and personal protective equipment.
- (3) Medical monitoring required for responder safety and health in anticipation of and following a major disaster, emergency, or other hazard, as determined by the Administrator.

(m) Response cooperative agreements

The Administrator shall enter into a response cooperative agreement with each sponsoring agency, as appropriate, under which the Administrator agrees to reimburse the sponsoring agency for costs incurred by the sponsoring agency in responding to a major disaster or emergency.

(n) Obligations

The Administrator may incur all necessary obligations consistent with this section in order to ensure the effectiveness of the System.

(o) Equipment maintenance and replacement

Not later than 180 days after December 16, 2016, the Administrator shall submit to the appropriate congressional committees (as defined in section 101 of title 6) a report on the development of a plan, including implementation steps and timeframes, to finance, maintain, and replace System equipment.

(Pub. L. 93-288, title III, §327, as added Pub. L. 114-326, §2(a), Dec. 16, 2016, 130 Stat. 1968.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(3), 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 Omnibus Crime Control and Safe Streets Act of 1968, referred to in subsec. (h)(4), is Pub. L. 90-351, June 19, 1968, 82 Stat. 197. Part L of title I of the Act is classified generally to part A (§3796 et seq.) of subchapter

XII of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3711 of this title and Tables.

SUBCHAPTER IV—MAJOR DISASTER ASSISTANCE PROGRAMS

§ 5170. Procedure for declaration

(a) In general

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.

(b) Indian tribal government requests

(1) In general

The Chief Executive of an affected Indian tribal government may submit a request for a declaration by the President that a major disaster exists consistent with the requirements of subsection (a).

(2) References

In implementing assistance authorized by the President under this chapter in response to a request of the Chief Executive of an affected Indian tribal government for a major disaster declaration, any reference in this subchapter or subchapter III (except sections 5153 and 5165d of this title) to a State or the Governor of a State is deemed to refer to an affected Indian tribal government or the Chief Executive of an affected Indian tribal government, as appropriate.

(3) Savings provision

Nothing in this subsection shall prohibit an Indian tribal government from receiving assistance under this subchapter through a declaration made by the President at the request of a State under subsection (a) if the President does not make a declaration under this subsection for the same incident.

(c) Cost share adjustments for Indian tribal governments

(1) In general

In providing assistance to an Indian tribal government under this subchapter, the President may waive or adjust any payment of a non-Federal contribution with respect to the assistance if—

(A) the President has the authority to waive or adjust the payment under another provision of this subchapter; and

(B) the President determines that the waiver or adjustment is necessary and appropriate.

(2) Criteria for making determinations

The President shall establish criteria for making determinations under paragraph 1(B).

(Pub. L. 93-288, title IV, § 401, as added Pub. L. 100-707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4696; amended Pub. L. 113-2, div. B, § 1110(a), Jan. 29, 2013, 127 Stat. 47.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2), 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 401 of Pub. L. 93-288 was renumbered section 405 by Pub. L. 100-707 and is classified to section 5171 of this title.

AMENDMENTS

2013—Pub. L. 113-2 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

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; 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.

(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.)

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

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).

§ 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

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