

## FEMA INDEPENDENCE ACT OF 2009

APRIL 13, 2010.—Ordered to be printed

Mr. OBERSTAR, from the Committee on Transportation and  
Infrastructure, submitted the following

### R E P O R T

[To accompany H.R. 1174]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1174) to establish the Federal Emergency Management Agency as a cabinet-level independent agency in the executive branch, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “FEMA Independence Act of 2009”.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

#### TITLE I—ESTABLISHMENT OF FEDERAL EMERGENCY MANAGEMENT AGENCY

Sec. 101. Establishment of independent agency.  
Sec. 102. Administrator; Deputy Administrator; and other officials of the Agency.  
Sec. 103. Authority and responsibilities.  
Sec. 104. Office of the Inspector General.  
Sec. 105. Transfer of functions.  
Sec. 106. Personnel and other transfers.  
Sec. 107. Savings provisions.  
Sec. 108. Offices and functions of Department of Homeland Security.  
Sec. 109. Homeland security grants.  
Sec. 110. Additional conforming amendments to Homeland Security Act of 2002.  
Sec. 111. Conforming amendments to Post-Katrina Emergency Management Reform Act of 2006.  
Sec. 112. Conforming and technical amendments to other laws.  
Sec. 113. Changes to administrative documents.  
Sec. 114. Recommended legislation.

#### TITLE II—RELATED MATTERS

Sec. 201. National Advisory Council.  
Sec. 202. National Integration Center.  
Sec. 203. Credentialing and typing.

Sec. 204. Disability coordinator.  
 Sec. 205. Nuclear incident response.  
 Sec. 206. Urban area all hazards preparedness grant program.

**SEC. 2. DEFINITIONS.**

In this Act, the following definitions apply:

- (1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Emergency Management Agency appointed under section 102.
- (2) **AGENCY.**—The term “Agency” means the Federal Emergency Management Agency established under section 101.
- (3) **EMERGENCY.**—The term “emergency” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).
- (4) **EMERGENCY MANAGEMENT.**—The term “emergency management” means preparedness for, response to, recovery from, and mitigating hazards.
- (5) **HAZARD.**—The term “hazard” has the meaning given that term in section 602(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) and includes any major disaster or emergency.
- (6) **MAJOR DISASTER.**—The term “major disaster” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

## **TITLE I—ESTABLISHMENT OF FEDERAL EMERGENCY MANAGEMENT AGENCY**

**SEC. 101. ESTABLISHMENT OF INDEPENDENT AGENCY.**

(a) **IN GENERAL.**—The Federal Emergency Management Agency is established as a cabinet-level independent establishment in the executive branch.

(b) **MISSION.**—The primary mission of the Agency shall be to reduce the loss of life and property and protect the Nation from hazards by leading and supporting the Nation in a comprehensive emergency management system of preparedness, response, recovery, and mitigation.

**SEC. 102. ADMINISTRATOR; DEPUTY ADMINISTRATOR; AND OTHER OFFICIALS OF THE AGENCY.**

(a) **ADMINISTRATOR.**—

(1) **IN GENERAL.**—The Agency shall be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the President.

(2) **QUALIFICATIONS.**—The Administrator shall be appointed from among individuals who have extensive experience in emergency preparedness, response, recovery, and mitigating hazards.

(3) **EXECUTIVE SCHEDULE.**—Title 5, United States Code, is amended—

(A) in section 5312 by adding at the end the following:

“Administrator of the Federal Emergency Management Agency.”; and

(B) in section 5313 by striking the item relating to “Administrator of the Federal Emergency Management Agency”.

(b) **DEPUTY ADMINISTRATOR.**—

(1) **IN GENERAL.**—The Agency shall have one Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator and act for the Administrator when the Administrator is absent or unable to serve or when the position of the Administrator is vacant.

(2) **QUALIFICATIONS.**—The Deputy Administrator shall be appointed from among individuals who have extensive experience in emergency preparedness, response, recovery, and mitigating hazards.

(3) **EXECUTIVE SCHEDULE.**—Section 5314 of title 5, United States Code, is amended by striking the item relating to “Deputy Administrators, Federal Emergency Management Agency” and inserting the following: “Deputy Administrator, Federal Emergency Management Agency.”

(c) **ASSISTANT ADMINISTRATORS.**—

(1) **IN GENERAL.**—The Agency shall have one or more Assistant Administrators, who shall be appointed by the Administrator, and whose duties shall be determined by the Administrator.

(2) **QUALIFICATIONS.**—Each Assistant Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management or other field relevant to their position.

(d) **REGIONAL OFFICES.**—

(1) **IN GENERAL.**—There shall be in the Agency 10 Regional Offices, as identified by the Administrator.

(2) **REGIONAL ADMINISTRATORS.**—

(A) **IN GENERAL.**—Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator.

(B) **QUALIFICATIONS.**—

(i) **IN GENERAL.**—Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management.

(ii) **CONSIDERATIONS.**—In selecting an individual to serve as a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of the individual with the geographical area and demographic characteristics of the population served by the Regional Office.

(3) **REGIONAL ADVISORY COUNCILS.**—

(A) **ESTABLISHMENT.**—Each Regional Administrator shall establish a Regional Advisory Council.

(B) **NOMINATIONS.**—A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

(C) **RESPONSIBILITIES.**—Each Regional Advisory Council shall—

(i) advise the Regional Administrator on emergency management issues specific to that region;

(ii) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, response, recovery, or mitigation more complicated or difficult; and

(iii) advise the Regional Administrator of any weakness or deficiency in preparedness, response, recovery, or mitigation for any State, local, or tribal government within the region of which the Regional Advisory Council is aware.

(e) **AREA OFFICES.**—There shall be an Area Office for the Pacific, an Area Office for the Caribbean, and an Area Office in Alaska, as components in the appropriate Regional Offices.

**SEC. 103. AUTHORITY AND RESPONSIBILITIES.**

(a) **IN GENERAL.**—The Administrator shall provide the Federal leadership necessary to prepare for, respond to, recover from, and mitigate hazards.

(b) **STAFFORD ACT.**—The Administrator shall assist the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act.

(c) **MISSION.**—The responsibilities of the Administrator shall include carrying out the mission of the Agency by leading and supporting the Nation in a comprehensive emergency management system of—

(1) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

(2) preparedness, by planning, training, conducting exercises, and building the emergency management profession to prepare effectively for mitigating, responding to, and recovering from any hazard;

(3) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

(4) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards.

(d) **RESPONSE DUTIES.**—In carrying out subsection (c)(3), the Administrator, at a minimum, shall—

(1) help to ensure the effectiveness of emergency response providers in responding to a hazard;

(2) coordinate and provide the Federal Government's response to hazards;

(3) build a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities to respond to hazards;

(4) consolidate existing Federal Government emergency response plans into a single, coordinated plan to be known as the National Response Plan;

- (5) administer and ensure the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan; and
- (6) help ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers.
- (e) CONTINUITY OF GOVERNMENT.—The Administrator shall prepare and implement the plans and programs of the Federal Government for—
  - (1) continuity of operations;
  - (2) continuity of Government; and
  - (3) continuity of plans.
- (f) OTHER DUTIES.—The Administrator shall—
  - (1) coordinate the National Advisory Council authorized by this Act;
  - (2) maintain and operate within the Agency the National Response Coordination Center (or its successor);
  - (3) develop and maintain a national emergency management system that is capable of preparing for, responding to, recovering from, and mitigating hazards of all magnitudes, including catastrophic disasters; and
  - (4) supervise grant programs administered by the Agency.
- (g) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of an all-hazards strategy that builds those common capabilities necessary to prepare for, respond to, recover from, and mitigate hazards.

**SEC. 104. OFFICE OF THE INSPECTOR GENERAL.**

The Agency shall have an Office of the Inspector General, headed by an Inspector General, in accordance with the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App.).

**SEC. 105. TRANSFER OF FUNCTIONS.**

- (a) IN GENERAL.—Except as provided by subsection (c), there shall be transferred to the Administrator the following:
  - (1) All functions of the Federal Emergency Management Agency, as constituted on January 1, 2009, including continuity of operations and continuity of Government plans and programs.
  - (2) The functions relating to the Agency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and other laws, including—
    - (A) the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.);
    - (B) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.);
    - (C) the National Dam Safety Program Act (33 U.S.C. 467 et seq.);
    - (D) the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.);
    - (E) Reorganization Plan No. 3 of 1978 (5 U.S.C. App.);
    - (F) section 612 of the Security and Accountability For Every Port Act of 2006 (6 U.S.C. 314a); and
    - (G) title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.).
  - (3) Any function to be transferred to the Agency under the Post-Katrina Emergency Management Reform Act of 2006 (103 Stat. 1394), including the amendments made by that Act, even if the transfer has not taken place as of January 1, 2009.
- (b) INSPECTOR GENERAL.—There shall be transferred to the Inspector General of the Federal Emergency Management Agency all of the functions relating to the Inspector General that were transferred from the Federal Emergency Management Agency to the Department of Homeland Security on or after January 1, 2003.
- (c) EXCEPTIONS.—The following programs shall not be affected by this Act and shall remain within the Department of Homeland Security:
  - (1) The grant programs authorized by sections 1406, 1513, and 1532 of the Implementing Recommendations of the 9/11 Commission Act (6 U.S.C. 1135, 1163, and 1182).
  - (2) The grant program authorized by section 70107 of title 46, United States Code.
  - (3) Programs authorized by sections 2003 and 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605), as amended by this Act.
  - (4) The trucking security grant program (Public Law 110–329; 122 Stat. 3671).
  - (5) The buffer zone protection program (Public Law 110–329; 122 Stat. 3672).

(6) The commercial equipment direct assistance program (Public Law 110-329; 122 Stat. 3672).

(d) UNITED STATES FIRE ADMINISTRATOR; FEDERAL INSURANCE ADMINISTRATOR.—Nothing in this Act shall be construed to affect the appointment of the United States Fire Administrator under section 5(b) of the Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)) or the Federal Insurance Administrator under section 1105(a) of the Housing and Urban Development Act of 1968 (42 U.S.C. 4129).

(e) TRANSITION PERIOD.—The transfers under this section shall be carried out not later than 120 days following the date of enactment of this Act. During the transition period, the Secretary of Homeland Security shall provide to the Administrator such assistance, including the use of personnel and assets, as the Administrator may request in preparing for the transfer.

(f) TRANSITION.—The Administrator may use—

(1) the services of such officers, employees, and other personnel of the Department of Homeland Security with respect to functions transferred by this section; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(g) LIAISON OFFICE TO ENSURE COORDINATION WITH DEPARTMENT OF HOMELAND SECURITY.—The Administrator shall establish a liaison office within the Agency to ensure adequate coordination with the Department of Homeland Security.

**SEC. 106. PERSONNEL AND OTHER TRANSFERS.**

(a) PERSONNEL PROVISIONS.—

(1) APPOINTMENTS.—The Administrator may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the respective functions transferred under section 105. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(2) EXPERTS AND CONSULTANTS.—The Administrator may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including travel time) during which they are engaged in the actual performance of such services at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Administrator may pay experts and consultants who are serving away from their homes or regular place of business, travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(b) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may delegate any of the functions transferred to the Administrator by section 105 and any function transferred or granted to the Administrator after the date of the transfers by section 105 to such officers and employees of the Agency as the Administrator may designate and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

(c) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred under section 105 among the officers of the Agency, and may establish, consolidate, alter, or discontinue such organizational entities in the Agency as may be necessary or appropriate if the Administrator, on or before the 30th day preceding the date of the allocation or reallocation, provides to Congress written notice of the allocation or reallocation.

(d) RULES.—The Administrator may prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Administrator determines necessary or appropriate to administer and manage the functions of the Agency.

(e) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by section 105, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(f) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, in consultation with the Administrator, may make such determinations as may be necessary with regard to the functions transferred by section 105, and may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

(g) **EFFECT ON PERSONNEL.**—

(1) **IN GENERAL.**—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(2) **EXECUTIVE SCHEDULE POSITIONS.**—Except as otherwise provided in this title, any person who, on the day preceding the date of the transfers of functions under section 105, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

**SEC. 107. SAVINGS PROVISIONS.**

(a) **SAVINGS PROVISIONS.**—

(1) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under section 105; and

(B) which are in effect on the date of the transfers of functions under section 105, or were final before such date and are to become effective on or after such date, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) **PROCEEDINGS NOT AFFECTED.**—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Agency on the date of the transfers of functions under section 105, with respect to functions transferred by section 105, but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(3) **SUITS NOT AFFECTED.**—The provisions of this title shall not affect suits commenced before the date of the transfers of functions under section 105, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(4) **NONABATEMENT OF ACTIONS.**—No suit, action, or other proceeding commenced by or against the Agency, or by or against any individual in the official capacity of such individual as an officer of the Agency, shall abate by reason of the enactment of this title.

(5) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Agency relating to a function transferred under section 105 may

be continued by the Agency with the same effect as if this title had not been enacted.

(b) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by section 105—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

**SEC. 108. OFFICES AND FUNCTIONS OF DEPARTMENT OF HOMELAND SECURITY.**

(a) EVACUATION PLANS AND EXERCISES.—Section 512(c) of the Homeland Security Act of 2002 (6 U.S.C. 321a(c)) is amended by striking “Administrator” each place it appears and inserting “Secretary”.

(b) ASSISTANT SECRETARY FOR CYBERSECURITY AND COMMUNICATIONS; NATIONAL OPERATIONS CENTER.—Sections 514 and 515 of such Act (6 U.S.C. 321c and 321d) are amended to read as follows:

**“SEC. 514. ASSISTANT SECRETARY FOR CYBERSECURITY AND COMMUNICATIONS.**

“There is in the Department an Assistant Secretary for Cybersecurity and Communications.

**“SEC. 515. NATIONAL OPERATIONS CENTER.**

“(a) DEFINITION.—In this section, the term ‘situational awareness’ means information gathered from a variety of sources that, when communicated to emergency managers and homeland security decisionmakers, can form the basis for homeland security decisionmaking.

“(b) ESTABLISHMENT.—The National Operations Center is the principal operations center for the Department and shall—

“(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, for homeland security purposes; and

“(2) ensure that critical homeland security information reaches government decisionmakers.

“(c) FEMA AUTHORITY.—Nothing in this section shall be construed to provide to the National Operations Center any authority that overlaps with the authority of the Administrator of the Federal Emergency Management Agency, except to the extent necessary to coordinate the activities or information of the National Operations Center with the Federal Emergency Management Agency.”

(c) CHIEF MEDICAL OFFICER.—Section 516 of such Act of 2002 (6 U.S.C. 321e) is amended—

(1) in subsection (c)—

(A) in the matter preceding paragraph (1) by striking “natural disasters, acts of terrorism, and other man-made disasters” and inserting “homeland security”; and

(B) in paragraph (4) by inserting “the Federal Emergency Management Agency,” after “the Department of Veterans Affairs,”; and

(2) by adding at the end the following:

“(d) FEMA AUTHORITY.—Nothing in this section shall be construed to provide to the Chief Medical Officer any authority that overlaps with the authority of the Administrator of the Federal Emergency Management Agency, except to the extent necessary to coordinate activities or information with the Federal Emergency Management Agency.”

(d) REPEALS.—The following provisions of such Act (6 U.S.C. 101 et seq.) are repealed:

- (1) Section 501.
- (2) Section 503.
- (3) Section 504.
- (4) Section 505.
- (5) Section 506.
- (6) Section 507.
- (7) Section 508.
- (8) Section 509.
- (9) Section 510.
- (10) Section 513.
- (11) Section 517.
- (12) Section 519.

(e) REDESIGNATIONS.—Sections 502, 511, 512, 514, 515, 516, 518, 520, 521, 522, 523, and 524 of such Act of 2002 (6 U.S.C. 312, 321, 321a, 321c, 321d, 321e, 321f,

321g, 321i, 321j, 321k, 321l, and 321m) are redesignated as sections 501 through 512, respectively.

(f) **TITLE HEADING.**—The heading for title V of such Act is amended by striking “**NATIONAL EMERGENCY MANAGEMENT**” and inserting “**OTHER OFFICES AND FUNCTIONS**”.

(g) **TABLE OF CONTENTS.**—The table of contents contained in section 1(b) of such Act is amended by striking the items relating to title V and inserting the following:

“TITLE V—OTHER OFFICES AND FUNCTIONS

- “Sec. 501. Definition.  
 “Sec. 502. The National Infrastructure Simulation and Analysis Center.  
 “Sec. 503. Evacuation plans and exercises.  
 “Sec. 504. Assistant Secretary for Cybersecurity and Communications.  
 “Sec. 505. National Operations Center.  
 “Sec. 506. Chief Medical Officer.  
 “Sec. 507. Conduct of certain public health-related activities.  
 “Sec. 508. Use of commercially available technology, goods, and services.  
 “Sec. 509. Procurement of security countermeasures for strategic national stockpile.  
 “Sec. 510. Model standards and guidelines for critical infrastructure workers.  
 “Sec. 511. Guidance and recommendations.  
 “Sec. 512. Voluntary private sector preparedness accreditation and certification program.”.

**SEC. 109. HOMELAND SECURITY GRANTS.**

(a) **URBAN AREA SECURITY INITIATIVE.**—Section 2003(a) of the Homeland Security Act of 2002 (6 U.S.C. 604(a)) is amended striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”.

(b) **STATE HOMELAND SECURITY GRANT PROGRAM.**—Section 2004 of such Act (6 U.S.C. 605) is amended—

(1) in subsection (a) by striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”;

(2) in subsection (c)(3) by striking “to prevent, prepare for, protect against, or respond to” and inserting “to prevent or protect against”; and

(3) in subsection (d)(1) by striking “to prevent, prepare for, protect against, and respond to” and inserting “to prevent and protect against”.

(c) **GRANTS TO DIRECTLY ELIGIBLE TRIBES.**—Section 2005(h) of such Act (6 U.S.C. 606(h)) is amended by striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”.

(d) **TERRORISM PREVENTION.**—Section 2006(b)(4)(A) of such Act (6 U.S.C. 607(b)(4)(A)) is amended by striking “preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters within the United States” and inserting “preventing and protecting against acts of terrorism within the United States”.

(e) **PRIORITIZATION.**—Section 2007(a) of such Act (6 U.S.C. 608(a)) is amended—

(1) in paragraph (1)(H) by striking “respond to” and inserting “address”; and

(2) in paragraphs (1)(J)(i) and (2) by striking “to prevent, prepare for, protect against, and respond to” and inserting “to prevent and protect against”.

(f) **USE OF FUNDS.**—Section 2008 of such Act (6 U.S.C. 609) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking “preventing, preparing for, protecting against, and responding to” and inserting “preventing and protecting against”; and

(B) in paragraph (12) by inserting before the semicolon at the end the following: “, except to the extent that such activities are inconsistent with the FEMA Independence Act of 2009 (including the amendments made by that Act)”; and

(2) in subsections (b)(4)(B)(i) and (d)(2) by striking “preventing, preparing for, protecting against, or responding to” and inserting “preventing or protecting against”.

(g) **ADMINISTRATION AND COORDINATION.**—Section 2021 of such Act (6 U.S.C. 611) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **REGIONAL COORDINATION.**—The Secretary shall ensure that—

“(1) all recipients of grants administered by the Department to prevent and protect against acts of terrorism coordinate, as appropriate, their prevention and protection efforts with neighboring State, local, and tribal governments; and

“(2) all high-risk urban areas and other recipients of grants administered by the Department to prevent and protect against acts of terrorism that include or substantially affect parts or all of more than 1 State coordinate, as appropriate, across State boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans.”; and



(2) in subsection (d)(1) by striking “Department” and inserting “Federal Government”.

(h) ACCOUNTABILITY.—

(1) AUDITS OF GRANT PROGRAMS.—Section 2022(a) of such Act (6 U.S.C. 612(a)) is amended—

(A) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—Not less than once every 2 years, the Secretary shall conduct, for each State and high-risk urban area receiving a grant administered by the Department, a programmatic and financial review of all grants awarded by the Department to prevent or protect against acts of terrorism.”; and

(ii) in subparagraph (B) by striking “to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other man-made disasters” and inserting “to prevent and protect against acts of terrorism”; and

(B) in paragraph (3)—

(i) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—In order to ensure the effective and appropriate use of grants administered by the Department, the Inspector General of the Department each year shall conduct audits of a sample of States and high-risk urban areas that receive grants administered by the Department to prevent or protect against acts of terrorism.”; and

(ii) in subparagraph (D)(ii)(IV) by striking “to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism and other man-made disasters” and inserting “to prevent and protect against acts of terrorism”.

(2) ADMINISTRATION OF GRANTS.—Section 2022 of such Act (6 U.S.C. 612) is amended by adding at the end the following:

“(d) ADMINISTRATION OF GRANTS.—The Secretary may request the Administrator to continue to support the administration of any grant authorized by this title.”.

(i) REFERENCES TO ADMINISTRATOR.—Title XX of such Act (6 U.S.C. 601 et seq.) is amended—

(1) in section 2002(a) by striking “, through the Administrator,”;

(2) in section 2021(c)(1) by striking “(acting through the Administrator)”;

(3) in the subparagraph heading for section 2022(a)(3)(F) by striking “ADMINISTRATOR” and inserting “SECRETARY”;

(4) in the subsection heading for section 2022(c) by striking “BY THE ADMINISTRATOR” ; and

(5) by striking “Administrator” each place it appears and inserting “Secretary”, except in—

(A) section 2001(1);

(B) section 2006(b)(4)(F);

(C) section 2006(b)(5);

(D) section 2022(b)(2); and

(E) section 2022(c)(1).

**SEC. 110. ADDITIONAL CONFORMING AMENDMENTS TO HOMELAND SECURITY ACT OF 2002.**

(a) MISSION.—Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively; and

(3) in subparagraph (C) (as so redesignated) by striking “, including” and all that follows before the semicolon at the end.

(b) SECRETARY; FUNCTIONS.—Section 102 of such Act (6 U.S.C. 112) is amended—

(1) by adding at the end of subsection (c) the following:

“Nothing in this subsection may be construed to interfere with the role of the Administrator of the Federal Emergency Management Agency.”; and

(2) in subsection (f)—

(A) in paragraph (4)—

(i) by inserting “and” at the end of subparagraph (A);

(ii) by striking “and” at the end of subparagraph (B); and

(iii) by striking subparagraph (C);

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9), (10), and (11) as paragraphs (8), (9), and (10), respectively.

(c) OTHER OFFICERS.—Section 103(a) of such Act (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (10) as paragraphs (4) through (9), respectively.

(d) **AUTHORITY TO ISSUE WARNINGS.**—Section 214(g) of such Act (6 U.S.C. 133(g)) is amended by adding at the end the following:

“Nothing in this subsection may be construed to limit or otherwise affect the authority of the President or the Administrator of the Federal Emergency Management Agency under section 202 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5132).”.

(e) **ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.**—Section 223 of such Act (6 U.S.C. 143) is amended by striking “Under Secretary for Emergency Preparedness and Response” each place it appears and inserting “Administrator of the Federal Emergency Management Agency”.

(f) **COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.**—

(1) **IN GENERAL.**—Title II of such Act (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

### **“Subtitle E—Consultation With Federal Emergency Management Agency**

**“SEC. 241. DUTY TO CONSULT.**

“In carrying out this title, the Secretary shall consult, as appropriate, with the Administrator of the Federal Emergency Management Agency.

**“SEC. 242. LIMITATION ON STATUTORY CONSTRUCTION.**

“Nothing in this title may be construed to limit or otherwise affect the authority of the Administrator of the Federal Emergency Management Agency.”.

(2) **CLERICAL AMENDMENT.**—The table of contents contained in section 1(b) of such Act is amended by adding at the end of the items relating to title II the following:

“Subtitle E—Consultation With Federal Emergency Management Agency

“Sec. 241. Duty to consult.

“Sec. 242. Limitation on statutory construction.”.

(g) **OFFICE FOR DOMESTIC PREPAREDNESS.**—Section 430 of such Act (6 U.S.C. 238), and the item relating to that section in the table of contents contained in section 1(b) of such Act, are repealed.

(h) **QUADRENNIAL HOMELAND SECURITY REVIEW.**—Section 707 of such Act (6 U.S.C. 347) is amended—

(1) in subsection (a)(3)(A) by inserting “the Administrator of the Federal Emergency Management Agency,” after “the Secretary of Agriculture,”;

(2) in subsection (b)(1) by striking “, the National Response Plan,”; and

(3) in subsection (c)(2)(G) by striking “and preparing for emergency response to threats to national homeland security”.

(i) **COORDINATION WITH DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER PUBLIC HEALTH SERVICE ACT.**—Section 887 of such Act (6 U.S.C. 467) is amended—

(1) in subsection (a) by inserting before the period at the end the following: “and section 202(b) of the FEMA Independence Act of 2009”; and

(2) in subsections (b)(2) and (b)(3) by inserting “the Federal Emergency Management Agency,” after “the Department of Homeland Security,”.

(j) **MEMBERSHIP OF NATIONAL HOMELAND SECURITY COUNCIL.**—Section 903(a) of such Act (6 U.S.C. 493(a)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

“(6) The Administrator of the Federal Emergency Management Agency.”.

**SEC. 111. CONFORMING AMENDMENTS TO POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT OF 2006.**

(a) **SURGE CAPACITY FORCE.**—Section 624 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 711) is amended—

(1) in subsection (b)—

(A) by striking “Secretary” and inserting “Administrator”; and

(B) by striking “of the Department”; and

(2) in subsections (c)(1) and (c)(2) by striking “section 510 of the Homeland Security Act of 2002, as amended by this Act,” and inserting “section 203 of the FEMA Independence Act of 2009”.

(b) **IMPROVEMENTS TO INFORMATION TECHNOLOGY SYSTEMS.**—Section 640(a) of such Act (6 U.S.C. 727(a)) is amended by striking “, in coordination with the Chief Information Officer of the Department,”.

(c) DEFINITIONS.—Section 641 of such Act (6 U.S.C. 741) is amended in paragraphs (2) and (14) by striking “section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311)” and inserting “section 203 of the FEMA Independence Act of 2009”.

(d) FEDERAL RESPONSE CAPABILITY INVENTORY.—Section 651 of such Act (6 U.S.C. 751) is amended in paragraphs (2) and (3) of subsection (b) by striking “section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)” and inserting “section 203 of the FEMA Independence Act of 2009”.

(e) FEDERAL PREPAREDNESS.—Section 653(a)(2) of such Act (6 U.S.C. 753(a)(2)) is amended by striking “section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)” and inserting “section 203 of the FEMA Independence Act of 2009”.

(f) NATIONAL DISASTER RECOVERY STRATEGY.—Section 682(a) of such Act (6 U.S.C. 771(a)) is amended by inserting “the Secretary,” after “the Department of the Interior,”

(g) INDIVIDUALS WITH DISABILITIES.—Section 689(a) of such Act (6 U.S.C. 773(a)) is amended by striking “section 513 of the Homeland Security Act of 2002, as added by this Act” and inserting “section 204 of the FEMA Independence Act of 2009”.

(h) LIMITATIONS ON TIERING OF SUBCONTRACTORS.—Section 692 of such Act (6 U.S.C. 792)—

(1) in subsections (a) and (b) by striking “Secretary” and inserting “Administrator”; and

(2) in subsection (c) by striking “Department” and inserting “Agency”.

(i) LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.—Section 695 of such Act (6 U.S.C. 794) is amended—

(1) in subsections (a) and (b) by striking “Secretary” and inserting “Administrator”; and

(2) in subsection (c) by striking “Department” and inserting “Agency”.

#### SEC. 112. CONFORMING AND TECHNICAL AMENDMENTS TO OTHER LAWS.

(a) CHIEF FINANCIAL OFFICER.—Section 901(b)(2) of title 31, United States Code, is amended by adding at the end the following:

“(H) The Federal Emergency Management Agency.”

(b) INSPECTOR GENERAL ACT OF 1978.—Section 12(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “Director of the Federal Emergency Management Agency” and inserting “Administrator of the Federal Emergency Management Agency”.

(c) TECHNICAL CORRECTIONS TO REFERENCES.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 602(a) by striking paragraph (7) and inserting the following:

“(7) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.”; and

(2) by striking “Director” each place it appears and inserting “Administrator”, except—

(A) the second and fourth places it appears in section 622(c); and

(B) in section 626(b).

#### SEC. 113. CHANGES TO ADMINISTRATIVE DOCUMENTS.

Not later than 120 days after the date of enactment of this Act, the President shall amend Homeland Security Presidential Directive–5, Homeland Security Presidential Directive–8, and any other similar administrative document to reflect the changes made by this Act (including the amendments made by this Act).

#### SEC. 114. RECOMMENDED LEGISLATION.

(a) IN GENERAL.—After consultation with Congress, the Administrator shall prepare recommended legislation containing additional technical and conforming amendments to reflect the changes made by this title.

(b) SUBMISSION TO CONGRESS.—Not later than 90 days after the last day of the transition period referred to in section 105(e), the Administrator shall submit to Congress a report containing the recommended legislation.

## TITLE II—RELATED MATTERS

#### SEC. 201. NATIONAL ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Administrator shall continue to maintain an advisory body to ensure effective and ongoing coordination of Federal preparedness, response, recovery, and mitigation for hazards, to be known as the National Advisory Council.

(b) RESPONSIBILITIES.—The National Advisory Council shall advise the Administrator on all aspects of emergency management.

(c) MEMBERSHIP.—

(1) **IN GENERAL.**—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate—

(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

(B) health scientists, emergency and inpatient medical providers, and public health professionals;

(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

(D) State, local, and tribal government officials with expertise in preparedness, response, recovery, and mitigation, including Adjutants General;

(E) elected State, local, and tribal government executives;

(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

(G) representatives of individuals with disabilities and other populations with special needs; and

(H) such other individuals as the Administrator determines to be appropriate.

(2) **COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION.**—In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

(3) **EX OFFICIO MEMBERS.**—The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

(4) **TERMS OF OFFICE.**—The term of office of each member of the National Advisory Council shall be 3 years.

(d) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

(2) **TERMINATION.**—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

**SEC. 202. NATIONAL INTEGRATION CENTER.**

(a) **IN GENERAL.**—There is established in the Agency a National Integration Center.

(b) **RESPONSIBILITIES.**—The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance, including revisions as appropriate, of the National Incident Management System, the National Response Plan (including the Catastrophic Incident Annex), and any successor to such system or plan.

(c) **INCIDENT MANAGEMENT.**—

(1) **NATIONAL RESPONSE PLAN.**—The Administrator shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any hazard.

(2) **PRINCIPAL FEDERAL OFFICIAL.**—The position of Principal Federal Official is abolished.

**SEC. 203. CREDENTIALING AND TYPING.**

(a) **IN GENERAL.**—The Administrator shall continue to implement a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers to collaborate on developing standards for deployment capabilities, including for credentialing and typing of incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard.

(b) **DISTRIBUTION.**—

(1) **IN GENERAL.**—The Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to—

(A) each Federal agency that has responsibilities under the National Response Plan to aid that agency with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard; and

(B) State, local, and tribal governments, to aid such governments with credentialing and typing of State, local, and tribal incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard.

(2) **ASSISTANCE.**—The Administrator shall provide expertise and technical assistance to aid Federal, State, local, and tribal government agencies with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard.

(c) **CREDENTIALING AND TYPING OF PERSONNEL.**—Each Federal agency with responsibilities under the National Response Plan shall ensure that incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a hazard are credentialed or typed, as appropriate, in accordance with this section.

(d) **CONSULTATION ON HEALTH CARE STANDARDS.**—In developing standards for credentialing health care professionals under this section, the Administrator shall consult with the Secretary of Health and Human Services.

(e) **DEFINITION.**—For purposes of this section, the term “credentialing” means to provide documentation that identifies personnel and authenticates and verifies the qualifications of such personnel by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for a particular position in accordance with standards created under this section.

**SEC. 204. DISABILITY COORDINATOR.**

(a) **IN GENERAL.**—The Administrator shall appoint in the Agency a Disability Coordinator in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief. The Disability Coordinator shall report directly to the Administrator.

(b) **CONSULTATION.**—The Disability Coordinator shall be appointed after consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note).

(c) **TRANSITIONAL PROVISION.**—The individual serving in the Agency as Disability Coordinator on the date of enactment of this Act may continue to serve in that position at the discretion of the Administrator.

**SEC. 205. NUCLEAR INCIDENT RESPONSE.**

(a) **IN GENERAL.**—At the direction of the Administrator (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Agency. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Administrator.

(b) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to limit the ordinary responsibility of the Secretary of Energy or the Administrator of the Environmental Protection Agency for organizing, training, equipping, or utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this section) from exercising direction, authority, or control over them when they are not operating as a unit of the Agency.

**SEC. 206. URBAN AREA ALL HAZARDS PREPAREDNESS GRANT PROGRAM.**

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

**“SEC. 617. URBAN AREA ALL HAZARDS PREPAREDNESS GRANT PROGRAM.**

“(a) **IN GENERAL.**—To assist urban areas to prepare for any hazard, the Administrator shall establish an urban area all hazards preparedness grant program.

“(b) **ELIGIBILITY.**—The 100 most populous metropolitan statistical areas, as defined by the Office of Management and Budget, shall be eligible to receive a grant award under this section. The Administrator may consider additional urban areas for a grant award based on criteria established by the Administrator.

“(c) **NOTIFICATION AND INFORMATION.**—Not later than 30 days before the Administrator accepts applications for the urban area all hazards preparedness grant pro-

gram, the Administrator shall notify the chief elected official of each urban area and the Governor of the State in which such urban area is located if the urban area is eligible for a grant under this section and provide information regarding the application procedures and grant award criteria. Such notification and information shall also be published in the Federal Register not later than 15 days before the Administrator accepts applications for the grant program.

“(d) APPLICATION.—An urban area eligible under subsection (b) may apply to the Administrator for a grant award under this section. Such application shall demonstrate, to the satisfaction of the Administrator, that—

“(1) the urban area will use funds awarded under this section to develop or implement activities that support the emergency management goals of the State in which an urban area is located; and

“(2) the State has reviewed the application.

“(e) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The Administrator shall allocate funds to each State in which an urban area selected to receive a grant award under this section is located based on—

“(A) the population of each eligible urban area;

“(B) the relative level of risk of any hazard faced by each eligible urban area; and

“(C) other factors as determined appropriate by the Administrator.

“(2) MINIMUM ALLOCATION.—In determining the allocation amount under paragraph (1), the Administrator may provide each eligible urban area with a minimum allocation.

“(3) STATE DISTRIBUTION OF FUNDS.—

“(A) IN GENERAL.—Not later than 45 days after the date on which a State receives a grant award under this section, the State shall provide each urban area awarded a grant not less than 80 percent of the award amount for such area. Any funds retained by a State shall be expended on items, services, or activities related to emergency preparedness that benefit such urban area for activities described in subsection (f).

“(B) FUNDS RETAINED.—A State shall provide each urban area awarded such a grant with an accounting of the items, services, or activities on which any funds retained by the State under subparagraph (A) were expended.

“(4) INTERSTATE URBAN AREAS.—If an urban area selected to receive a grant award under this section is located in 2 or more States, the Administrator shall distribute to each such State a portion of the grant funds that the Administrator determines to be appropriate.

“(f) USES OF FUNDS.—An urban area that receives a grant award under this section may use funds only for activities determined by the Administrator to enhance the preparedness of an urban area for a hazard, and shall include—

“(1) planning;

“(2) purchase and maintenance of equipment;

“(3) training;

“(4) exercises; and

“(5) management and administration.

“(g) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to implement the urban area all hazards preparedness grant program under this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

“(1) \$525,000,000 for fiscal year 2010;

“(2) \$575,000,000 for fiscal year 2011; and

“(3) \$650,000,000 for fiscal year 2012.”.

#### PURPOSE OF THE LEGISLATION

H.R. 1174, the “FEMA Independence Act of 2009”, as amended, re-establishes the Federal Emergency Management Agency (FEMA) as an independent, cabinet-level agency reporting directly to the President.

#### BACKGROUND AND NEED FOR LEGISLATION

FEMA is the Federal Government’s lead agency for preparing for, mitigating, responding to, and recovering from disasters and emer-

gencies from all hazards, whether natural or man-made. Prior to the creation of the Department of Homeland Security (DHS) in 2003, FEMA was an independent agency responsible for coordinating and administering, on behalf of the President, the Federal Government's assistance to States and local governments whose citizens and communities are affected by disasters. Since 2003, when the agency was subsumed into DHS, FEMA's ability to perform its emergency management mission and provide disaster assistance has deteriorated sharply.

Congress has enacted changes on several occasions to bolster FEMA's role within DHS, most comprehensively in the Post-Katrina Emergency Management Reform Act of 2006 (Post-Katrina Act).<sup>1</sup> These legislative solutions have not sufficiently improved FEMA's ability to make independent and timely decisions, to exercise full authority and control over resources, and to successfully operate within the DHS structure as a distinct Federal entity responsible for emergency management. By removing FEMA from the deep and layered bureaucracy within DHS, H.R. 1174 restores FEMA as a nimble and effective agency capable of coordinating the entire Federal Government's disaster response on behalf of the President.

#### HISTORY OF FEMA

Prior to the creation of FEMA, disaster management functions were scattered across the Federal Government. Ad-hoc disaster programs were created in different departments and during disasters they operated in an uncoordinated, stove-piped fashion. FEMA was created on April 1, 1979, by Reorganization Plan No. 3 of 1978 and Executive Order 12127. As President Carter stated when he proposed the agency: "For the first time, key emergency management and assistance functions would be unified and made directly accountable to the President and Congress".<sup>2</sup> The agency was intended to function on an "all hazards" basis, combining preparedness, response, recovery, and mitigation functions from throughout the Federal Government. FEMA's all hazards mission included natural disasters, terrorism, and Cold War civil defense preparedness. The all hazards approach served the agency well as it transitioned out of Cold War civil defense in the 1990s. In 1994, the provisions of the Federal Civil Defense Act of 1950 were incorporated into a new Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).<sup>3</sup>

FEMA functioned as an independent agency reporting directly to five Presidents from 1979 until 2003. During the Clinton Administration, the Director of FEMA,<sup>4</sup> James Lee Witt, became a member of the President's Cabinet. As an independent agency, FEMA responded to a wide range of natural and man-made disasters including Hurricane Andrew, the Northridge Earthquake, the 1993 Midwest floods, the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, and both the 1993 and 2001 attacks on

<sup>1</sup>Department of Homeland Security Appropriations Act, 2007, Pub. L. No. 109-295, Title VI, 120 Stat. 1394 (2006).

<sup>2</sup>*Message of President Carter to Congress Transmitting Reorganization Plan No. 3 of 1978*, H.R. Doc. No. 95-356, at 1129 (1978).

<sup>3</sup>National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, §3411, 108 Stat. 3100 (1994).

<sup>4</sup>Prior to April 1, 2007, the Administrator of FEMA was referred to as the Director of FEMA.

the World Trade Center. FEMA was considered a successful government agency in its last ten years as an independent agency, under both President Clinton and President Bush. In fact, when DHS was proposed in 2002, FEMA was held up as a necessary core component of the Department.<sup>5</sup> FEMA became part of the newly-created DHS on March 3, 2003, pursuant to the Homeland Security Act of 2002.<sup>6</sup> As a result, President Bush delegated to the Secretary of DHS the responsibility for administering most of the provisions of the Stafford Act and other FEMA authorities.<sup>7</sup>

#### FEMA PROGRAMS

FEMA's primary authority in carrying out its preparedness, mitigation, response, and recovery functions is the Stafford Act.<sup>8</sup>

FEMA is best known for its programs that provide assistance to communities and citizens in the wake of a disaster. FEMA's major programs for disaster recovery are the Public Assistance program and the Individual Assistance program. The Public Assistance program reimburses State and local emergency response costs and provides grants to State and local governments as well as certain private non-profit organizations to rebuild facilities. The Individual Assistance program provides assistance to families and individuals impacted by disasters, including housing assistance and disaster-related dental, medical, and funeral costs. Additional assistance available under the Individual Assistance program includes unemployment assistance, disaster food stamps, disaster legal services, and crisis counseling. Both before and after disasters, FEMA also provides grants to communities to reduce the risk of future damage, hardship, and loss from all hazards through the Pre-Disaster Mitigation program and the (post-disaster) Hazard Mitigation Grant program, both authorized by the Stafford Act.

In addition to the agency's disaster work, the United States Fire Administration, the National Fire Academy, the Emergency Management Institute, the National Flood Insurance Program, and the Federal Government's programs for continuity of operations and continuity of government are housed within FEMA.

#### SIGNIFICANCE OF DISASTER RELIEF

While the September 11, 2001, terrorist attacks refocused our nation's attention on the threat of terrorism and significantly changed our society, the most imminent threats to most communities around the country continue to be natural disasters. The nation still faces the same threats from fires, floods, tornadoes, hurricanes, and other disasters currently as before the events of September 11.

In addition, disaster relief is a significant portion of the Federal budget. From fiscal years (FY) 2000 to 2009, Congress appropriated \$83.41 billion for the Disaster Relief Fund in response to disasters and emergencies declared by the President under the Stafford Act.<sup>9</sup>

<sup>5</sup> Christopher Cooper and Robert Block, *Disaster Hurricane Katrina and the Failure of Homeland Security*, (2006) at 76.

<sup>6</sup> Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002).

<sup>7</sup> *Executive Order 13286 of February 28, 2003: Amendment to Executive Orders, and Other Actions, in Connection with the Transfer of Certain*, 68 Fed. Reg. 10619 (March 5, 2003).

<sup>8</sup> 42 U.S.C. § 5121-5207.

<sup>9</sup> Email from Bruce Lindsay and Francis McCarthy, Congressional Research Service (December 8, 2009).



In addition, the National Flood Insurance Program, administered by FEMA, paid over \$27.6 billion in claims for flood damage during that same time.<sup>10</sup> Over the past ten years, private insurance has paid more than \$173 billion in claims for natural disasters.<sup>11</sup> These amounts do not include funds spent in connection with the September 11 attacks. Therefore, about \$284 billion was expended over the last decade in response to natural disasters. This does not count the costs borne by States, local governments, and private citizens.

According to FEMA records, since 2000, the President has declared only two major disasters because of terrorist attacks, but declared more than 500 disasters because of natural hazards. Despite this fact, relatively few of the nation's preparedness funds have been distributed for core all hazards preparedness but have been funneled instead to terrorism-specific activities. At an April 2007 hearing of the Subcommittee on Economic Development, Public Buildings, and Emergency Management,<sup>12</sup> witnesses identified the enormous disparity in funding between terrorism preparedness and emergency management preparedness. Between FY 2002 and FY 2010, the Federal Government has appropriated 10 times more for terrorism preparedness (\$21 billion) than for core emergency management preparedness (\$2 billion).<sup>13</sup>

#### EFFECTIVE EMERGENCY MANAGEMENT

There are many elements of an effective emergency management system. These elements include the ability to respond quickly, effectively, and flexibly, as well as the ability to make quick decisions or provide information directly to key executive decision makers (e.g., the President, a Governor, or a Mayor). Emergency management is also a collaborative enterprise between local, State, and Federal agencies and officials. Emergency management is based on our Federal (as opposed to national) legal and political systems, whose authority resides predominately at the State and local level.<sup>14</sup> Emergency management functions on the premise that all events begin at the local level and that States and the Federal Government provide support to those local efforts if and when the situation warrants. This approach distinguishes emergency management from homeland security, which is based on a more top-down, law enforcement model where the Federal Government is the lead in most areas, such as protecting our borders, immigration, and aviation security.

Contemporary emergency management also employs an all hazards approach and integrates all phases of emergency management: preparedness, response, recovery and mitigation. An all hazards approach is based on the premise that communities do not need to prepare separately for each kind of threat, but as President Carter recognized when FEMA was created, it is best to work on an "all hazard basis to take advantage of the similarities in pre-

<sup>10</sup> Email from FEMA (December 3, 2009).

<sup>11</sup> Property Casualty Insurers Association of America (November 2009).

<sup>12</sup> *The Federal Emergency Management Agency's Preparedness and Response to All Hazards*, Before the Subcomm. on Economic Development, Public Buildings, and Emergency Management of the H. Comm. on Transportation and Infrastructure (2007).

<sup>13</sup> Email from Shawn Reese, Congressional Research Service (November 24, 2009).

<sup>14</sup> Thomas A. Birkland, *Disasters, Catastrophes and Policy Failure in the Homeland Security Era*, 26 Review of Policy Research 429 (2009).

paring for and responding to the full range of potential emergencies”.<sup>15</sup> The essential elements of preparedness, response, and recovery are the same regardless of the type of event. Whether a building collapses from a bomb, a pipeline explosion, or an earthquake, the rescue and the debris removal are the same. The evacuation of a community is largely the same whether due to a hurricane, a heightened threat of a terrorist attack, or a hazardous materials incident. While the specific assets needed to respond to each disaster will differ, the methods and systems to effectively manage a disaster are the same. Testimony from emergency managers and others before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, has supported an all hazards approach as the best course for effective emergency management.<sup>16</sup>

*Crisis management versus consequence management*

A distinction between the two phases of dealing with a terrorist event has evolved to distinguish between the roles of law enforcement and emergency management. These two phases are known as “crisis management” and “consequence management”. Under this construct, law enforcement agencies (e.g., the Federal Bureau of Investigation and now DHS) are responsible for crisis management, or preventing terrorist activity and the prosecution of those who carry it out. Crisis management is often called “prevention and protection”. In this phase, dealing with terrorism is different than other threats our nation faces, and this is the focus of many other entities and agencies within DHS. It includes protecting our borders, our transportation systems, our communities, and our infrastructure, as well as working closely with other law enforcement and intelligence agencies. FEMA does not contribute materially to this prevention and protection mission.

Conversely, emergency managers are responsible for consequence management, or preparedness, response, recovery, and mitigation, regardless of the cause of a particular incident, including a terrorist act. From its inception, FEMA was given a key role in the “[c]oordination of preparedness and planning to reduce the consequences of major terrorist incidents”.<sup>17</sup> Consequence management entails planning for a wide range of hazards, regardless of cause, to ensure a community is prepared and able to mount an effective response and recovery effort when disaster strikes.

This division of responsibilities worked well in the aftermath of the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City and both the 1993 and the 2001 attacks on the World Trade Center. FEMA responded to each of these events as an independent agency and used its all hazards authority under the Stafford Act. Therefore, prior experience indicates that no separate systems are needed to manage the consequences of a terrorist attack versus a natural disaster.

<sup>15</sup>H.R. Doc. No. 95-356, at 1129 (1978).

<sup>16</sup>*FEMA’s Preparedness and Response to All Hazards*, Before the Subcomm. on Economic Development, Public Buildings, and Emergency Management of the H. Comm. on Transportation and Infrastructure, 110th Cong. (2007).

<sup>17</sup>H.R. Doc. No. 95-356, at 1129 (1978).

## FEMA'S PERFORMANCE IN DHS

Oversight conducted by the Committee on Transportation and Infrastructure since 2003 has shown how FEMA's effectiveness deteriorated after FEMA was incorporated into DHS. Upon FEMA's absorption into DHS, vacancies went unfilled and FEMA was reorganized three times from 2003 to 2005. Each reorganization resulted in a loss of programs and staff that were critical to FEMA's all hazards mission.<sup>18</sup>

In the aftermath of the poor Federal response to Hurricanes Katrina and Rita in 2005, Congress enacted the Post-Katrina Act. This law attempted to enhance FEMA's authority within DHS. While there has been some improvement, FEMA continues to lack the autonomy to function as a "distinct entity" within DHS, as required by law. This lack of autonomy has continued to hamper the agency's performance.

The nation witnessed the tragic consequences of the breakdown of FEMA operations during the inadequate Federal response to Hurricanes Katrina and Rita in 2005. Delays in the immediate response in the days following Hurricane Katrina left people stranded without food, water, or shelter and living in fear for their safety, their security, and their lives. To this day, many communities in Louisiana have still not recovered from these disasters, and continue to need public assistance, illustrating that the catastrophic response was followed by an ineffective recovery effort.

While Katrina was the most significant and memorable example, other examples indicate FEMA's performance continues to be deficient. The 2008 season was the first hurricane season of significance since Hurricanes Katrina and Rita in 2005. In the aftermath of Hurricane Ike in 2008, residents and communities in Texas experienced significant shortcomings in the delivery of recovery assistance. For example, FEMA was long delayed in developing the National Disaster Housing Strategy<sup>19</sup> to ensure a plan for safe and sanitary housing as required by Congress after Hurricane Katrina.<sup>20</sup> Without the required planning completed, FEMA was unprepared, in the aftermath of Hurricane Ike, to meet the short- and long-term housing needs of the hundreds of thousands of victims who needed housing assistance.

Debris removal operations were also slow to get underway, as noted publicly by the Governor of Texas and other public officials.<sup>21</sup> Months after the disaster, critical debris removal operations had still not begun. This is contrasted with the debris removal operation at the World Trade Center site after the September 11, 2001, attacks, which occurred while FEMA was still an independent agency. According to FEMA, major debris removal operations for that disaster were completed on time and under budget.

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<sup>18</sup>H.R. Rep. 109-519 Part 2, at 21.

<sup>19</sup>The National Disaster Housing Strategy was due in July 2007 and was issued on Friday, January 16, 2009, the last business day of the Bush Administration.

<sup>20</sup>6 U.S.C. § 772.

<sup>21</sup>*Texas Residents Watch Hurricane Ike Debris Mount*, National Public Radio: All Things Considered (December 9, 2008).

## IMPEDIMENTS FACING FEMA IN DHS

*Transfer of personnel and resources*

In addition to the transfer of functions and programs, upon FEMA's incorporation into DHS, personnel were transferred from FEMA to other agencies within DHS and funds were cut and distributed elsewhere within the Department. The transfer of these funds has been referred to as "DHS taxes" within the Department. This approach left FEMA without its most seasoned and knowledgeable staff and bereft of funds and other resources needed for an effective response to Hurricane Katrina. For example, information provided to the Committee in response to questions from a hearing on an independent FEMA documented more than \$200 million in "taxes" paid to DHS and a reduction of tens of millions of dollars in FEMA's base budget.<sup>22</sup> This resulted in hundreds of staff vacancies before Hurricane Katrina, as FEMA did not have the funds to pay for authorized positions. In addition, many of the personnel charged with overseeing FEMA had little or no experience in emergency management.

Congress created a statutory "wall" around FEMA in the Post-Katrina Act to prevent the transfer of resources out of FEMA.<sup>23</sup> Unfortunately, this has not been sufficient to protect the agency from having DHS manage its resources. DHS, in its FY 2010 budget request, proposed to transfer 17 positions out of FEMA and into the Office of the Secretary. The FY 2010 Department of Homeland Security Appropriations Act transferred these positions.<sup>24</sup>

*Shift in FEMA's mission to terrorism*

Previous hearings and other information provided to the Committee have raised concerns that changes made by DHS to FEMA programs continue to shift FEMA's mission from all hazards toward terrorism at the expense of natural disasters and other emergencies. For example, changes to two Federal grant programs that previously helped build basic emergency management and fire-fighting capabilities in communities around the country, Emergency Management Performance Grants (EMPG) and Fire Grants, illustrate this trend.

Since FEMA became part of the Department, DHS has attempted to change the focus of EMPG to a terrorism preparedness program rather than its longstanding purpose of basic emergency management capacity building. For instance, DHS requires States and localities to agree to spend a portion of EMPG funds on DHS-mandated planning scenarios that are focused on terrorism. DHS also mandates that grants be sent through State homeland security officials (SAAs) rather than continuing the longstanding practice of providing funds directly to emergency managers. This trend continued in the President's FY 2010 Budget request, which proposed that funding for the EMPG program be combined with terrorism-specific programs.

<sup>22</sup> *An Independent FEMA: Restoring the Nation's Capabilities for Effective Emergency Management and Disaster Response*, Before the H. Comm. on Transportation and Infrastructure (May 14, 2009).

<sup>23</sup> 6 U.S.C. § 316(b)-(d).

<sup>24</sup> H.R. Rep. 111-298 at 54.

Concerns have also been raised about the Fire Grant program, which under its authorizing statute is designed to build and enhance basic firefighting capability and enhance firefighter safety in communities across the nation.<sup>25</sup> However, under DHS, fire departments have been expected to show a nexus to terrorism to receive grants. Further, DHS budget requests, including the FY 2010 request, have attempted to prioritize certain aspects of the program to fund activities that have a nexus to terrorism and to focus funds on communities with a greater risk of terrorism.

*Reduction in FEMA's decision-making power*

Quick decision-making and the flexibility to shift focus as events change are two fundamental hallmarks of successful emergency management. Without the authority to make final decisions, an agency cannot be effective. Within DHS, FEMA officials have had to run all decisions through the Secretary of Homeland Security. This chain of command has been used to make major decisions including announcements of major policy changes. Further, statements of DHS and FEMA officials have indicated that major decisions have been made or approved in the Office of the Secretary, notwithstanding the provisions of the Post-Katrina Act that make FEMA autonomous as a distinct entity.<sup>26</sup> FEMA has also had to work through the Secretary to access non-FEMA Federal resources in a response effort. These impediments did not exist when FEMA was an independent agency, and raises concerns about the impact on the speed and flexibility of services that are provided to citizens and communities following a disaster.

*DHS duplicates capacities and functions of FEMA*

DHS has created separate and redundant functions under the direct control of the Secretary of DHS to perform functions that by law are the sole responsibility of FEMA. These are not only in contradiction to the law, but also to FEMA's all hazards approach and the need for clear leadership and authority identified after Hurricane Katrina. A recurring example that stands to have a significant impact on response to a disaster is the appointment of Principal Federal Officials (PFOs). PFOs are an administrative creation of DHS. However, by law, the President, acting through FEMA, is authorized to appoint a Federal Coordinating Officer (FCO) to be the lead Federal official in response to major disasters and emergencies.<sup>27</sup> The confusion regarding the roles of these different Federal officials and the resulting lack of clear authority was widely criticized as a factor in the failed response to Hurricane Katrina.<sup>28</sup> As a result, Congress enacted several laws after Hurricane Katrina<sup>29</sup> that prohibited the Secretary from appointing PFOs in major disasters and emergencies. Notwithstanding these prohibitions, DHS has continued this structure. DHS has justified the appointment of a PFO by relying on Homeland Security Presidential

<sup>25</sup> 15 U.S.C. § 2229.

<sup>26</sup> 6 U.S.C. § 316.

<sup>27</sup> Section 302 of the Stafford Act, 42 U.S.C. § 5143.

<sup>28</sup> H.R. Report 109-519, Part 2 at 22.

<sup>29</sup> 6 U.S.C. § 319(c)(2); Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, Division E, Title III, § 541, 121 Stat 2079 (2007); Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Pub. L. No. 110-329, Division D, Title V, § 526, 122 Stat 3686 (2008).

Directives (HSPDs), administrative documents created by the Bush Administration. These administrative provisions conflict with and, in some cases, have been superseded by subsequent laws.

For example, DHS pre-designated individuals to serve as PFOs for disasters during the 2008 Hurricane season.<sup>30</sup> More recently, the Committee obtained information that DHS planned to use PFOs and their support teams for a potential response to the H1N1 virus.<sup>31</sup> DHS did this even while acknowledging the statutory prohibitions and the intent of Congress.<sup>32</sup> DHS attempted to avoid the statutory prohibition by changing the name of these teams to “Regional Coordination Teams”. Recently, DHS acknowledged planning for an H1N1 pandemic was in violation of law and sought the Committee’s concurrence in waiving the prohibition on appointment of PFOs for pandemic flu. The Department expressed concerns about having to reposition and restructure teams already in place just before the potential outbreak of a pandemic. The FY 2010 Homeland Security Appropriations conference report included language granting a waiver from the statutory prohibition against appointment of PFOs for Fiscal Year 2010, provided the Secretary of Homeland Security complies with certain conditions.<sup>33</sup>

Another separate and redundant function is the Office of Operations Coordination which reports directly to the Secretary of DHS. This office is housed outside of FEMA, but has been given key response and preparedness responsibilities. Homeland Security Presidential Directive–5 (HSPD–5) was signed by President Bush on February 28, 2003 (three days before FEMA was incorporated into DHS). It provided that the Secretary of Homeland Security was in charge of “incident management” for the Federal Government. Incident management is commonly recognized to be an element of response, one of the four phases of emergency management.<sup>34</sup> Therefore, Congress enacted subsequent laws that made it clear that FEMA was responsible for all phases of emergency management, and that those functions should be moved into FEMA.<sup>35</sup> DHS justifies maintaining duplicate capabilities and responsibilities at the Office of Operations Coordination, outside of FEMA, by re-defining incident management as being separate from rather than a critical element of emergency management,<sup>36</sup> notwithstanding specific statutory language that includes the incident management elements of response as part of FEMA.<sup>37</sup>

Similarly, the Office of the Federal Coordinator for Gulf Coast Rebuilding was created by President Bush in an Executive Order,<sup>38</sup>

<sup>30</sup>Memorandum of then-Secretary of Homeland Security Michael Chertoff, *Pre-Designated Principal Federal Officials and Federal Coordinating Officers for the 2008 Hurricane Season* (May 23, 2008).

<sup>31</sup>Decision Memorandum from Roger Rufe, Director of Office of Operations Coordination and Planning, to Secretary of Homeland Security, *Employment and Activation of Field Teams for H1N1 Operations* (June 4, 2009).

<sup>32</sup>*Id.* at 5.

<sup>33</sup>Department of Homeland Security Appropriations Act, 2010, Pub. L. No. 111–83, § 522, 123 Stat. 2172–2173 (2009).

<sup>34</sup>*An Independent FEMA: Restoring the Nation’s Capabilities for Effective Emergency Management and Disaster Response*, Before the H. Comm. on Transportation and Infrastructure (May 14, 2009) (Letter of Larry Gispert, Past President International Association of Emergency Managers dated Nov. 18, 2009).

<sup>35</sup>6 U.S.C. § 313 and 6 U.S.C. § 314.

<sup>36</sup>National Response Framework, (Jan. 2008) at 25, 54, and 55.

<sup>37</sup>6 U.S.C. § 319(c).

<sup>38</sup>*Executive Order 13390 of November 1, 2005: Establishment of a Coordinator of Federal Support for the Recovery and Rebuilding of the Gulf Coast Region*, 70 Fed. Reg. 67327 (Nov. 4, 2005).

and resides in DHS headquarters, not FEMA. Under the Post-Katrina Act, the Administrator of FEMA is designated as the principal advisor to the President and the Secretary for “all matters related to emergency management”, including recovery.<sup>39</sup> Therefore, the duties for this DHS office should reside with the Administrator of FEMA. The office of Gulf Coast Rebuilding continues to exist in the office of the Secretary, and the FY 2010 budget proposed \$2 million for the office, including an increase in staff. The Fiscal Year 2010 Department of Homeland Security Appropriations Act granted the office \$2 million.<sup>40</sup> The Executive Order for this office was set to expire on February 28, 2009; it has been extended twice by President Obama, first to September 30, 2009, and then to April 1, 2010.<sup>41</sup>

#### SUMMARY OF THE LEGISLATION

##### *Section 1. Short title; table of contents*

Section 1 designates the short title of the bill as the “FEMA Independence Act of 2009” and sets out the table of contents for the bill.

##### *Sec 2. Definitions*

Section 2 sets forth definitions for the following terms used in the bill:

- Administrator—The term “Administrator” means the Administrator of FEMA.
- Agency—The term “Agency” means the Federal Emergency Management Agency.
- Emergency—The term “emergency” has the same meaning as that term has in section 102 of the Stafford Act.
- Emergency Management—The term “emergency management” means preparedness for, response to, recovery from, and mitigation of hazards.
- Hazard—The term “hazard” has the same meaning as that term has in section 602(b) of the Stafford Act.
- Major Disaster—The term “major disaster” has the same meaning as that term has in section 102 of the Stafford Act.

#### TITLE I—ESTABLISHMENT OF FEDERAL EMERGENCY MANAGEMENT AGENCY

##### *Sec. 101. Establishment of independent agency*

Subsection (a) of section 101 establishes FEMA as a cabinet-level, independent agency.

Subsection (b) provides that the primary mission of the agency is reducing the loss of life and property, and protecting the nation from hazards by leading and supporting a comprehensive emergency management system of preparedness, response, recovery, and mitigation.

<sup>39</sup> 6 U.S.C. § 313(c)(4).

<sup>40</sup> Department of Homeland Security Appropriations Act, 2010, Pub. L. No. 111–83, 123 Stat. 2144 (2009).

<sup>41</sup> *Executive Order 13504 of February 20, 2009: Amending Executive Order 13390*, 74 Fed. Reg. 8431 (Feb. 24, 2009). *Executive Order 13512 of September 29, 2009: Amending Executive Order 13390*, 74 Fed. Reg. 50911 (Oct. 2, 2009).

*Sec. 102. Administrator; deputy administrator; and other officials of the agency*

Subsection (a) of section 102 requires FEMA to be headed by an Administrator, appointed by the President with the advice and consent of the Senate. The Administrator shall have extensive experience in emergency preparedness, response, recovery, and mitigating hazards.

Subsection (b) establishes the position of Deputy Administrator who shall also have extensive experience in emergency preparedness, response, recovery, and mitigation from hazards.

Subsection (c) establishes six Assistant Administrators appointed by the Administrator with duties determined by the Administrator. Each Assistant Administrator shall have demonstrated ability in and knowledge of emergency management or other fields related to their position.

Subsection (d) establishes 10 FEMA regional offices, consistent with the current 10 regional offices of the Agency. Each regional office shall be headed by a Regional Administrator who is appointed by the Administrator. The Regional Administrators shall have demonstrated ability in and knowledge of emergency management as well as familiarity with the geographical area and demographic characteristics of the population served by the Regional Office.

Subsection (e) authorizes an Area Office for the Pacific, an Area Office for the Caribbean, and an Area Office in Alaska as components in the appropriate Regional Offices. These offices currently exist as part of FEMA's regional office structure. The Area Office for the Pacific is located in Honolulu, Hawaii; the Area Office for the Caribbean is located in San Juan, Puerto Rico; and the Area Office for Alaska is located in Anchorage, Alaska. The Committee expects that these offices will remain in Hawaii, Puerto Rico, and Alaska.

*Sec. 103. Authority and responsibilities*

Subsection (a) of section 103 provides that FEMA will lead the Federal Government's efforts to prepare for, respond to, recover from, and mitigate hazards.

Subsection (b) provides that the Administrator shall assist the President in carrying out the functions under the Stafford Act and shall carry out all the functions and authorities given to the Administrator by this bill.

Subsection (c) spells out the mission of the agency in mitigation, preparedness, response, and recovery.

Subsection (d) provides for the duties of the agency in managing the Federal response to hazards. FEMA is charged with coordinating the Federal Government's response to hazards, building a comprehensive national incident management system, administering the National Response Plan, and helping to ensure the acquisition of operable and interoperable communications by Federal, State, local and tribal governments and emergency response providers.

Subsection (e) provides that the Administrator is responsible for the Federal Government's programs for continuity of operations, continuity of government, and continuity of plans.



Subsection (f) describes additional duties of the Administrator including: coordinating the National Advisory Council authorized by this bill; maintaining and operating the National Response Coordination Center; developing and maintaining a national emergency management system; and supervising the Agency's grant programs.

Subsection (g) requires that, in carrying out the responsibilities under this section, the Administrator shall use an all hazards approach.

*Sec. 104. Office of the Inspector General*

Section 104 re-establishes the FEMA Office of Inspector General.

*Sec. 105. Transfer of functions*

Subsection (a) of section 105 provides for the transfer to the Administrator of FEMA all functions of the Agency including, all functions of FEMA as of January 1, 2009, continuity of operations and continuity of government, and any function that was required to be transferred to the Agency by the Post-Katrina Act that has not yet been transferred.

The functions also include all of the functions of the Agency under current law, including carrying out the following:

- The Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- The National Flood Insurance Act of 1968;
- The Earthquake Hazards Reduction Act;
- The National Dam Safety Program Act;
- The Federal Fire Prevention and Control Act;
- Reorganization Plan No. 3 of 1978;
- Section 612 of the Security and Accountability For Every Port Act of 2006; and
- Title III of the McKinney-Vento Homeless Assistance Act.

Subsection (b) requires the transfer to the Inspector General of FEMA all of the functions relating to the Office of the Inspector General that were transferred from FEMA to DHS on or after January 1, 2003.

Subsection (c) provides that the following functions shall not be affected by H.R. 1174 and shall remain within DHS:

- The transit security grant program authorized by section 1406 of the Implementing Recommendations of the 9/11 Commission Act (6 U.S.C. § 1135);
- The freight rail security grant program authorized by section 1513 of the Implementing Recommendations of the 9/11 Commission Act (6 U.S.C. § 1163);
- The intercity rail passenger program authorized by section 1513 of the Implementing Recommendations of the 9/11 Commission Act (6 U.S.C. § 1163);
- The intercity bus security grant program authorized by section 1532 of the Implementing Recommendations of the 9/11 Commission Act (6 U.S.C. § 1182);
- The port security grant program authorized by section 70107 of title 46, United States Code;
- The prevention and protection components of the Urban Area Security Initiative, authorized by section 2003 of the Homeland Security Act (6 U.S.C. § 604);

- The prevention and protection components of the State Homeland Security Grant program, authorized by section 2004 of the Homeland Security Act (6 U.S.C. § 605);
- The trucking security grant program (P.L. 110–329; 122 Stat. 3671);
- The buffer zone protection program (P.L. 110–329; 122 Stat. 3672); and
- The commercial direct equipment direct assistance program (P.L. 110–329; 122 Stat. 3672).

Urban areas will continue to be eligible to receive funding for preparedness and response activities that are components of the Urban Areas Search Initiative (UASI) program as in effect prior to the changes made by this subsection through a new federal grant program, the Urban All Hazards Preparedness Program, authorized by section 206 of H.R. 1174. States will be eligible to receive funding for the preparedness activities funded through State Homeland Security Grant Program (SHSGP) prior to the changes made by this subsection through the EMPG program (6 U.S.C. § 762).

Subsection (d) provides that nothing in this Act shall be construed to affect the appointment of the United States Fire Administrator or the Federal Insurance Administrator.

Subsection (e) provides that transitions required under this Act shall take place not later than 120 days from the date of enactment of this Act.

Subsection (f) provides that the Administrator may use services of the DHS in carrying out the transfers required under this act and may use funds appropriated to such functions to carry out the transfer for such a period of time as may reasonably be needed to carry out the transfers.

Subsection (g) creates a liaison office to ensure coordination with the Department of Homeland Security.

#### *Sec. 106. Personnel and other transfers*

Subsection (a) of section 106 authorizes the Administrator to appoint officers and employees and obtain services of experts and consultants. This provision does not affect the authority of the Administrator to appoint temporary personnel, experts, and consultants under section 306(b) of the Stafford Act.

Subsection (b) allows the Administrator to delegate functions except as prohibited by law.

Subsection (c) allows the Administrator to conduct reorganizations provided that the Administrator provides appropriate notice to Congress, at least 30 days written notice in advance of the reorganization.

Subsection (d) authorizes the Administrator to promulgate rules and regulations.

Subsection (e) authorizes the transfer and allocation of personnel and appropriations to an independent FEMA.

Subsection (f) authorizes the Director of the Office of Management and Budget to conduct incidental transfers to implement the transfer provisions of this bill.

Subsection (g) provides that except as provided by this Act, transfers of personnel shall not affect compensation or cause employees to be separated for one year. Individuals holding executive

schedule positions shall be compensated at not less than the rate of their previous position for the duration of the service in their new position.

*Sec. 107. Savings provisions*

Subsection (a) of section 107 provides that existing legal documents, proceedings, lawsuits, and administrative actions shall be continued and shall not be affected by the transfers authorized by H.R. 1174.

Subsection (b) clarifies that references to departments, agencies or offices, or the heads of those entities, affected by the transfers authorized by this bill shall be deemed to refer to the department, agency, or office where such a function is transferred.

*Sec. 108. Offices and functions of the Department of Homeland Security*

Subsection (a) of section 108 amends section 512(c) of the Homeland Security Act (6 U.S.C. § 321a(c)), which authorizes certain activities for the SHSGP and the UASI programs, as amended by this Act. As these programs will no longer be administered by FEMA, this provision clarifies that the Secretary of Homeland Security will administer section 512(c).

Subsection (b) maintains the existing Assistant Secretary of Homeland Security for Cybersecurity and Communications in DHS. This subsection removes emergency management functions from the National Operations Center in DHS as those functions will now be in FEMA, and makes it clear that the DHS operations center shall not be provided any authority that overlaps with FEMA, except to the extent necessary to coordinate activities or information with FEMA.

Subsection (c) amends section 516 of the Homeland Security Act (6 U.S.C. § 321(e)) to clarify the homeland security role of the Chief Medical Officer of DHS. This subsection also adds FEMA to the list of agencies the Chief Medical Officer coordinates with on behalf of DHS.

Subsection (d) repeals provisions of the Homeland Security Act relating to FEMA as FEMA is no longer a component of DHS. This includes section 505(b) of the Homeland Security Act, which listed entities that were not to be transferred to FEMA in 2007. As those entities are not included in the transfers made by section 105 of this bill, this language is no longer necessary.

Subsection (e) redesignates sections of the Homeland Security Act to reflect the repeals in subsection (d).

Subsection (f) amends the title heading to Title V of the Homeland Security Act to reflect changes made by H.R. 1174.

Subsection (g) amends the table of contents of the Homeland Security Act to reflect the changes made by subsections (d) and (e).

*Sec. 109. Homeland security grants*

Section 109 makes changes to UASI and SHSGP by removing the preparedness and response elements of these programs. This section provides the changes necessary to transfer the preparedness and response elements of these programs into FEMA.

Subsection (a) removes the preparedness and response elements of UASI as authorized under current law. These elements will be

administered by FEMA, and urban areas will be eligible for grant funds through the new Urban Areas All Hazards Preparedness Grant Program created by section 206 of this Act.

Subsection (b) removes the preparedness and response elements of SHSGP as authorized under current law. These aspects will be administered by FEMA on an all hazards basis and States will be eligible for grant funds through the EMPG Program (6 U.S.C. § 762).

Subsection (c) makes conforming amendments to remove preparedness and response from section 2005(h) of the Homeland Security Act (6 U.S.C. § 606), which allows grants to be made directly to eligible tribes under SHSGP.

Subsection (d) makes conforming amendments to remove preparedness and response from a provision in section 2006 of the Homeland Security Act (6 U.S.C. § 607), which stipulates that 25 percent of the funds for UASI and SHSGP are to be used for terrorism prevention activities.

Subsection (e) makes conforming amendments to remove preparedness and response from section 2007 of the Homeland Security Act (6 U.S.C. § 608), which prioritizes the allocation of funds for UASI and SHSGP for areas with high risk of terrorist attack.

Subsection (f) makes conforming amendments to remove preparedness and response from section 2008 of the Homeland Security Act (6 U.S.C. § 609), which provides for the authorized uses of funds under UASI and SHSGP.

Subsection (g) makes conforming amendments to section 2021 of the Homeland Security Act (6 U.S.C. § 611), which provides for regional coordination of funds for programs that will no longer be administered by FEMA, including the elements of UASI and SHSGP remaining in DHS.

Subsection (h) makes conforming amendments to section 2022 of the Homeland Security Act (6 U.S.C. § 612), which provides accountability of funds for programs that will no longer be administered by FEMA, including the elements of UASI and SHSGP remaining in DHS.

Subsection (i) makes additional conforming amendments to Title XX of the Homeland Security Act, as the programs authorized by this title will no longer be administered by the Administrator of FEMA. Currently, FEMA administers all grants for DHS, including UASI and SHSGP.

*Sec. 110. Additional conforming amendments to Homeland Security Act of 2002*

Section 110 provides for additional conforming amendments to the Homeland Security Act of 2002.

Subsection (a) amends section 101 of the Homeland Security Act (6 U.S.C. § 111) to reflect changes to the mission of DHS made by this bill.

Subsection (b) amends section 102 of the Homeland Security Act (6 U.S.C. § 112) to reflect changes to the functions of the Secretary of DHS made by this bill. In addition, new language is added clarifying that the role of the Secretary of Homeland Security may not be construed to interfere with the role of the Administrator of FEMA.

Subsection (c) amends section 103 of the Homeland Security Act (6 U.S.C. § 113) to remove the Administrator of FEMA from the list of officers of DHS.

Subsection (d) amends section 214(g) of the Homeland Security Act (6 U.S.C. § 133(g)) to clarify that the authority to issue warnings under that section shall not be construed to limit or otherwise affect the authority of the President or the Administrator of FEMA under section 202 of the Stafford Act.

Subsection (e) amends section 223 of the Homeland Security Act (6 U.S.C. § 143) by replacing “Under Secretary for Emergency Preparedness and Response” with “Administrator of the Federal Emergency Management Agency” each place it appears. The position of “Under Secretary for Emergency Preparedness and Response” was abolished by the Post-Katrina Act.

Subsection (f) amends Title II of the Homeland Security Act (6 U.S.C. § 121 et seq.) by adding a new Subtitle E “Consultation with Federal Emergency Management Agency” and two new sections. These amendments require the Secretary of DHS, in carrying out Title II, to consult, as appropriate, with the Administrator of FEMA; and clarify that nothing in Title II may be construed to limit or otherwise affect the authority of the Administrator of FEMA.

Subsection (g) repeals section 430 of the Homeland Security Act (6 U.S.C. § 238). This section relates to the Office of Domestic Preparedness. This office became part of FEMA in 2007 in accordance with the Post-Katrina Act.

Subsection (h) amends section 707 of the Homeland Security Act (6 U.S.C. § 347), which authorizes the Quadrennial Homeland Security Review by requiring the Secretary to consult with the Administrator of FEMA. The section is also amended by removing references to the National Response Plan and preparedness activities that are no longer the responsibilities of DHS under the amendments made by this Act.

Subsection (i) amends section 887 of the Homeland Security Act (6 U.S.C. § 467) to ensure that the Secretary of DHS and the Secretary of the Department of Health and Human Services coordinate with the Administrator of FEMA on matters related to public health emergencies.

Subsection (j) amends section 903(a) of the Homeland Security Act (6 U.S.C. § 493(a)) by adding the Administrator of FEMA to the membership of the National Homeland Security Advisory Council.

*Sec 111. Conforming amendments to Post-Katrina Emergency Management Reform Act of 2006*

Section 111 makes conforming amendments to the Post-Katrina Act to reflect changes made by H.R. 1174. Many of these technical changes remove references to DHS, which will no longer have responsibility for these provisions.

Subsection (a) amends section 624 of the Post-Katrina Act (6 U.S.C. § 711), which addresses surge capacity force.

Subsection (b) amends section 640(a) of the Post-Katrina Act (6 U.S.C. § 727(a)), which addresses information technology.

Subsection (c) amends section 641 of the Post-Katrina Act (6 U.S.C. § 741), which sets forth definitions.

Subsection (d) amends section 651 of the Post-Katrina Act (6 U.S.C. § 751), which addresses Federal response capability.

Subsection (e) amends section 653 of the Post-Katrina Act (6 U.S.C. § 753) regarding Federal preparedness.

Subsection (f) amends section 624 of the Post-Katrina Act (6 U.S.C. § 771), which addresses the National Disaster Recovery Strategy.

Subsection (g) amends section 689(d) of the Post-Katrina Act (6 U.S.C. § 773(a)), which addresses disaster relief and individuals with disabilities.

Subsection (h) amends section 692 of the Post-Katrina Act (6 U.S.C. § 792), which provides limitations on subcontracting.

Subsection (i) amends section 695 of the Post-Katrina Act (6 U.S.C. § 794), which addresses contracting.

*Sec. 112. Conforming and technical amendments to other laws*

Subsection (a) of section 112 makes conforming amendments to the Chief Financial Officers Act to reflect the addition of a Chief Financial Officer at FEMA.

Subsection (b) makes conforming amendments to the Inspector General Act to reflect the addition of an Inspector General at FEMA.

Subsection (c) makes technical corrections to the Stafford Act to change references from “Director” to “Administrator”, reflecting the change in the title for the head of FEMA that took effect on April 1, 2007.

*Sec. 113. Changes to administrative documents*

Section 113 requires the President, within 180 days of the date of enactment, to amend HSPD–5, Homeland Security Presidential Directive 8 (HSPD–8), and similar administrative documents to reflect changes made by H.R. 1174. The Committee is concerned that these documents have not been amended to reflect changes in law enacted in the Post-Katrina Act.

*Sec. 114. Recommended legislation*

Subsection (a) of section 114 requires the Administrator to prepare recommended legislation containing additional technical and conforming amendments to reflect the changes made by this bill no later than 90 days after the transition period; the transition period is 120 days after the date of enactment of this Act.

Subsection (b) requires the Administrator to submit a report to Congress on any recommended legislation.

## TITLE II—RELATED MATTERS

*Sec. 201. National Advisory Council*

Section 201 provides that the Administrator shall continue to maintain the National Advisory Council and provides for its responsibilities and membership.

Subsection (a) maintains the National Advisory Council to ensure effective and ongoing coordination of Federal preparedness, response, recovery, and mitigation for hazards.

Subsection (b) authorizes the National Advisory Council to advise the Administrator on all aspects of emergency management.

Subsection (c) provides for the membership of the National Advisory Council.

Subsection (d) provides that the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the National Advisory Council; however, the termination provisions under section 14(a)(2) of the Act shall not apply.

*Sec. 202. National Integration Center*

Subsection (a) of section 202 provides that the National Integration Center (NIC) is established in FEMA.

Subsection (b) provides for the responsibilities of the NIC, including the ongoing management and maintenance of the National Incident Management System and the National Response Plan.

Subsection (c) requires the Administrator to ensure that the National Response Plan provides for a clear chain of command to coordinate the Federal response to any hazard. This subsection also abolishes the position of Principal Federal Official.

*Sec. 203. Credentialing and typing*

Subsection (a) of section 203 requires the Administrator to continue to implement a memorandum of understanding to develop standards for deployment capabilities, including for credentialing and typing of incident management personnel, emergency response providers, and other personnel and resources likely needed to respond to hazards.

Subsection (b) requires the Administrator to provide such standards to each Federal agency with responsibilities under the National Response Plan, and to State, local and tribal governments.

Subsection (c) requires each Federal agency with responsibilities under the National Response Plan to ensure that Federal incident management personnel, emergency response providers, and other personnel and resources likely needed to respond to hazards are credentialed and typed in accordance with this section.

Subsection (d) requires that standards for credentialing health care professionals shall be done in consultation with the Secretary of Health and Human Services.

Subsection (e) defines the term credentialing for the purposes of this section.

*Sec. 204. Disability coordinator*

Subsection (a) of section 204 requires the Administrator to appoint a Disability Coordinator. This position currently exists within FEMA.

Subsection (b) requires the Administrator to consult with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities prior to the appointment of a Disability Coordinator.

Subsection (c) permits the existing Disability Coordinator on the date of enactment of this Act to continue to serve in the position, at the discretion of the Administrator.

*Sec. 205. Nuclear incident response*

Subsection (a) of section 205 maintains existing authority for the Administrator of FEMA to operate the Nuclear Incident Response Team as an element of FEMA.

Subsection (b) clarifies that the responsibilities of the Secretary of Energy and the Administrator of the Environmental Protection Agency with respect to their respective entities in the Nuclear Incident Response Team are not limited by this section.

*Sec. 206. Urban area all hazards preparedness grant program*

Section 206 amends the Stafford Act to create, under section 617 of the Stafford Act, a new all hazards preparedness program for urban areas. This program will replace the preparedness and response components of the UASI program. Specifically, the new section 617 of the Stafford Act contains the following subsections:

Subsection (a) of section 206 establishes the all hazards nature of the program.

Subsection (b) establishes eligibility to include the 100 most populous metropolitan statistical areas and other additional urban areas as determined by the Administrator of FEMA.

Subsection (c) requires the Administrator, not later than 30 days before applications are accepted, to notify the chief elected official of each eligible urban area and the Governor of the State containing the urban area of the eligibility of the urban area for a grant, as well as grant application procedures and award criteria. The same notifications shall be published in the Federal Register not less than 15 days before the Administrator accepts applications.

Subsection (d) requires the application of an urban area to demonstrate that the urban area will use funds to develop or implement activities that support the emergency management goals of the State, and the State has reviewed the application.

Subsection (e) provides for the allocation of funds for the program. The Administrator shall allocate funds to States in which each urban area is located by formula based on the population of each eligible urban area, its relative level of risk to any hazard, and other factors. Each eligible urban area will receive a minimum allocation, to be determined by the Administrator. The program funds shall be distributed through the State, and not later than 45 days after the State receives a grant. Eighty percent of the grant must be distributed to the urban area. Any funds retained by the State must be used on eligible items that benefit the urban area and the State must provide an accounting for any funds it retains. If an urban area is located in two or more states, the Administrator shall distribute the funds to each State as the Administrator deems appropriate.

Subsection (f) provides that the eligible uses for grant awards shall be determined by the Administrator but shall include: planning; purchase and maintenance of equipment; training; exercises; and management and administration.

Subsection (g) requires the Administrator to promulgate regulations to implement this program within 180 days of the date of enactment.



Subsection (h) authorizes appropriations of \$525 million for FY 2010; \$575 million for FY 2011; and \$650 million for FY 2012 for the program.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 109th Congress, several bills were introduced to restore FEMA to an independent, cabinet-level agency. Then-Ranking Member James L. Oberstar introduced two bills: H.R. 3659, a bill to re-establish FEMA as an independent establishment in the executive branch, and H.R. 4493, the “Federal Emergency Management Restoration Act”. In addition, the following bills were introduced to establish FEMA as an independent agency: H.R. 3656, H.R. 3685, H.R. 3816, H.R. 5316, S. 1615, and S. 2302. On May 17, 2006, the Committee on Transportation and Infrastructure ordered H.R. 5316, as amended, reported favorably to the House by voice vote. Some provisions of H.R. 5316 were incorporated into the Post-Katrina Emergency Management Reform Act of 2006.

In the 111th Congress, Chairman James L. Oberstar introduced H.R. 1174, the “FEMA Independence Act of 2009” on February 25, 2009. On May 14, 2009, the Committee on Transportation and Infrastructure held a hearing, entitled “An Independent FEMA”, on FEMA independence and H.R. 1174. On November 5, 2009, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1174. The Committee ordered H.R. 1174, as amended, reported favorably to the House by voice vote with a quorum present.

#### RECORD VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During consideration of H.R. 1174, the Committee adopted an amendment in the nature of a substitute to the bill. There were no recorded votes taken in connection with consideration of H.R. 1174, or ordering H.R. 1174, as amended, reported. A motion to order H.R. 1174, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

#### COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation is to re-establish the Federal Emergency Management Agency as an independent, cabinet-level agency reporting directly to the President.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1174, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, December 11, 2009.*

Hon. JAMES L. OBERSTAR,  
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1174, the FEMA Independence Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure.

*H.R. 1174—FEMA Independence Act of 2009*

Summary: H.R. 1174 would remove the Federal Emergency Management Agency (FEMA) from the Department of Homeland Security (DHS) and make it a cabinet-level agency. Under the bill, most of FEMA's current responsibilities would be transferred from DHS to the agency within 120 days of enactment. Several grant programs that FEMA currently administers would remain with DHS.

H.R. 1174 would authorize the appropriation of \$1.75 billion over the 2010–2012 period for an urban area all-hazards preparedness grant program. In addition, CBO estimates that appropriations totalling about \$100 million over the next five years would be necessary for FEMA to operate independently from DHS and to establish a separate office of Inspector General (IG). Assuming appropriation of the necessary and specified amounts, CBO estimates that implementing H.R. 1174 would cost \$1.1 billion over the 2010–2014 period. Enacting this legislation would not affect direct spending or revenues.

H.R. 1174 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the federal government: The estimated budgetary impact of H.R. 1174 is shown in the following table. The costs

of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—					2010– 2014
	2010	2011	2012	2013	2014	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Urban Area All-Hazard Preparedness Grants						
Authorization Level .....	525	575	650	0	0	1,750
Estimated Outlays .....	0	45	190	385	390	1,010
FEMA Administrative Expenses						
Estimated Authorization Level .....	0	24	25	26	26	101
Estimated Outlays .....	0	24	25	25	26	100
Total Changes						
Authorization Level .....	525	599	675	26	26	1,851
Estimated Outlays .....	0	69	215	410	416	1,110

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the middle of calendar year 2010 and that the amounts specified and estimated to be necessary will be appropriated for each year. CBO estimates that implementing H.R. 1174 would cost about \$1.1 billion over the next five years. This amount includes expenditures for programs for which the legislation would explicitly authorize appropriations, but does not include the ongoing costs of other FEMA programs, such as disaster relief, which would continue whether or not FEMA became an independent agency.

#### *FEMA's mission and responsibilities*

H.R. 1174 would establish FEMA as a separate entity from DHS. In 2002, the Congress moved FEMA (which had previously been an independent agency) under the Directorate of Emergency Preparedness and Response within DHS. In 2006, the Congress required that FEMA instead report directly to the Secretary of DHS, rather than through the Preparedness Directorate, and authorized the Administrator of FEMA to report directly to the President in the event of a disaster. Under the bill, FEMA would be an independent, cabinet-level agency.

Under H.R. 1174, the primary mission and responsibilities of FEMA would essentially remain unchanged (although it is unclear whether certain changes in the statute would affect the activities FEMA and DHS undertake, particularly as they relate to acts of terrorism). Under current law, FEMA's primary responsibilities are to prepare for, protect against, respond to, and aid in the recovery of all types of disasters, including natural disasters, acts of terrorism, and other man-made disasters. Most of the spending for these activities comes from the Disaster Relief Fund. Spending from the fund totalled about \$63 billion over the past five years, more than half of which occurred in response to the 2005 Gulf Coast hurricanes. In addition, FEMA manages the National Flood Insurance Program, the U.S. Fire Administration, and a number of security-related grant programs. Under the bill, most of these functions would remain with FEMA. DHS would retain authority over certain other programs concerned with preparing for and protecting against acts of terrorism, including the State Homeland Security Program (SHSP) and the Urban Area Security Initiative (UASI); however funding for these programs retained by DHS could no

longer be used to respond to natural disasters. In addition, the bill would remove other functions related to disaster recovery from the responsibilities of DHS.

*Urban area all-hazard preparedness grants*

H.R. 1174 would authorize appropriations totalling \$1.75 billion over the 2010–2012 period for FEMA to establish an urban area all-hazards grant program. The program would provide states with funding to enhance the preparedness of urban areas through purchase and maintenance of equipment, planning, training, and exercises. Funds would be allocated to states based on risk, population, and other factors identified by FEMA.

For 2010, the Congress provided \$1.8 billion to FEMA for SHSP and UASI, which may be used for similar purposes (see Public Law 111–83). The Congress also authorized the appropriation of \$4.4 billion for fiscal years 2011 and 2012 and such sums as may be necessary thereafter, for both programs (see Public Law 110–53). Because SHSP and UASI would remain within DHS, CBO assumes that there would be no change to the amounts already appropriated or authorized to be appropriated under this legislation.

Based on the historical spending patterns of similar grant programs operated by FEMA, CBO estimates that implementing this provision would cost \$1.0 billion over the next five years, assuming appropriation of the specified funds, with the remainder of the \$1.75 billion total spent after 2014.

*FEMA administrative expenses*

CEO estimates that new senior positions would be needed to manage an independent FEMA. Additional staff also would be necessary to provide support—for example, in acquisitions, information technology, and human resources—that would have been provided by DHS or shared across several agencies. Currently, FEMA has more than 3,700 full time employees and 4,000 standby disaster assistance employees located in the Washington Metropolitan area and throughout the 10 regions of the country. DHS has more than 225,000 employees across a variety of agencies and functions. CBO estimates that additional expenses for salaries and benefits, space, equipment, and other costs related to operating as an independent agency would total roughly \$6 million annually beginning in 2011. If the agency were to reorganize, consolidate its employees, or acquire a new headquarters, these costs would be significantly higher, though this bill does not include a specific authorization for that purpose.

H.R. 1174 also would authorize FEMA to establish an Inspector General office (IG). We assume that the new office would be larger in size and scope than the office operated by FEMA prior to 2003. (In 2002, FEMA’s IG office had a budget of \$10 million.) Based on the expenditures of the DHS IG office, including the Office of Emergency Management Oversight, CBO estimates that the new office would add nearly \$20 million annually to the agency’s administrative costs, beginning in 2011.

All told, assuming appropriation of the necessary funds, CBO estimates that the operation of an independent FEMA, including a separate IG office, would cost \$100 million over the 2010–14 period.

Intergovernmental and private-sector impact: H.R. 1174 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Assuming appropriation of the authorized amounts, state and local governments would receive about \$1 billion over fiscal years 2010 through 2014 to prepare for disasters. Any costs to those governments would be incurred voluntarily as a condition of receiving federal assistance.

Estimate prepared by: Federal Costs: Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. H.R. 1174, as amended, does not contain any earmarks, limited tax benefits, or limited tariff benefits under clause 9(e), 9(f), or 9(g) of rule XXI.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (P.L. 104-4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1174, as amended, does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

This legislation authorizes the continuation of an advisory committee as defined by section 3 of the Federal Advisory Committee Act: the National Advisory Council. The National Advisory Council is a standing Committee to advise the Administrator of FEMA on all aspects of emergency management. The Committee determines

that the National Advisory Council has a clearly defined purpose, fairly balanced membership, and meets all of the other requirements of section 5(b) of the Federal Advisory Committee Act. Further, the legislation clarifies that the Federal Advisory Committee Act shall apply to the National Advisory Council, except for section 14(a)(2) of such Act, regarding a termination date for the Council.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1).

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### TITLE 5, UNITED STATES CODE

\* \* \* \* \*

#### PART I—THE AGENCIES GENERALLY

\* \* \* \* \*

#### CHAPTER 1—ORGANIZATION

\* \* \* \* \*

#### PART III—EMPLOYEES

\* \* \* \* \*

#### SUBPART D—PAY AND ALLOWANCES

\* \* \* \* \*

#### CHAPTER 53—PAY RATES AND SYSTEMS

\* \* \* \* \*

#### SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

\* \* \* \* \*

#### § 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Secretary of State.

\* \* \* \* \*

*Administrator of the Federal Emergency Management Agency.*

**§ 5313. Positions at level II**

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.

\* \* \* \* \*

**[Administrator of the Federal Emergency Management Agency.]**

**§ 5314. Positions at level III**

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

\* \* \* \* \*

**[Deputy Administrators, Federal Emergency Management Agency.]**

*Deputy Administrator, Federal Emergency Management Agency.*

\* \* \* \* \*

---

**HOMELAND SECURITY ACT OF 2002**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) \* \* \*

\* \* \* \* \*

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

\* \* \* \* \*

**TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION**

\* \* \* \* \*

*Subtitle E—Consultation With Federal Emergency Management Agency*

*Sec. 241. Duty to consult.*

*Sec. 242. Limitation on statutory construction.*

\* \* \* \* \*

**TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY**

\* \* \* \* \*

**Subtitle C—Miscellaneous Provisions**

\* \* \* \* \*

**[Sec. 430. Office for Domestic Preparedness.]**

\* \* \* \* \*

**[TITLE V—NATIONAL EMERGENCY MANAGEMENT**

**[Sec. 501. Definitions.**

**[Sec. 502. Definition.**

- 【Sec. 503. Federal Emergency Management Agency.
- 【Sec. 504. Authorities and responsibilities.
- 【Sec. 505. Functions transferred.
- 【Sec. 506. Preserving the Federal Emergency Management Agency.
- 【Sec. 507. Regional Offices.
- 【Sec. 508. National Advisory Council.
- 【Sec. 509. National Integration Center.
- 【Sec. 510. Credentialing and typing.
- 【Sec. 511. The National Infrastructure Simulation and Analysis Center.
- 【Sec. 512. Evacuation plans and exercises.
- 【Sec. 513. Disability Coordinator.
- 【Sec. 514. Department and Agency officials.
- 【Sec. 515. National Operations Center.
- 【Sec. 516. Chief Medical Officer.
- 【Sec. 517. Nuclear incident response.
- 【Sec. 518. Conduct of certain public health-related activities.
- 【Sec. 519. Use of national private sector networks in emergency response.
- 【Sec. 520. Use of commercially available technology, goods, and services.
- 【Sec. 521. Procurement of security countermeasures for strategic national stockpile.
- 【Sec. 522. Model standards and guidelines for critical infrastructure workers.
- 【Sec. 523. Guidance and recommendations.
- 【Sec. 524. Voluntary private sector preparedness accreditation and certification program.】

TITLE V—OTHER OFFICES AND FUNCTIONS

- Sec. 501. Definition.*
- Sec. 502. The National Infrastructure Simulation and Analysis Center.*
- Sec. 503. Evacuation plans and exercises.*
- Sec. 504. Assistant Secretary for Cybersecurity and Communications.*
- Sec. 505. National Operations Center.*
- Sec. 506. Chief Medical Officer.*
- Sec. 507. Conduct of certain public health-related activities.*
- Sec. 508. Use of commercially available technology, goods, and services.*
- Sec. 509. Procurement of security countermeasures for strategic national stockpile.*
- Sec. 510. Model standards and guidelines for critical infrastructure workers.*
- Sec. 511. Guidance and recommendations.*
- Sec. 512. Voluntary private sector preparedness accreditation and certification program.*

\* \* \* \* \*

**TITLE I—DEPARTMENT OF HOMELAND SECURITY**

**SEC. 101. EXECUTIVE DEPARTMENT; MISSION.**

(a) \* \* \*

(b) MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) \* \* \*

\* \* \* \* \*

【(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;】

【(D) (C) carry out all functions of entities transferred to the Department【, including by acting as a focal point regarding natural and manmade crises and emergency planning】;】

【(E) (D) ensure that the functions of the agencies and subdivisions within the Department that are not related



directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

**[(F)]** (E) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland;

**[(G)]** (F) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and

**[(H)]** (G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

\* \* \* \* \*

**SEC. 102. SECRETARY; FUNCTIONS.**

(a) \* \* \*

\* \* \* \* \*

(c) **COORDINATION WITH NON-FEDERAL ENTITIES.**—With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination (established under section 801) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) \* \* \*

\* \* \* \* \*

*Nothing in this subsection may be construed to interfere with the role of the Administrator of the Federal Emergency Management Agency.*

\* \* \* \* \*

(f) **SPECIAL ASSISTANT TO THE SECRETARY.**—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) \* \* \*

\* \* \* \* \*

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges; *and*

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations; **[and]**

**[(C)]** advise the Secretary on private sector preparedness issues, including effective methods for—

**[(i)]** promoting voluntary preparedness standards to the private sector; and

**[(ii)]** assisting the private sector in adopting voluntary preparedness standards; **]**

\* \* \* \* \*

**[(8)]** providing information to the private sector regarding voluntary preparedness standards and the business justifica-

tion for preparedness and promoting to the private sector the adoption of voluntary preparedness standards;】

【(9)】 (8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack;

【(10)】 (9) coordinating with the Directorate of Border and Transportation Security and the Assistant Secretary for Trade Development of the Department of Commerce on issues related to the travel and tourism industries; and

【(11)】 (10) consulting with the Office of State and Local Government Coordination and Preparedness on all matters of concern to the private sector, including the tourism industry.

\* \* \* \* \*

**SEC. 103. OTHER OFFICERS.**

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) \* \* \*

\* \* \* \* \*

【(4)】 An Administrator of the Federal Emergency Management Agency.】

【(5)】 (4) A Director of the Bureau of Citizenship and Immigration Services.

【(6)】 (5) An Under Secretary for Management.

【(7)】 (6) A Director of the Office of Counternarcotics Enforcement.

【(8)】 (7) An Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.

【(9)】 (8) Not more than 12 Assistant Secretaries.

【(10)】 (9) A General Counsel, who shall be the chief legal officer of the Department.

\* \* \* \* \*

**TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION**

\* \* \* \* \*

**Subtitle B—Critical Infrastructure Information**

\* \* \* \* \*

**SEC. 214. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.**

(a) \* \* \*

\* \* \* \* \*

(g) **AUTHORITY TO ISSUE WARNINGS.**—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) \* \* \*

\* \* \* \* \*

*Nothing in this subsection may be construed to limit or otherwise affect the authority of the President or the Administrator of the Federal Emergency Management Agency under section 202 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5132).*

\* \* \* \* \*

### **Subtitle C—Information Security**

\* \* \* \* \*

#### **SEC. 223. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.**

In carrying out the responsibilities under section 201, the Under Secretary for Intelligence and Analysis, in cooperation with the Assistant Secretary for Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) \* \* \*

(B) in coordination with the [Under Secretary for Emergency Preparedness and Response] *Administrator of the Federal Emergency Management Agency*, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the [Under Secretary for Emergency Preparedness and Response] *Administrator of the Federal Emergency Management Agency*, with respect to emergency recovery plans to respond to major failures of critical information systems.

\* \* \* \* \*

### **Subtitle E—Consultation With Federal Emergency Management Agency**

#### **SEC. 241. DUTY TO CONSULT.**

*In carrying out this title, the Secretary shall consult, as appropriate, with the Administrator of the Federal Emergency Management Agency.*

**SEC. 242. LIMITATION ON STATUTORY CONSTRUCTION.**

*Nothing in this title may be construed to limit or otherwise affect the authority of the Administrator of the Federal Emergency Management Agency.*

\* \* \* \* \*

**TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY**

\* \* \* \* \*

**Subtitle C—Miscellaneous Provisions**

\* \* \* \* \*

**[SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.**

**[(a) IN GENERAL.—**The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

**[(b) DIRECTOR.—**There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.

**[(c) RESPONSIBILITIES.—**The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

**[(1)** coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

**[(2)** coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

**[(3)** directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

**[(4)** incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

**[(5)** providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

**[(6)** as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

**[(7)** assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management

activities of State, local, and tribal governments consistent with the mission and functions of the Directorate;

[(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section; and

[(9) helping to ensure the acquisition of interoperable communication technology by State and local governments and emergency response providers.

[(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.]

\* \* \* \* \*

## **TITLE V—[NATIONAL EMERGENCY MANAGEMENT] OTHER OFFICES AND FUNCTIONS**

### **[SEC. 501. DEFINITIONS.**

[In this title—

[(1) the term “Administrator” means the Administrator of the Agency;

[(2) the term “Agency” means the Federal Emergency Management Agency;

[(3) the term “catastrophic incident” means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

[(4) the terms “credentialed” and “credentialing” mean having provided, or providing, respectively, documentation that identifies personnel and authenticates and verifies the qualifications of such personnel by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for a particular position in accordance with standards created under section 510;

[(5) the term “Federal coordinating officer” means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

[(6) the term “interoperable” has the meaning given the term “interoperable communications” under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));

[(7) the term “National Incident Management System” means a system to enable effective, efficient, and collaborative incident management;

[(8) the term “National Response Plan” means the National Response Plan or any successor plan prepared under section 502(a)(6);

[(9) the term “Regional Administrator” means a Regional Administrator appointed under section 507;

[(10) the term “Regional Office” means a Regional Office established under section 507;

[(11) the term “resources” means personnel and major items of equipment, supplies, and facilities available or potentially available for responding to a natural disaster, act of terrorism, or other man-made disaster;

[(12) the term “surge capacity” means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident;

[(13) the term “tribal government” means the government of any entity described in section 2(11)(B); and

[(14) the terms “typed” and “typing” mean having evaluated, or evaluating, respectively, a resource in accordance with standards created under section 510.]

**SEC. [502.] 501. DEFINITION.**

In this title, the term “Nuclear Incident Response Team” means a resource that includes—

(1) \* \* \*

\* \* \* \* \*

**[SEC. 503. FEDERAL EMERGENCY MANAGEMENT AGENCY.**

[(a) IN GENERAL.—There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

[(b) MISSION.—

[(1) PRIMARY MISSION.—The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

[(2) SPECIFIC ACTIVITIES.—In support of the primary mission of the Agency, the Administrator shall—

[(A) lead the Nation’s efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

[(B) partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation’s resources to respond

to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

[(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other man-made disaster;

[(D) integrate the Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

[(E) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

[(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

[(G) provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster; and

[(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

**[(c) ADMINISTRATOR.—**

[(1) IN GENERAL.—The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

[(2) QUALIFICATIONS.—The Administrator shall be appointed from among individuals who have—

[(A) a demonstrated ability in and knowledge of emergency management and homeland security; and

[(B) not less than 5 years of executive leadership and management experience in the public or private sector.

[(3) REPORTING.—The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

**[(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.—**

[(A) IN GENERAL.—The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

[(B) ADVICE AND RECOMMENDATIONS.—

[(i) IN GENERAL.—In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

[(ii) ADVICE ON REQUEST.—The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

[(iii) RECOMMENDATIONS TO CONGRESS.—After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

[(5) CABINET STATUS.—

[(A) IN GENERAL.—The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

[(B) RETENTION OF AUTHORITY.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.

**[SEC. 504. AUTHORITY AND RESPONSIBILITIES.**

[(a) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

[(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

[(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

[(A) establishing standards and certifying when those standards have been met;

[(B) conducting joint and other exercises and training and evaluating performance; and

[(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

[(3) providing the Federal Government’s response to terrorist attacks and major disasters, including—

[(A) managing such response;

[(B) directing the Domestic Emergency Support Team, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

[(C) overseeing the Metropolitan Medical Response System; and



- [(D) coordinating other Federal response resources, including requiring deployment of the Strategic National Stockpile, in the event of a terrorist attack or major disaster;
- [(4) aiding the recovery from terrorist attacks and major disasters;
- [(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;
- [(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan;
- [(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;
- [(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act;
- [(9) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—
  - [(A) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;
  - [(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;
  - [(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and
  - [(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards;
- [(10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;
- [(11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;
- [(12) supervising grant programs administered by the Agency;
- [(13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;
- [(14) coordinating with the National Advisory Council established under section 508;

[(15) preparing and implementing the plans and programs of the Federal Government for—

[(A) continuity of operations;

[(B) continuity of government; and

[(C) continuity of plans;

[(16) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

[(17) maintaining and operating within the Agency the National Response Coordination Center or its successor;

[(18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

[(19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and carrying out all functions and authorities of the Administrator under the national preparedness System;

[(20) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 505; and

[(21) otherwise carrying out the mission of the Agency as described in section 503(b).

[(b) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.

**[SEC. 505. FUNCTIONS TRANSFERRED.**

[(a) IN GENERAL.—Except as provided in subsection (b), there are transferred to the Agency the following:

[(1) All functions of the Federal Emergency Management Agency, including existing responsibilities for emergency alert systems and continuity of operations and continuity of government plans and programs as constituted on June 1, 2006, including all of its personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

[(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Preparedness relating thereto.

[(b) EXCEPTIONS.—The following within the Preparedness Directorate shall not be transferred:

[(1) The Office of Infrastructure Protection.

[(2) The National Communications System.

[(3) The National Cybersecurity Division.

[(4) The Office of the Chief Medical Officer.

[(5) The functions, personnel, assets, components, authorities, and liabilities of each component described under paragraphs (1) through (4).

**[SEC. 506. PRESERVING THE FEDERAL EMERGENCY MANAGEMENT AGENCY.**

[(a) DISTINCT ENTITY.—The Agency shall be maintained as a distinct entity within the Department.

[(b) REORGANIZATION.—Section 872 shall not apply to the Agency, including any function or organizational unit of the Agency.

[(c) PROHIBITION ON CHANGES TO MISSIONS.—

[(1) IN GENERAL.—The Secretary may not substantially or significantly reduce the authorities, responsibilities, or functions of the Agency or the capability of the Agency to perform those missions, authorities, responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006.

[(2) CERTAIN TRANSFERS PROHIBITED.—No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the capability of the Agency to perform its missions.

[(d) REPROGRAMMING AND TRANSFER OF FUNDS.—In reprogramming or transferring funds, the Secretary shall comply with any applicable provisions of any Act making appropriations for the Department for fiscal year 2007, or any succeeding fiscal year, relating to the reprogramming or transfer of funds.

**[SEC. 507. REGIONAL OFFICES.**

[(a) IN GENERAL.—There are in the Agency 10 regional offices, as identified by the Administrator.

[(b) MANAGEMENT OF REGIONAL OFFICES.—

[(1) REGIONAL ADMINISTRATOR.—Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Administrator and be in the Senior Executive Service.

[(2) QUALIFICATIONS.—

[(A) IN GENERAL.—Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

[(B) CONSIDERATIONS.—In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

[(c) RESPONSIBILITIES.—

[(1) IN GENERAL.—The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area

served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

[(2) RESPONSIBILITIES.—The responsibilities of a Regional Administrator include—

[(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);

[(B) assisting in the development of regional capabilities needed for a national catastrophic response system;

[(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

[(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

[(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

[(F) fostering the development of mutual aid and other cooperative agreements;

[(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

[(H) maintaining and operating a Regional Response Coordination Center or its successor;

[(I) coordinating with the private sector to help ensure private sector preparedness for natural disasters, acts of terrorism, and other man-made disasters;

[(J) assisting State, local, and tribal governments, where appropriate, to preidentify and evaluate suitable sites where a multijurisdictional incident command system may quickly be established and operated from, if the need for such a system arises; and

[(K) performing such other duties relating to such responsibilities as the Administrator may require.

[(3) TRAINING AND EXERCISE REQUIREMENTS.—

[(A) TRAINING.—The Administrator shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National Response Plan, and such other subjects as determined by the Administrator.

[(B) EXERCISES.—The Administrator shall require each Regional Administrator to participate as appropriate in regional and national exercises.

[(d) AREA OFFICES.—

【(1) IN GENERAL.—There is an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

【(2) ALASKA.—The Administrator shall establish an Area Office in Alaska, as a component in the appropriate Regional Office.

【(e) REGIONAL ADVISORY COUNCIL.—

【(1) ESTABLISHMENT.—Each Regional Administrator shall establish a Regional Advisory Council.

【(2) NOMINATIONS.—A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

【(3) RESPONSIBILITIES.—Each Regional Advisory Council shall—

【(A) advise the Regional Administrator on emergency management issues specific to that region;

【(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

【(C) advise the Regional Administrator of any weaknesses or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council is aware.

【(f) REGIONAL OFFICE STRIKE TEAMS.—

【(1) IN GENERAL.—In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) that shall consist of—

【(A) a designated Federal coordinating officer;

【(B) personnel trained in incident management;

【(C) public affairs, response and recovery, and communications support personnel;

【(D) a defense coordinating officer;

【(E) liaisons to other Federal agencies;

【(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

【(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

【(2) OTHER DUTIES.—The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be consistent with the emergency preparedness activities of the agency that employs such individual.

【(3) LOCATION OF MEMBERS.—The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

[(4) COORDINATION.—Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and nongovernmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

[(5) PREPAREDNESS.—Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

[(6) AUTHORITIES.—If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.

**[SEC. 508. NATIONAL ADVISORY COUNCIL.**

[(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Secretary shall establish an advisory body under section 871(a) to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

[(b) RESPONSIBILITIES.—

[(1) IN GENERAL.—The National Advisory Council shall advise the Administrator on all aspects of emergency management. The National Advisory Council shall incorporate State, local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

[(2) CONSULTATION ON GRANTS.—To ensure input from and coordination with State, local, and tribal governments and emergency response providers, the Administrator shall regularly consult and work with the National Advisory Council on the administration and assessment of grant programs administered by the Department, including with respect to the development of program guidance and the development and evaluation of risk-assessment methodologies, as appropriate.

[(c) MEMBERSHIP.—

[(1) IN GENERAL.—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate—

[(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

[(B) health scientists, emergency and inpatient medical providers, and public health professionals;

[(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

[(D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;

[(E) elected State, local, and tribal government executives;

[(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

[(G) representatives of individuals with disabilities and other populations with special needs; and

[(H) such other individuals as the Administrator determines to be appropriate.

[(2) COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION.—In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

[(3) EX OFFICIO MEMBERS.—The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

[(4) TERMS OF OFFICE.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

[(B) INITIAL APPOINTMENTS.—Of the members initially appointed to the National Advisory Council—

[(i) one-third shall be appointed for a term of 1 year; and

[(ii) one-third shall be appointed for a term of 2 years.

[(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

[(1) IN GENERAL.—Notwithstanding section 871(a) and subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

[(2) TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

**[SEC. 509. NATIONAL INTEGRATION CENTER.**

[(a) IN GENERAL.—There is established in the Agency a National Integration Center.

[(b) RESPONSIBILITIES.—

[(1) IN GENERAL.—The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the Na-

tional Incident Management System, the National Response Plan, and any successor to such system or plan.

[(2) SPECIFIC RESPONSIBILITIES.—The National Integration Center shall periodically review, and revise as appropriate, the National Incident Management System and the National Response Plan, including—

[(A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;

[(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and

[(C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

[(c) INCIDENT MANAGEMENT.—

[(1) IN GENERAL.—

[(A) NATIONAL RESPONSE PLAN.—The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

[(B) ADMINISTRATOR.—The chain of the command specified in the National Response Plan shall—

[(i) provide for a role for the Administrator consistent with the role of the Administrator as the principal emergency management advisor to the President, the Homeland Security Council, and the Secretary under section 503(c)(4) and the responsibility of the Administrator under the Post-Katrina Emergency Management Reform Act of 2006, and the amendments made by that Act, relating to natural disasters, acts of terrorism, and other man-made disasters; and

[(ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

[(2) PRINCIPAL FEDERAL OFFICIAL.—The Principal Federal Official (or the successor thereto) shall not—

[(A) direct or replace the incident command structure established at the incident; or

[(B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials.

**[SEC. 510. CREDENTIALING AND TYPING.**

[(a) IN GENERAL.—The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including for credentialing and typing of incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed



to respond to natural disasters, acts of terrorism, and other man-made disasters.

**[(b) DISTRIBUTION.—**

**[(1) IN GENERAL.—**Not later than 1 year after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to—

**[(A)** each Federal agency that has responsibilities under the National Response Plan to aid that agency with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster; and

**[(B)** State, local, and tribal governments, to aid such governments with credentialing and typing of State, local, and tribal incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

**[(2) ASSISTANCE.—**The Administrator shall provide expertise and technical assistance to aid Federal, State, local, and tribal government agencies with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

**[(c) CREDENTIALING AND TYPING OF PERSONNEL.—**Not later than 6 months after receiving the standards provided under subsection (b), each Federal agency with responsibilities under the National Response Plan shall ensure that incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other manmade disaster are credentialed and typed in accordance with this section.

**[(d) CONSULTATION ON HEALTH CARE STANDARDS.—**In developing standards for credentialing health care professionals under this section, the Administrator shall consult with the Secretary of Health and Human Services.]

**SEC. [511.] 502. THE NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.**

(a) \* \* \*

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**SEC. [512.] 503. EVACUATION PLANS AND EXERCISES.**

(a) \* \* \*

\* \* \* \* \*

(c) ASSISTANCE.—

(1) IN GENERAL.—The [Administrator] *Secretary* may establish any guidelines, standards, or requirements determined appropriate to administer this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

(2) REQUESTED ASSISTANCE.—The [Administrator] *Secretary* shall make assistance available upon request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs to establish, maintain, and exercise mass evacuation plans that are coordinated and integrated into the plans developed by that State, local, or tribal government under this section.

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**[SEC. 513. DISABILITY COORDINATOR.**

[(a) IN GENERAL.—After consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, established under Executive Order No. 13347 (6 U.S.C. 312 note), the Administrator shall appoint a Disability Coordinator. The Disability Coordinator shall report directly to the Administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief.

[(b) RESPONSIBILITIES.—The Disability Coordinator shall be responsible for—

[(1) providing guidance and coordination on matters related to individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

[(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), other agencies of the Federal Government, and State, local, and tribal government authorities regarding the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

[(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

[(4) ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities;

[(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

[(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuations, and disaster relief;

[(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

[(8) ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation;

[(9) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;

[(10) ensuring that meeting the needs of individuals with disabilities are included in the components of the national preparedness system established under section 644 of the Post-Katrina Emergency Management Reform Act of 2006; and

[(11) any other duties as assigned by the Administrator.

**[SEC. 514. DEPARTMENT AND AGENCY OFFICIALS.**

[(a) DEPUTY ADMINISTRATORS.—The President may appoint, by and with the advice and consent of the Senate, not more than 4 Deputy Administrators to assist the Administrator in carrying out this title.

[(b) CYBERSECURITY AND COMMUNICATIONS.—There is in the Department an Assistant Secretary for Cybersecurity and Communications.

[(c) UNITED STATES FIRE ADMINISTRATION.—The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

**[SEC. 515. NATIONAL OPERATIONS CENTER.**

[(a) DEFINITION.—In this section, the term “situational awareness” means information gathered from a variety of sources that, when communicated to emergency managers and decision makers, can form the basis for incident management decisionmaking.

[(b) ESTABLISHMENT.—The National Operations Center is the principal operations center for the Department and shall—

[(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster; and

[(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

[(c) STATE AND LOCAL FIRE SERVICE REPRESENTATION.—

[(1) ESTABLISHMENT OF POSITION.—The Secretary shall, in consultation with the Administrator of the United States Fire Administration, establish a fire service position at the National Operations Center established under subsection (b) to ensure the effective sharing of information between the Federal Government and State and local fire services.

[(2) DESIGNATION OF POSITION.—The Secretary shall designate, on a rotating basis, a State or local fire service official for the position described in paragraph (1).

[(3) MANAGEMENT.—The Secretary shall manage the position established pursuant to paragraph (1) in accordance with such rules, regulations, and practices as govern other similar rotating positions at the National Operations Center.】

**SEC. 504. ASSISTANT SECRETARY FOR CYBERSECURITY AND COMMUNICATIONS.**

*There is in the Department an Assistant Secretary for Cybersecurity and Communications.*

**SEC. 505. NATIONAL OPERATIONS CENTER.**

(a) *DEFINITION.*—In this section, the term “situational awareness” means information gathered from a variety of sources that, when communicated to emergency managers and homeland security decisionmakers, can form the basis for homeland security decision-making.

(b) *ESTABLISHMENT.*—The National Operations Center is the principal operations center for the Department and shall—

(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, for homeland security purposes; and

(2) ensure that critical homeland security information reaches government decisionmakers.

(c) *FEMA AUTHORITY.*—Nothing in this section shall be construed to provide to the National Operations Center any authority that overlaps with the authority of the Administrator of the Federal Emergency Management Agency, except to the extent necessary to coordinate the activities or information of the National Operations Center with the Federal Emergency Management Agency.

**SEC. [516.] 506. CHIEF MEDICAL OFFICER.**

(a) \* \* \*

\* \* \* \* \*

(c) *RESPONSIBILITIES.*—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to [natural disasters, acts of terrorism, and other man-made disasters] *homeland security*, including—

(1) \* \* \*

\* \* \* \* \*

(4) serving as the Department’s primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, the Federal Emergency Management Agency, and other Federal departments or agencies, on medical and public health issues;

\* \* \* \* \*

(d) *FEMA AUTHORITY.*—Nothing in this section shall be construed to provide to the Chief Medical Officer any authority that overlaps with the authority of the Administrator of the Federal Emergency Management Agency, except to the extent necessary to coordinate activities or information with the Federal Emergency Management Agency.

**[SEC. 517. NUCLEAR INCIDENT RESPONSE.**

[(a) *IN GENERAL.*—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

[(b) *RULE OF CONSTRUCTION.*—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of En-

ergy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.]

**SEC. [518.] 507. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.**

(a) \* \* \*  
\* \* \* \* \*

**[SEC. 519. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE.**

[To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.]

**SEC. [520.] 508. USE OF COMMERCIALY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.**

It is the sense of Congress that—

(1) \* \* \*  
\* \* \* \* \*

**SEC. [521.] 509. PROCUREMENT OF SECURITY COUNTERMEASURES FOR STRATEGIC NATIONAL STOCKPILE.**

(a) \* \* \*  
\* \* \* \* \*

**SEC. [522.] 510. MODEL STANDARDS AND GUIDELINES FOR CRITICAL INFRASTRUCTURE WORKERS.**

(a) \* \* \*  
\* \* \* \* \*

**SEC. [523.] 511. GUIDANCE AND RECOMMENDATIONS.**

(a) \* \* \*  
\* \* \* \* \*

**SEC. [524.] 512. VOLUNTARY PRIVATE SECTOR PREPAREDNESS ACCREDITATION AND CERTIFICATION PROGRAM.**

(a) \* \* \*  
\* \* \* \* \*

**TITLE VII—MANAGEMENT**

\* \* \* \* \*

**SEC. 707. QUADRENNIAL HOMELAND SECURITY REVIEW.**

(a) REQUIREMENT.—

(1) \* \* \*  
\* \* \* \* \*

(3) CONSULTATION.—The Secretary shall conduct each quadrennial homeland security review under this subsection in consultation with—

(A) the heads of other Federal agencies, including the Attorney General, the Secretary of State, the Secretary of

Defense, the Secretary of Health and Human Services, the Secretary of the Treasury, the Secretary of Agriculture, *the Administrator of the Federal Emergency Management Agency*, and the Director of National Intelligence;

\* \* \* \* \*

(b) CONTENTS OF REVIEW.—In each quadrennial homeland security review, the Secretary shall—

(1) delineate and update, as appropriate, the national homeland security strategy, consistent with appropriate national and Department strategies, strategic plans, and Homeland Security Presidential Directives, including the National Strategy for Homeland Security~~], the National Response Plan,~~ and the Department Security Strategic Plan;

\* \* \* \* \*

(c) REPORTING.—

(1) \* \* \*

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include—

(A) \* \* \*

\* \* \* \* \*

(G) a discussion of the status of cooperation between the Federal Government and State, local, and tribal governments in preventing terrorist attacks ~~and preparing for emergency response to threats to national homeland security~~];

\* \* \* \* \*

**TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle H—Miscellaneous Provisions**

\* \* \* \* \*

**SEC. 887. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.**

(a) IN GENERAL.—The annual Federal response plan developed by the Department shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d) *and section 202(b) of the FEMA Independence Act of 2009.*

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) \* \* \*

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of

the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, *the Federal Emergency Management Agency*, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, *the Federal Emergency Management Agency*, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

\* \* \* \* \*

### TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

\* \* \* \* \*

#### SEC. 903. MEMBERSHIP.

(a) MEMBERS.—The members of the Council shall be the following:

(1) \* \* \*

\* \* \* \* \*

(6) *The Administrator of the Federal Emergency Management Agency.*

[(6)] (7) Such other individuals as may be designated by the President.

\* \* \* \* \*

### TITLE XX—HOMELAND SECURITY GRANTS

\* \* \* \* \*

#### Subtitle A—Grants to States and High-Risk Urban Areas

\* \* \* \* \*

#### SEC. 2002. HOMELAND SECURITY GRANT PROGRAMS.

(a) GRANTS AUTHORIZED.—The Secretary[, through the Administrator,] may award grants under sections 2003 and 2004 to State, local, and tribal governments.

\* \* \* \* \*

**SEC. 2003. URBAN AREA SECURITY INITIATIVE.**

(a) ESTABLISHMENT.—There is established an Urban Area Security Initiative to provide grants to assist high-risk urban areas in **preventing, preparing for, protecting against, and responding to preventing and protecting against** acts of terrorism.

(b) ASSESSMENT AND DESIGNATION OF HIGH-RISK URBAN AREAS.—

(1) IN GENERAL.—The **Administrator** *Secretary* shall designate high-risk urban areas to receive grants under this section based on procedures under this subsection.

(2) INITIAL ASSESSMENT.—

(A) IN GENERAL.—For each fiscal year, the **Administrator** *Secretary* shall conduct an initial assessment of the relative threat, vulnerability, and consequences from acts of terrorism faced by each eligible metropolitan area, including consideration of—

(i) \* \* \*

\* \* \* \* \*

(B) SUBMISSION OF INFORMATION BY ELIGIBLE METROPOLITAN AREAS.—Prior to conducting each initial assessment under subparagraph (A), the **Administrator** *Secretary* shall provide each eligible metropolitan area with, and shall notify each eligible metropolitan area of, the opportunity to—

(i) \* \* \*

\* \* \* \* \*

(3) DESIGNATION OF HIGH-RISK URBAN AREAS.—

(A) DESIGNATION.—

(i) IN GENERAL.—For each fiscal year, after conducting the initial assessment under paragraph (2), and based on that assessment, the **Administrator** *Secretary* shall designate high-risk urban areas that may submit applications for grants under this section.

(ii) ADDITIONAL AREAS.—Notwithstanding paragraph (2), the **Administrator** *Secretary* may—

(I) \* \* \*

(II) designate an area that is not an eligible metropolitan area as a high-risk urban area based on the assessment by the **Administrator** *Secretary* of the relative threat, vulnerability, and consequences from acts of terrorism faced by the area.

(iii) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the **Administrator** *Secretary* to—

(I) designate all eligible metropolitan areas that submit information to the **Administrator** *Secretary* under paragraph (2)(B)(i) as high-risk urban areas; or

\* \* \* \* \*

(B) JURISDICTIONS INCLUDED IN HIGH-RISK URBAN AREAS.—

(i) IN GENERAL.—In designating high-risk urban areas under subparagraph (A), the **Administrator**



*Secretary* shall determine which jurisdictions, at a minimum, shall be included in each high-risk urban area.

(ii) ADDITIONAL JURISDICTIONS.—A high-risk urban area designated by the **[Administrator]** *Secretary* may, in consultation with the State or States in which such high-risk urban area is located, add additional jurisdictions to the high-risk urban area.

(c) APPLICATION.—

(1) \* \* \*

(2) MINIMUM CONTENTS OF APPLICATION.—In an application for a grant under this section, a high-risk urban area shall submit—

(A) \* \* \*

\* \* \* \* \*

(C) such information in support of the application as the **[Administrator]** *Secretary* may reasonably require.

\* \* \* \* \*

(4) STATE REVIEW AND TRANSMISSION.—

(A) \* \* \*

\* \* \* \* \*

(C) OPPORTUNITY FOR STATE COMMENT.—If the Governor of a State determines that an application of a high-risk urban area is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, the Governor shall—

(i) notify the **[Administrator]** *Secretary*, in writing, of that fact; and

\* \* \* \* \*

(5) OPPORTUNITY TO AMEND.—In considering applications for grants under this section, the **[Administrator]** *Secretary* shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

(d) DISTRIBUTION OF AWARDS.—

(1) IN GENERAL.—If the **[Administrator]** *Secretary* approves the application of a high-risk urban area for a grant under this section, the **[Administrator]** *Secretary* shall distribute the grant funds to the State or States in which that high-risk urban area is located.

\* \* \* \* \*

(3) INTERSTATE URBAN AREAS.—If parts of a high-risk urban area awarded a grant under this section are located in 2 or more States, the **[Administrator]** *Secretary* shall distribute to each such State—

(A) \* \* \*

(B) if no agreement on distribution has been reached, a portion of the grant funds determined by the **[Administrator]** *Secretary* to be appropriate.

(4) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO HIGH-RISK URBAN AREAS.—A State that receives grant funds under paragraph (1) shall certify to the **[Administrator]** *Secretary* that the State has made available to the ap-

plicable high-risk urban area the required funds under paragraph (2).

\* \* \* \* \*

**SEC. 2004. STATE HOMELAND SECURITY GRANT PROGRAM.**

(a) ESTABLISHMENT.—There is established a State Homeland Security Grant Program to assist State, local, and tribal governments in [preventing, preparing for, protecting against, and responding to] *preventing and protecting against* acts of terrorism.

(b) APPLICATION.—

(1) IN GENERAL.—Each State may apply for a grant under this section, and shall submit such information in support of the application as the [Administrator] *Secretary* may reasonably require.

(2) MINIMUM CONTENTS OF APPLICATION.—The [Administrator] *Secretary* shall require that each State include in its application, at a minimum—

(A) \* \* \*

\* \* \* \* \*

(c) DISTRIBUTION TO LOCAL AND TRIBAL GOVERNMENTS.—

(1) \* \* \*

(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—A State shall certify to the [Administrator] *Secretary* that the State has made the distribution to local and tribal governments required under paragraph (1).

(3) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the [Administrator] *Secretary* extend the period under paragraph (1) for an additional period of time. The [Administrator] *Secretary* may approve such a request if the [Administrator] *Secretary* determines that the resulting delay in providing grant funding to the local and tribal governments is necessary to promote effective investments [to prevent, prepare for, protect against, or respond to] *to prevent or protect against* acts of terrorism.

\* \* \* \* \*

(5) DIRECT FUNDING.—If a State fails to make the distribution to local or tribal governments required under paragraph (1) in a timely fashion, a local or tribal government entitled to receive such distribution may petition the [Administrator] *Secretary* to request that grant funds be provided directly to the local or tribal government.

(d) MULTISTATE APPLICATIONS.—

(1) IN GENERAL.—Instead of, or in addition to, any application for a grant under subsection (b), 2 or more States may submit an application for a grant under this section in support of multistate efforts [to prevent, prepare for, protect against, and respond to] *to prevent and protect against* acts of terrorism.

(2) ADMINISTRATION OF GRANT.—If a group of States applies for a grant under this section, such States shall submit to the [Administrator] *Secretary* at the time of application a plan describing—

(A) \* \* \*

\* \* \* \* \*

(e) MINIMUM ALLOCATION.—

(1) IN GENERAL.—In allocating funds under this section, the [Administrator] Secretary shall ensure that—

(A) \* \* \*

\* \* \* \* \*

**SEC. 2005. GRANTS TO DIRECTLY ELIGIBLE TRIBES.**

(a) IN GENERAL.—Notwithstanding section 2004(b), the [Administrator] Secretary may award grants to directly eligible tribes under section 2004.

(b) TRIBAL APPLICATIONS.—A directly eligible tribe may apply for a grant under section 2004 by submitting an application to the [Administrator] Secretary that includes, as appropriate, the information required for an application by a State under section 2004(b).

(c) CONSISTENCY WITH STATE PLANS.—

(1) \* \* \*

(2) OPPORTUNITY FOR COMMENT.—If the Governor of a State determines that the application of a directly eligible tribe is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, not later than 30 days after the date of receipt of that application the Governor shall—

(A) notify the [Administrator] Secretary, in writing, of that fact; and

\* \* \* \* \*

(d) FINAL AUTHORITY.—The [Administrator] Secretary shall have final authority to approve any application of a directly eligible tribe. The [Administrator] Secretary shall notify each State within the boundaries of which any part of a directly eligible tribe is located of the approval of an application by the tribe.

(e) PRIORITIZATION.—The [Administrator] Secretary shall allocate funds to directly eligible tribes in accordance with the factors applicable to allocating funds among States under section 2007.

(f) DISTRIBUTION OF AWARDS TO DIRECTLY ELIGIBLE TRIBES.—If the [Administrator] Secretary awards funds to a directly eligible tribe under this section, the [Administrator] Secretary shall distribute the grant funds directly to the tribe and not through any State.

(g) MINIMUM ALLOCATION.—

(1) IN GENERAL.—In allocating funds under this section, the [Administrator] Secretary shall ensure that, for each fiscal year, directly eligible tribes collectively receive, from the funds appropriated for the State Homeland Security Grant Program established under section 2004, not less than an amount equal to 0.1 percent of the total funds appropriated for grants under sections 2003 and 2004.

(2) EXCEPTION.—This subsection shall not apply in any fiscal year in which the [Administrator] Secretary—

(A) \* \* \*

\* \* \* \* \*

(h) TRIBAL LIAISON.—A directly eligible tribe applying for a grant under section 2004 shall designate an individual to serve as a tribal liaison with the Department and other Federal, State, local, and regional government officials concerning [preventing, preparing for, protecting against, and responding to] *preventing and protecting against* acts of terrorism.

\* \* \* \* \*

**SEC. 2006. TERRORISM PREVENTION.**

(a) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

(1) IN GENERAL.—The [Administrator] *Secretary* shall ensure that not less than 25 percent of the total combined funds appropriated for grants under sections 2003 and 2004 is used for law enforcement terrorism prevention activities.

(2) LAW ENFORCEMENT TERRORISM PREVENTION ACTIVITIES.—Law enforcement terrorism prevention activities include—

(A) \* \* \*

\* \* \* \* \*

(I) any other terrorism prevention activity authorized by the [Administrator] *Secretary*.

(3) PARTICIPATION OF UNDERREPRESENTED COMMUNITIES IN FUSION CENTERS.—The [Administrator] *Secretary* shall ensure that grant funds described in paragraph (1) are used to support the participation, as appropriate, of law enforcement and other emergency response providers from rural and other underrepresented communities at risk from acts of terrorism in fusion centers.

(b) OFFICE FOR STATE AND LOCAL LAW ENFORCEMENT.—

(1) \* \* \*

\* \* \* \* \*

(4) RESPONSIBILITIES.—The Assistant Secretary for State and Local Law Enforcement shall—

(A) lead the coordination of Department-wide policies relating to the role of State and local law enforcement in [preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters within the United States] *preventing and protecting against acts of terrorism within the United States*;

\* \* \* \* \*

(D) work with the [Administrator] *Secretary* to ensure that law enforcement and terrorism-focused grants to State, local, and tribal government agencies, including grants under sections 2003 and 2004, the Commercial Equipment Direct Assistance Program, and other grants administered by the Department to support fusion centers and law enforcement-oriented programs, are appropriately focused on terrorism prevention activities;

\* \* \* \* \*

**SEC. 2007. PRIORITIZATION.**

(a) IN GENERAL.—In allocating funds among States and high-risk urban areas applying for grants under section 2003 or 2004, the

**[Administrator]** *Secretary* shall consider, for each State or high-risk urban area—

(1) its relative threat, vulnerability, and consequences from acts of terrorism, including consideration of—

(A) \* \* \*

\* \* \* \* \*

(D) its degree of threat, vulnerability, and consequences related to critical infrastructure (for all critical infrastructure sectors) or key resources identified by the **[Administrator]** *Secretary* or the State homeland security plan, including threats, vulnerabilities, and consequences related to critical infrastructure or key resources in nearby jurisdictions;

\* \* \* \* \*

(H) its likely need to **[respond to]** *address* acts of terrorism occurring in nearby jurisdictions;

\* \* \* \* \*

(J) in the case of a high-risk urban area, the extent to which that high-risk urban area includes—

(i) those incorporated municipalities, counties, parishes, and Indian tribes within the relevant eligible metropolitan area, the inclusion of which will enhance regional efforts **[to prevent, prepare for, protect against, and respond to]** *to prevent and protect against* acts of terrorism; and

\* \* \* \* \*

(K) such other factors as are specified in writing by the **[Administrator]** *Secretary*; and

(2) the anticipated effectiveness of the proposed use of the grant by the State or high-risk urban area in increasing the ability of that State or high-risk urban area **[to prevent, prepare for, protect against, and respond to]** *to prevent and protect against* acts of terrorism, to meet its target capabilities, and to otherwise reduce the overall risk to the high-risk urban area, the State, or the Nation.

(b) TYPES OF THREAT.—In assessing threat under this section, the **[Administrator]** *Secretary* shall consider the following types of threat to critical infrastructure sectors and to populations in all areas of the United States, urban and rural:

(1) \* \* \*

\* \* \* \* \*

(9) Such other types of threat determined relevant by the **[Administrator]** *Secretary*.

**SEC. 2008. USE OF FUNDS.**

(a) PERMITTED USES.—The **[Administrator]** *Secretary* shall permit the recipient of a grant under section 2003 or 2004 to use grant funds to achieve target capabilities related to **[preventing, preparing for, protecting against, and responding to]** *preventing and protecting against* acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through—

(1) \* \* \*

\* \* \* \* \*

(12) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the State Homeland Security Grant Program, the Urban Area Security Initiative (including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program, *except to the extent that such activities are inconsistent with the FEMA Independence Act of 2009 (including the amendments made by that Act)*; and

(13) any other appropriate activity, as determined by the **Administrator** *Secretary*.

(b) LIMITATIONS ON USE OF FUNDS.—

(1) \* \* \*

(2) PERSONNEL.—

(A) \* \* \*

(B) WAIVER.—At the request of the recipient of a grant under section 2003 or 2004, the **Administrator** *Secretary* may grant a waiver of the limitation under subparagraph (A).

(3) LIMITATIONS ON DISCRETION.—

(A) IN GENERAL.—With respect to the use of amounts awarded to a grant recipient under section 2003 or 2004 for personnel costs in accordance with paragraph (2) of this subsection, the **Administrator** *Secretary* may not—

(i) \* \* \*

\* \* \* \* \*

(B) ANALYSTS.—If amounts awarded to a grant recipient under section 2003 or 2004 are used for paying salary or benefits of a qualified intelligence analyst under subsection (a)(10), the **Administrator** *Secretary* shall make such amounts available without time limitations placed on the period of time that the analyst can serve under the grant.

(4) CONSTRUCTION.—

(A) \* \* \*

(B) EXCEPTIONS.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), nothing in this paragraph shall prohibit the use of a grant awarded under section 2003 or 2004 to achieve target capabilities related to **preventing, preparing for, protecting against, or responding to** *preventing or protecting against* acts of terrorism, including through the alteration or remodeling of existing buildings for the purpose of making such buildings secure against acts of terrorism.

(ii) REQUIREMENTS FOR EXCEPTION.—No grant awarded under section 2003 or 2004 may be used for a purpose described in clause (i) unless—

(I) specifically approved by the **Administrator** *Secretary*;

\* \* \* \* \*

(d) REIMBURSEMENT OF COSTS.—

(1) \* \* \*

(2) PERFORMANCE OF FEDERAL DUTY.—An applicant for a grant under section 2003 or 2004 may petition the [Administrator] Secretary to use the funds from its grants under those sections for the reimbursement of the cost of any activity relating to [preventing, preparing for, protecting against, or responding to] *preventing or protecting against* acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government under agreement with a Federal agency.

(e) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a grant under section 2003 or 2004, the [Administrator] Secretary may authorize the grant recipient to transfer all or part of the grant funds from uses specified in the grant agreement to other uses authorized under this section, if the [Administrator] Secretary determines that such transfer is in the interests of homeland security.

\* \* \* \* \*

## Subtitle B—Grants Administration

### SEC. 2021. ADMINISTRATION AND COORDINATION.

[(a) REGIONAL COORDINATION.—The Secretary shall ensure that—

[(1) all recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) coordinate, as appropriate, their prevention, preparedness, and protection efforts with neighboring State, local, and tribal governments; and

[(2) all high-risk urban areas and other recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) that include or substantially affect parts or all of more than 1 State coordinate, as appropriate, across State boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans.]

(a) REGIONAL COORDINATION.—*The Secretary shall ensure that—*

*(1) all recipients of grants administered by the Department to prevent and protect against acts of terrorism coordinate, as appropriate, their prevention and protection efforts with neighboring State, local, and tribal governments; and*

*(2) all high-risk urban areas and other recipients of grants administered by the Department to prevent and protect against acts of terrorism that include or substantially affect parts or all of more than 1 State coordinate, as appropriate, across State*

*boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans.*

\* \* \* \* \*

(c) INTERAGENCY COORDINATION.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary [(acting through the Administrator)], the Attorney General, the Secretary of Health and Human Services, and the heads of other agencies providing assistance to State, local, and tribal governments for preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters, shall jointly—

(A) \* \* \*

\* \* \* \* \*

(d) SENSE OF CONGRESS.—It is the sense of Congress that, in order to ensure that the Nation is most effectively able to prevent, prepare for, protect against, and respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters—

(1) the [Department] *Federal Government* should administer a coherent and coordinated system of both terrorism-focused and all-hazards grants;

\* \* \* \* \*

**SEC. 2022. ACCOUNTABILITY.**

(a) AUDITS OF GRANT PROGRAMS.—

(1) COMPLIANCE REQUIREMENTS.—

(A) AUDIT REQUIREMENT.—Each recipient of a grant administered by the Department that expends not less than \$500,000 in Federal funds during its fiscal year shall submit to the [Administrator] *Secretary* a copy of the organization-wide financial and compliance audit report required under chapter 75 of title 31, United States Code.

\* \* \* \* \*

(C) IMPROPER PAYMENTS.—Consistent with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note), for each of the grant programs under sections 2003 and 2004 of this title and section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762), the [Administrator] *Secretary* shall specify policies and procedures for—

(i) \* \* \*

\* \* \* \* \*

(2) AGENCY PROGRAM REVIEW.—

[(A) IN GENERAL.—Not less than once every 2 years, the Secretary shall conduct, for each State and high-risk urban area receiving a grant administered by the Department, a programmatic and financial review of all grants awarded by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters, excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford



Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.).】

(A) *IN GENERAL.*—*Not less than once every 2 years, the Secretary shall conduct, for each State and high-risk urban area receiving a grant administered by the Department, a programmatic and financial review of all grants awarded by the Department to prevent or protect against acts of terrorism.*

(B) *CONTENTS.*—Each review under subparagraph (A) shall, at a minimum, examine—

(i) \* \* \*

(ii) the extent to which funds awarded enhanced the ability of a grantee [to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other man-made disasters] *to prevent and protect against acts of terrorism.*

(C) *AUTHORIZATION OF APPROPRIATIONS.*—In addition to any other amounts authorized to be appropriated to the [Administrator] *Secretary*, there are authorized to be appropriated to the [Administrator] *Secretary* for reviews under this paragraph—

(i) \* \* \*

\* \* \* \* \*

(3) *OFFICE OF INSPECTOR GENERAL PERFORMANCE AUDITS.*—

【(A) *IN GENERAL.*—In order to ensure the effective and appropriate use of grants administered by the Department, the Inspector General of the Department each year shall conduct audits of a sample of States and high-risk urban areas that receive grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters, excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.).】

(A) *IN GENERAL.*—*In order to ensure the effective and appropriate use of grants administered by the Department, the Inspector General of the Department each year shall conduct audits of a sample of States and high-risk urban areas that receive grants administered by the Department to prevent or protect against acts of terrorism.*

(B) *DETERMINING SAMPLES.*—The sample selected for audits under subparagraph (A) shall be—

(i) \* \* \*

(ii) selected based on—

(I) \* \* \*

\* \* \* \* \*

(III) concerns identified by the [Administrator] *Secretary*, including referrals from the [Administrator] *Secretary*; and

\* \* \* \* \*

(D) *REPORT BY THE INSPECTOR GENERAL.*—

(i) \* \* \*

(ii) CONTENTS.—Each report submitted under clause (i) shall describe, for the fiscal year before the date of that report—

(I) \* \* \*

\* \* \* \* \*

(IV) the extent to which funds awarded enhanced the ability of a grantee **to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism and other man-made disasters** *to prevent and protect against acts of terrorism.*

\* \* \* \* \*

(F) PROVISION OF INFORMATION TO **ADMINISTRATOR SECRETARY**.—The Inspector General of the Department shall provide to the **Administrator Secretary** any findings and recommendations from audits conducted under subparagraph (A).

\* \* \* \* \*

(4) PERFORMANCE ASSESSMENT.—In order to ensure that States and high-risk urban areas are using grants administered by the Department appropriately to meet target capabilities and preparedness priorities, the **Administrator Secretary** shall—

(A) \* \* \*

\* \* \* \* \*

(D) ensure that each State receiving a grant administered by the Department submits a report to the **Administrator Secretary** on its level of preparedness, as required by section 652(c) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(c)).

(5) CONSIDERATION OF ASSESSMENTS.—In conducting program reviews and performance audits under paragraphs (2) and (3), the **Administrator Secretary** and the Inspector General of the Department shall take into account the performance assessment elements required under paragraph (4).

(6) RECOVERY AUDITS.—The **Administrator Secretary** shall conduct a recovery audit (as that term is defined by the Director of the Office of Management and Budget under section 3561 of title 31, United States Code) for any grant administered by the Department with a total value of not less than \$1,000,000, if the **Administrator Secretary** finds that—

(A) \* \* \*

\* \* \* \* \*

(7) REMEDIES FOR NONCOMPLIANCE.—

(A) IN GENERAL.—If, as a result of a review or audit under this subsection or otherwise, the **Administrator Secretary** finds that a recipient of a grant under this title has failed to substantially comply with any provision of law or with any regulations or guidelines of the Department regarding eligible expenditures, the **Administrator Secretary** shall—

(i) \* \* \*

\* \* \* \* \*

(v) take such other action as the [Administrator] Secretary determines appropriate.

(B) DURATION OF PENALTY.—The [Administrator] Secretary shall apply an appropriate penalty under subparagraph (A) until such time as the [Administrator] Secretary determines that the grant recipient is in full compliance with the law and with applicable guidelines or regulations of the Department.

(b) REPORTS BY GRANT RECIPIENTS.—

(1) QUARTERLY REPORTS ON HOMELAND SECURITY SPENDING.—

(A) IN GENERAL.—As a condition of receiving a grant under section 2003 or 2004, a State, high-risk urban area, or directly eligible tribe shall, not later than 30 days after the end of each Federal fiscal quarter, submit to the [Administrator] Secretary a report on activities performed using grant funds during that fiscal quarter.

\* \* \* \* \*

(c) REPORTS [BY THE ADMINISTRATOR].—

(1) \* \* \*

(2) RISK ASSESSMENT.—

(A) IN GENERAL.—For each fiscal year, the [Administrator] Secretary shall provide to the appropriate committees of Congress a detailed and comprehensive explanation of the methodologies used to calculate risk and compute the allocation of funds for grants administered by the Department, including—

(i) \* \* \*

\* \* \* \* \*

(3) TRIBAL FUNDING REPORT.—At the end of each fiscal year, the [Administrator] Secretary shall submit to the appropriate committees of Congress a report setting forth the amount of funding provided during that fiscal year to Indian tribes under any grant program administered by the Department, whether provided directly or through a subgrant from a State or high-risk urban area.

\* \* \* \* \*

(d) ADMINISTRATION OF GRANTS.—The Secretary may request the Administrator to continue to support the administration of any grant authorized by this title.

**POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT OF 2006**

\* \* \* \* \*

**TITLE VI—NATIONAL EMERGENCY MANAGEMENT**

\* \* \* \* \*

## Subtitle B—Personnel Provisions

### CHAPTER 1—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

\* \* \* \* \*

#### SEC. 624. SURGE CAPACITY FORCE.

(a) \* \* \*

(b) EMPLOYEES DESIGNATED TO SERVE.—The plan shall include procedures under which the [Secretary] Administrator shall designate employees [of the Department] who are not employees of the Agency and shall, in conjunction with the heads of other Executive agencies, designate employees of those other Executive agencies, as appropriate, to serve on the Surge Capacity Force.

(c) CAPABILITIES.—The plan shall ensure that the Surge Capacity Force—

(1) includes a sufficient number of individuals credentialed in accordance with [section 510 of the Homeland Security Act of 2002, as amended by this Act,] section 203 of the FEMA Independence Act of 2009 that are capable of deploying rapidly and efficiently after activation to prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents; and

(2) includes a sufficient number of full-time, highly trained individuals credentialed in accordance with [section 510 of the Homeland Security Act of 2002, as amended by this Act,] section 203 of the FEMA Independence Act of 2009 to lead and manage the Surge Capacity Force.

\* \* \* \* \*

### CHAPTER 2—EMERGENCY MANAGEMENT CAPABILITIES

\* \* \* \* \*

#### SEC. 640. IMPROVEMENTS TO INFORMATION TECHNOLOGY SYSTEMS.

(a) MEASURES TO IMPROVE INFORMATION TECHNOLOGY SYSTEMS.—The Administrator[, in coordination with the Chief Information Officer of the Department,] shall take appropriate measures to update and improve the information technology systems of the Agency, including measures to—

(1) \* \* \*

\* \* \* \* \*

## Subtitle C—Comprehensive Preparedness System

### CHAPTER 1—NATIONAL PREPAREDNESS SYSTEM

#### SEC. 641. DEFINITIONS.

In this chapter:

(1) \* \* \*

(2) CREDENTIALLED; CREDENTIALING.—The terms “credentialed” and “credentialing” have the meanings given those terms in [section 501 of the Homeland Security Act of

2002 (6 U.S.C. 311)] *section 203 of the FEMA Independence Act of 2009.*

\* \* \* \* \*

(14) TYPED; TYPING.—The terms “typed” and “typing” have the meanings given those terms in [section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311)] *section 203 of the FEMA Independence Act of 2009.*

\* \* \* \* \*

**SEC. 651. FEDERAL RESPONSE CAPABILITY INVENTORY.**

- (a) \* \* \*
- (b) CONTENTS.—For each Federal agency with responsibilities under the National Response Plan, the inventory shall include—
- (1) \* \* \*
  - (2) a list of personnel credentialed in accordance with [section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)] *section 203 of the FEMA Independence Act of 2009;*
  - (3) a list of resources typed in accordance with [section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)] *section 203 of the FEMA Independence Act of 2009;* and

\* \* \* \* \*

**SEC. 653. FEDERAL PREPAREDNESS.**

- (a) AGENCY RESPONSIBILITY.—In support of the national preparedness system, the President shall ensure that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan—
- (1) \* \* \*
  - (2) complies with the National Incident Management System, including credentialing of personnel and typing of resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster in accordance with [section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)] *section 203 of the FEMA Independence Act of 2009;*

\* \* \* \* \*

## Subtitle E—Stafford Act Amendments

\* \* \* \* \*

**SEC. 682. NATIONAL DISASTER RECOVERY STRATEGY.**

(a) IN GENERAL.—The Administrator, in coordination with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Transportation, the Administrator of the Small Business Administration, the Assistant Secretary for Indian Affairs of the Department of the Interior, *the Secretary*, and the heads of other appropriate Federal agencies, State, local, and tribal government officials (including through the National Advisory Council), and representatives of appropriate nongovernmental organizations shall develop, coordinate, and maintain a National Disaster Recov-

ery Strategy to serve as a guide to recovery efforts after major disasters and emergencies.

\* \* \* \* \*

**SEC. 689. INDIVIDUALS WITH DISABILITIES.**

(a) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, and in coordination with the National Advisory Council, the National Council on Disability, the Interagency Coordinating Council on Preparedness and Individuals With Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), and the Disability Coordinator (established under [section 513 of the Homeland Security Act of 2002, as added by this Act] *section 204 of the FEMA Independence Act of 2009*), the Administrator shall develop guidelines to accommodate individuals with disabilities, which shall include guidelines for—

(1) \* \* \*

\* \* \* \* \*

**Subtitle F—Prevention of Fraud, Waste, and Abuse**

\* \* \* \* \*

**SEC. 692. LIMITATIONS ON TIERING OF SUBCONTRACTORS.**

(a) REGULATIONS.—The [Secretary] *Administrator* shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) SPECIFIC REQUIREMENT.—At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract or the cost of any individual task or delivery order (not including overhead and profit), unless the [Secretary] *Administrator* determines that such requirement is not feasible or practicable.

(c) COVERED CONTRACTS.—This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the [Department] *Agency* to facilitate response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

\* \* \* \* \*

**SEC. 695. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.**

(a) REGULATIONS.—The [Secretary] *Administrator* shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary—

(1) \* \* \*

\* \* \* \* \*

(b) SPECIFIC CONTRACT PERIOD.—The regulations promulgated under subsection (a) shall require the contract period to not to exceed 150 days, unless the [Secretary] Administrator determines that exceptional circumstances apply.

(c) COVERED CONTRACTS.—This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the [Department] Agency to facilitate response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

\* \* \* \* \*

**TITLE 31, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE I—GENERAL**

\* \* \* \* \*

**CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS**

\* \* \* \* \*

**§ 901. Establishment of agency Chief Financial Officers**

(a) \* \* \*

(b)(1) \* \* \*

(2) The agencies referred to in subsection (a)(2) are the following:

(A) \* \* \*

\* \* \* \* \*

(H) *The Federal Emergency Management Agency.*

\* \* \* \* \*

**INSPECTOR GENERAL ACT OF 1978**

\* \* \* \* \*

DEFINITIONS

SEC. 12. As used in this Act—

(1) the term “head of the establishment” means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans’ Affairs; the [Director of the Federal Emergency Management Agency] Administrator of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regu-

latory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Director of the Federal Housing Finance Agency; the Board of Directors of the Tennessee Valley Authority; the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; as the case may be;

\* \* \* \* \*

**ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT**

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Robert T. Stafford Disaster Relief and Emergency Assistance Act”.

\* \* \* \* \*

**TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE**

\* \* \* \* \*

**SEC. 204. INTERAGENCY TASK FORCE.**

(a) \* \* \*

(b) CHAIRPERSON.—The [Director] *Administrator* of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

\* \* \* \* \*

**TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION**

\* \* \* \* \*

**SEC. 303. EMERGENCY SUPPORT AND RESPONSE TEAMS. .**

(a) \* \* \*

(b) EMERGENCY RESPONSE TEAMS.—

(1) ESTABLISHMENT.—In carrying out subsection (a), the President, acting through the [Director] *Administrator* of the Federal Emergency Management Agency, shall establish—

(A) \* \* \*

\* \* \* \* \*

(2) TARGET CAPABILITY LEVEL.—The [Director] *Administrator* shall ensure that specific target capability levels, as de-



fined pursuant to the guidelines established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.

(3) PERSONNEL.—The President, acting through the [Director] *Administrator*, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.

(4) READINESS REPORTING.—The [Director] *Administrator* shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.

\* \* \* \* \*

**SEC. 326. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.**

(a) \* \* \*

\* \* \* \* \*

(c) DUTIES.—The Small State and Rural Advocate shall—

(1) \* \* \*

\* \* \* \* \*

(3) conduct such other activities as the [Director] *Administrator* of the Federal Emergency Management Agency considers appropriate.

**TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS**

\* \* \* \* \*

**SEC. 404. HAZARD MITIGATION.**

(a) \* \* \*

(b) PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.—

(1) GENERAL AUTHORITY.—In providing hazard mitigation assistance under this section in connection with flooding, the [Director] *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) \* \* \*

(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the [Director] *Administrator* that provides assurances that—

(i) \* \* \*

(ii) no new structure will be erected on property acquired, accepted or from which a structure was re-

moved under the acquisition or relocation program other than—

(I) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.**

(a) \* \* \*

\* \* \* \* \*

(c) LARGE IN-LIEU CONTRIBUTIONS.—

(1) FOR PUBLIC FACILITIES.—

(A) \* \* \*

\* \* \* \* \*

(C) LIMITATIONS.—Funds made available to a State or local government under this paragraph may not be used for—

(i) \* \* \*

(ii) any uninsured public facility located in a special flood hazard area identified by the [Director] Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) FOR PRIVATE NONPROFIT FACILITIES.—

(A) \* \* \*

\* \* \* \* \*

(C) LIMITATIONS.—Funds made available to a person under this paragraph may not be used for—

(i) \* \* \*

(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the [Director] Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) FLOOD INSURANCE.—

(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the [Director] Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

\* \* \* \* \*

(e) ELIGIBLE COST.—

(1) \* \*

\* \* \* \* \*

(3) EXPERT PANEL.—

(A) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this paragraph, the President, acting through the [Director] Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

\* \* \* \* \*

## TITLE VI—EMERGENCY PREPAREDNESS

\* \* \* \* \*

### SEC. 602. DEFINITIONS.

(a) DEFINITIONS.—For purposes of this title only:

(1) \* \* \*

\* \* \* \* \*

(4) ORGANIZATIONAL EQUIPMENT.—The term “organizational equipment” means equipment determined by the [Director] Administrator to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

\* \* \* \* \*

[(7) DIRECTOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.]

(7) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

\* \* \* \* \*

### SEC. 603. ADMINISTRATION OF TITLE.

This title shall be carried out by the [Director] Administrator of the Federal Emergency Management Agency.

## Subtitle A—Powers and Duties

### SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.

(a) IN GENERAL.—In order to carry out the policy described in section 601, the [Director] Administrator shall have the authorities provided in this section.

(b) FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.—The [Director] Administrator may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the [Director] Administrator may request such reports on

State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—With the approval of the President, the **[Director]** *Administrator* may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(d) COMMUNICATIONS AND WARNINGS.—The **[Director]** *Administrator* may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

(e) EMERGENCY PREPAREDNESS MEASURES.—The **[Director]** *Administrator* may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

(1) \* \* \*

\* \* \* \* \*

(f) TRAINING PROGRAMS.—(1) The **[Director]** *Administrator* may—

(A) \* \* \*

(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the **[Director]** *Administrator*; and

\* \* \* \* \*

(2) The terms prescribed by the **[Director]** *Administrator* for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

(3) The **[Director]** *Administrator* may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

(g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION.—The **[Director]** *Administrator* may publicly disseminate appropriate emergency preparedness information by all appropriate means.

(h) EMERGENCY PREPAREDNESS COMPACTS.—(1) The **[Director]** *Administrator* shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

(A) \* \* \*

\* \* \* \* \*

(2) The **[Director]** *Administrator* may—

(A) \* \* \*

\* \* \* \* \*

(i) MATERIALS AND FACILITIES.—(1) The **[Director]** *Administrator* may procure by condemnation or otherwise, construct, lease, trans-

port, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

\* \* \* \* \*

(3) The **[Director]** *Administrator* may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

(4) The **[Director]** *Administrator* may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the **[Director]** *Administrator* shall prescribe.

(j) FINANCIAL CONTRIBUTIONS.—(1) The **[Director]** *Administrator* may make financial contributions, on the basis of programs or projects approved by the **[Director]** *Administrator*, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the **[Director]** *Administrator* shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

(2) The **[Director]** *Administrator* may make financial contributions, on the basis of programs or projects approved by the **[Director]** *Administrator*, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.

\* \* \* \* \*

(4) The amounts authorized to be contributed by the **[Director]** *Administrator* to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

(5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the **[Director]** *Administrator* for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the **[Director]** *Administrator*) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

(6) The amounts authorized to be contributed by the **[Director]** *Administrator* to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the **[Director]** *Administrator* may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political sub-

division thereof shall be excluded from the computation of the State share under this subsection.

(7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the **[Director] Administrator**. The **[Director] Administrator** shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the **[Director] Administrator**, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the **[Director] Administrator** may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the **[Director] Administrator** determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the **[Director] Administrator** necessary for the use of such facility for emergency preparedness purposes.

(8) The **[Director] Administrator** shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

(9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the **[Director] Administrator** under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a-276a-5)), and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The **[Director] Administrator** shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c)).

(k) SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES.—The **[Director] Administrator** may arrange for the sale or disposal of materials and facilities found by the **[Director] Administrator** to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

**SEC. 612. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES.**

The **[Director]** *Administrator* shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

**SEC. 613. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.**

(a) **GENERAL AUTHORITY.**—To further assist in carrying out the purposes of this title, the **[Director]** *Administrator* may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 611(h)) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) **PLAN REQUIREMENTS.**—A plan submitted under this section shall—

(1) \* \* \*

\* \* \* \* \*

(3) provide for the development of State and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by the **[Director]** *Administrator*;

\* \* \* \* \*

(5) provide that the State shall make such reports in such form and content as the **[Director]** *Administrator* may require;

(6) make available to duly authorized representatives of the **[Director]** *Administrator* and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section; and

\* \* \* \* \*

(d) **TERMS AND CONDITIONS.**—The **[Director]** *Administrator* shall establish such other terms and conditions as the **[Director]** *Administrator* considers necessary and proper to carry out this section.

\* \* \* \* \*

(f) **ALLOCATION OF FUNDS.**—For each fiscal year concerned, the **[Director]** *Administrator* shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the **[Director]** *Administrator* shall prescribe. The **[Director]** *Administrator* may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to

any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(g) STANDARDS FOR STATE AND LOCAL EMERGENCY PREPAREDNESS OPERATIONAL PLANS.—In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the [Director] Administrator shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(h) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the [Director] Administrator notifies the States of the allocations under this section, the [Director] Administrator may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the [Director] Administrator, will best assure the adequate development of the emergency preparedness capability of the United States.

(h) ANNUAL REPORTS.—The [Director] Administrator shall report annually to the Congress all contributions made pursuant to this section.

\* \* \* \* \*

**SEC. 616. DISASTER RELATED INFORMATION SERVICES.**

(a) IN GENERAL.—Consistent with section 308(a), the [Director] Administrator of Federal Emergency Management Agency shall—

(1) \* \* \*

\* \* \* \* \*

(b) GROUP SIZE.—For purposes of subsection (a), the [Director] Administrator of Federal Emergency Management Agency shall define the size of a population group.

**SEC. 617. URBAN AREA ALL HAZARDS PREPAREDNESS GRANT PROGRAM.**

(a) IN GENERAL.—To assist urban areas to prepare for any hazard, the Administrator shall establish an urban area all hazards preparedness grant program.

(b) ELIGIBILITY.—The 100 most populous metropolitan statistical areas, as defined by the Office of Management and Budget, shall be eligible to receive a grant award under this section. The Administrator may consider additional urban areas for a grant award based on criteria established by the Administrator.

(c) NOTIFICATION AND INFORMATION.—Not later than 30 days before the Administrator accepts applications for the urban area all hazards preparedness grant program, the Administrator shall notify the chief elected official of each urban area and the Governor of the State in which such urban area is located if the urban area is eligible for a grant under this section and provide information regarding the application procedures and grant award criteria. Such notification and information shall also be published in the Federal Register not later than 15 days before the Administrator accepts applications for the grant program.

(d) APPLICATION.—An urban area eligible under subsection (b) may apply to the Administrator for a grant award under this section. Such application shall demonstrate, to the satisfaction of the Administrator, that—



(1) the urban area will use funds awarded under this section to develop or implement activities that support the emergency management goals of the State in which an urban area is located; and

(2) the State has reviewed the application.

(e) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Administrator shall allocate funds to each State in which an urban area selected to receive a grant award under this section is located based on—

(A) the population of each eligible urban area;

(B) the relative level of risk of any hazard faced by each eligible urban area; and

(C) other factors as determined appropriate by the Administrator.

(2) MINIMUM ALLOCATION.—In determining the allocation amount under paragraph (1), the Administrator may provide each eligible urban area with a minimum allocation.

(3) STATE DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—Not later than 45 days after the date on which a State receives a grant award under this section, the State shall provide each urban area awarded a grant not less than 80 percent of the award amount for such area. Any funds retained by a State shall be expended on items, services, or activities related to emergency preparedness that benefit such urban area for activities described in subsection (f).

(B) FUNDS RETAINED.—A State shall provide each urban area awarded such a grant with an accounting of the items, services, or activities on which any funds retained by the State under subparagraph (A) were expended.

(4) INTERSTATE URBAN AREAS.—If an urban area selected to receive a grant award under this section is located in 2 or more States, the Administrator shall distribute to each such State a portion of the grant funds that the Administrator determines to be appropriate.

(f) USES OF FUNDS.—An urban area that receives a grant award under this section may use funds only for activities determined by the Administrator to enhance the preparedness of an urban area for a hazard, and shall include—

(1) planning;

(2) purchase and maintenance of equipment;

(3) training;

(4) exercises; and

(5) management and administration.

(g) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to implement the urban area all hazards preparedness grant program under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) \$525,000,000 for fiscal year 2010;

(2) \$575,000,000 for fiscal year 2011; and

(3) \$650,000,000 for fiscal year 2012.

## Subtitle B—General Provisions

### SEC. 621. ADMINISTRATIVE AUTHORITY.

(a) IN GENERAL.—For the purpose of carrying out the powers and duties assigned to the [Director] *Administrator* under this title, the [Director] *Administrator* may exercise the administrative authorities provided under this section.

(b) ADVISORY PERSONNEL.—(1) The [Director] *Administrator* may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the [Director] *Administrator* considers to be necessary in carrying out the provisions of this title.

(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, plus authorized subsistence and travel, as determined by the [Director] *Administrator*.

(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The [Director] *Administrator* may—

(1) \* \* \*

\* \* \* \* \*

(d) GIFTS.—Notwithstanding any other provision of law, the [Director] *Administrator* may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.

(e) REIMBURSEMENT.—The [Director] *Administrator* may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.

(f) PRINTING.—The [Director] *Administrator* may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the [Director] *Administrator* considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

(g) RULES AND REGULATIONS.—The [Director] *Administrator* may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The [Director] *Administrator* may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the [Director] *Administrator* may designate.

(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the [Director] *Administrator* finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the [Director] *Administrator* may notify such State or person that further payments will not be made to the State or person from appro-

priations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the [Director] *Administrator* is satisfied that there will no longer be any such failure.

(2) Until so satisfied, the [Director] *Administrator* shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

\* \* \* \* \*

**SEC. 622. SECURITY REGULATIONS.**

(a) ESTABLISHMENT.—The [Director] *Administrator* shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the [Director] *Administrator* considers necessary.

\* \* \* \* \*

(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the [Director] *Administrator* to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the [Director] *Administrator* of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the [Director] *Administrator* of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the [Director] *Administrator* of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the [Director] *Administrator* of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the [Director] *Administrator* of the Federal Emergency Management Agency for action.

(d) EMPLOYEE OATHS.—Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 621(b), shall execute the loyalty oath or appointment affidavits prescribed by the [Director] *Administrator* of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows: I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental res-

ervation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of \_\_\_\_\_ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence." After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18, United States Code.

**SEC. 623. USE OF EXISTING FACILITIES.**

In performing duties under this title, the [Director] *Administrator*—

(1) \* \* \*

\* \* \* \* \*

(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the [Director] *Administrator*, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

**SEC. 624. ANNUAL REPORT TO CONGRESS.**

The [Director] *Administrator* shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the [Director] *Administrator* considers appropriate.

\* \* \* \* \*

**SEC. 629. MINORITY EMERGENCY PREPAREDNESS DEMONSTRATION PROGRAM.**

(a) IN GENERAL.—The [Director] *Administrator* shall establish a minority emergency preparedness demonstration program to research and promote the capacity of minority communities to provide data, information, and awareness education by providing grants to or executing contracts or cooperative agreements with eligible nonprofit organizations to establish and conduct such programs.

\* \* \* \* \*

(e) APPLICATION AND REVIEW PROCEDURE.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an organization must submit an application to the [Director] *Administrator* at such time, in such manner, and accompanied by such information as the [Director] *Administrator* may reasonably

require. The **[Director]** *Administrator* shall establish a procedure by which to accept such applications.

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