

**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 perform-

ance 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

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

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, 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, Dec. 27, 2021, 87 F.R. 27, provided:

Memorandum for the Secretary of Health and Human Services[,] 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 Relief 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. This policy includes the use of emergency and disaster assistance available from the Federal Emergency Management Agency (FEMA) to get COVID-19 testing to the places that need it most.

SEC. 2. *Assistance for COVID-19 Screening as an Emergency Protective Measure.* (a) With respect to a request to FEMA from any State, Tribal, or territorial government for direct Federal assistance to establish or expand COVID-19 testing sites, the Administrator of FEMA shall issue a mission assignment to the Department of Health and Human Services (HHS), on a fully reimbursable basis, to provide testing sites, launched and operated by HHS in close coordination with State, local, Tribal, and territorial public health departments.

(b) FEMA’s mission assignments will require HHS to adjudicate State, Tribal, and territorial requests through the Emergency Support Function #8 Advisory Council.

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

(c) FEMA shall fund 100 percent of the cost of activities associated with the mission assignments to HHS to provide COVID-19 testing sites as described in section 2(a) of this memorandum, as authorized by sections 403 (42 U.S.C. 5170b), 502 (42 U.S.C. 5192), and 503 (42 U.S.C. 5193) of the Stafford Act.

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, 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 15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster or event under section 5187 of this title.

#### (b) Property acquisition and relocation assistance

##### (1) General authority

In providing hazard mitigation assistance under this section in connection with flooding, the Administrator of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

#### (2) Terms and conditions

An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

(A) the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a); and

(B) on or after December 3, 1993, the applicant for the assistance enters into an agreement with the Administrator that provides assurances that—

(i) any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

(I) a public facility that is open on all sides and functionally related to a designated open space;

(II) a rest room; or

(III) a structure that the Administrator approves in writing before the commencement of the construction of the structure; and

(iii) after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

(I) no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

(II) no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

#### (3) Statutory construction

Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before December 3, 1993.

#### (c) Program administration by States

##### (1) In general

A State desiring to administer the hazard mitigation grant program established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority to administer the program.

##### (2) Criteria

The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). Until such time as the Administrator promulgates regulations to implement this paragraph, the Administrator may waive notice and comment rulemaking, if the Administrator determines doing so is necessary to expeditiously implement this section, and may carry out this sec-