

Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the plan required to be developed under subsection (a)(1).

(c) Updates

If the Administrator modifies the plan or the timetable under subsection (a), the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report notifying Congress of the modification, which shall include the details of the modification.

(Pub. L. 114–132, § 3, Feb. 29, 2016, 130 Stat. 294.)

CODIFICATION

Section was enacted as part of the Directing Dollars to Disaster Relief Act of 2015, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

REPORTING REQUIREMENT

Pub. L. 114–132, § 4, Feb. 29, 2016, 130 Stat. 294, provided that:

“(a) ANNUAL REPORT.—Not later than November 30 of each year for 7 years beginning on the date of enactment of this Act [Feb. 29, 2016], the Administrator shall submit to Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the development and implementation of the integrated plan required under section 3 [42 U.S.C. 5165e] for the previous fiscal year.

“(b) REPORT UPDATES.—

“(1) THREE YEAR UPDATE.—Not later than 3 years after the date on which the Administrator submits a report under subsection (a), the Administrator shall submit an updated report for the previous 3-fiscal-year period.

“(2) FIVE YEAR UPDATE.—Not later than 5 years after the date on which the Administrator submits a report under subsection (a), the Administrator shall submit an updated report for the previous 5-fiscal-year period.

“(c) CONTENTS OF REPORTS.—Each report required under subsections (a) and (b) shall contain, at a minimum—

“(1) the total amount spent on administrative costs for the fiscal year period for which the report is being submitted;

“(2) the average annual percentage of administrative costs for the fiscal year period for which the report is being submitted;

“(3) an assessment of the effectiveness of the plan developed under section 3(a)(1) [42 U.S.C. 5165e(a)(1)];

“(4) an analysis of—

“(A) whether the Agency is achieving the strategic goals established under section 3(a)(1)(C) [42 U.S.C. 5165e(a)(1)(C)]; and

“(B) in the case of the Agency not achieving such strategic goals, what is preventing the Agency from doing so;

“(5) any actions the Agency has identified as useful in improving upon and reaching the goals for administrative costs established under section 3(a)(1)(C); and

“(6) any data described in section 3(a)(2) [42 U.S.C. 5165e(a)(2)], if the Agency determines it is feasible to track such data.

“(d) PUBLIC AVAILABILITY.—Not later than 30 days after the date on which the Administrator submits a report to Congress under this section, the Administrator shall make the report publicly available on the website of the Agency.”

DEFINITIONS

Pub. L. 114–132, § 2, Feb. 29, 2016, 130 Stat. 293, provided that: “In this Act [see Short Title of 2016 Amendment note set out under section 5121 of this title]—

“(1) the term ‘administrative cost’—

“(A) means a cost incurred by the Agency in support of the delivery of disaster assistance for a major disaster; and

“(B) does not include a cost incurred by a grantee or subgrantee;

“(2) the term ‘Administrator’ means the Administrator of the Agency;

“(3) the term ‘Agency’ means the Federal Emergency Management Agency;

“(4) the term ‘direct administrative cost’ means a cost incurred by a grantee or subgrantee of a program authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that can be identified separately and assigned to a specific project;

“(5) the term ‘hazard mitigation program’ means the hazard mitigation grant program authorized under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c);

“(6) the term ‘individual assistance program’ means the individual assistance grant program authorized under sections 408, 410, 415, 416, 426, and 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174, 5177, 5182, 5183, 5189d, and 5192(a));

“(7) the term ‘major disaster’ means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

“(8) the term ‘mission assignment’ has the meaning given the term in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741); and

“(9) the term ‘public assistance program’ means the public assistance grant program authorized under sections 403(a)(3), 406, 418, 419, 428, and 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(a)(3), 5172, 5185, 5186, 5189f, and 5192(a)).”

§ 5165f. National Urban Search and Rescue Response System

(a) Definitions

In this section, the following definitions shall apply:

(1) Administrator

The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) Agency

The term “Agency” means the Federal Emergency Management Agency.

(3) Hazard

The term “hazard” has the meaning given the term in section 5195a of this title.

(4) Nonemployee System member

The term “nonemployee System member” means a System member not employed by a sponsoring agency or participating agency.

(5) Participating agency

The term “participating agency” means a State or local government, nonprofit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System.

(6) Sponsoring agency

The term “sponsoring agency” means a State or local government that is the sponsor

of a task force designated by the Administrator to participate in the System.

(7) System

The term “System” means the National Urban Search and Rescue Response System to be administered under this section.

(8) System member

The term “System member” means an individual who is not a full-time employee of the Federal Government and who serves on a task force or on a System management or other technical team.

(9) Task force

The term “task force” means an urban search and rescue team designated by the Administrator to participate in the System.

(b) General authority

Subject to the requirements of this section, the Administrator shall continue to administer the emergency response system known as the National Urban Search and Rescue Response System.

(c) Functions

In administering the System, the Administrator shall provide for a national network of standardized search and rescue resources to assist States and local governments in responding to hazards.

(d) Task forces

(1) Designation

The Administrator shall designate task forces to participate in the System. The Administration shall determine the criteria for such participation.

(2) Sponsoring agencies

Each task force shall have a sponsoring agency. The Administrator shall enter into an agreement with the sponsoring agency with respect to the participation of each task force in the System.

(3) Composition

(A) Participating agencies

A task force may include, at the discretion of the sponsoring agency, one or more participating agencies. The sponsoring agency shall enter into an agreement with each participating agency with respect to the participation of the participating agency on the task force.

(B) Other individuals

A task force may also include, at the discretion of the sponsoring agency, other individuals not otherwise associated with the sponsoring agency or a participating agency. The sponsoring agency of a task force may enter into a separate agreement with each such individual with respect to the participation of the individual on the task force.

(e) Management and technical teams

The Administrator shall maintain such management teams and other technical teams as the Administrator determines are necessary to administer the System.

(f) Appointment of System members into Federal service

(1) In general

The Administrator may appoint a System member into Federal service for a period of service to provide for the participation of the System member in exercises, preincident staging, major disaster and emergency response activities, and training events sponsored or sanctioned by the Administrator.

(2) Nonapplicability of certain civil service laws

The Administrator may make appointments under paragraph (1) without regard to the provisions of title 5 governing appointments in the competitive service.

(3) Relationship to other authorities

The authority of the Administrator to make appointments under this subsection shall not affect any other authority of the Administrator under this chapter.

(4) Limitation

A System member who is appointed into Federal service under paragraph (1) shall not be considered an employee of the United States for purposes other than those specifically set forth in this section.

(g) Compensation

(1) Pay of System members

Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force—

(A) to reimburse each employer of a System member on the task force for compensation paid by the employer to the System member for any period during which the System member is appointed into Federal service under subsection (f)(1); and

(B) to make payments directly to a non-employee System member on the task force for any period during which the non-employee System member is appointed into Federal service under subsection (f)(1).

(2) Reimbursement for employees filling positions of System members

(A) In general

Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to be used to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).

(B) Limitation

Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).

(3) Method of payment

A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal Service under subsection (f)(1).

(h) Personal injury, illness, disability, or death**(1) In general**

A System member who is appointed into Federal service under subsection (f)(1) and who suffers personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such appointment, shall, for the purposes of subchapter I of chapter 81 of title 5, be treated as though the member were an employee (as defined by section 8101 of that title) who had sustained the injury in the performance of duty.

(2) Election of benefits**(A) In general**

A System member (or, in the case of the death of the System member, the System member's dependent) who is entitled under paragraph (1) to receive benefits under subchapter I of chapter 81 of title 5 by reason of personal injury, illness, disability, or death, and to receive benefits from a State or local government by reason of the same personal injury, illness, disability or death shall elect to—

- (i) receive benefits under such subchapter; or
- (ii) receive benefits from the State or local government.

(B) Deadline

A System member or dependent shall make an election of benefits under subparagraph (A) not later than 1 year after the date of the personal injury, illness, disability, or death that is the reason for the benefits, or until such later date as the Secretary of Labor may allow for reasonable cause shown.

(C) Effect of election

An election of benefits made under this paragraph is irrevocable unless otherwise provided by law.

(3) Reimbursement for State or local benefits

Subject to such terms and conditions as the Administrator may impose by regulation, if a System member or dependent elects to receive benefits from a State or local government under paragraph (2)(A), the Administrator shall reimburse the State or local government for the value of the benefits.

(4) Public safety officer claims

Nothing in this subsection shall be construed to bar any claim by, or with respect to, any System member who is a public safety officer, as defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [34 U.S.C. 10284], for any benefits authorized under part L of title I of that Act (42 U.S.C. 3796 et seq.).¹

(i) Liability

A System member appointed into Federal service under subsection (f)(1), while acting

within the scope of the appointment, shall be considered to be an employee of the Federal Government under section 1346(b) of title 28 and chapter 171 of that title, relating to tort claims procedure.

(j) Employment and reemployment rights

With respect to a System member who is not a regular full-time employee of a sponsoring agency or participating agency, the following terms and conditions apply:

(1) Service

Service as a System member shall be considered to be "service in the uniformed services" for purposes of chapter 43 of title 38 relating to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in such chapter.

(2) Preclusion

Preclusion of giving notice of service by necessity of appointment under this section shall be considered to be preclusion by "military necessity" for purposes of section 4312(b) 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

¹ See References in Text note below.

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 was classified generally to part A (§3796 et seq.) of subchapter XII of chapter 46 of this title, prior to editorial reclassification and renumbering as subchapter XI (§10281 et seq.) of chapter 101 of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1968 Act note set out under section 10101 of Title 34 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