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U.S. GOVERNMENT
INFORMATION
GPO

111TH CONGRESS
1ST SESSION

S. 412

To establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2009

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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A BILL

To establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Emergency Management Advancement Act of 2009'' or the ''FEMA Act''.

TITLE I—FEDERAL EMERGENCY MANAGEMENT AGENCY

SEC. 101. DEFINITIONS.

In this title—

(1) 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;

(2) the term ''Director'' means the Director of the Federal Emergency Management Agency;

(3) 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);

(4) 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));

(5) the term ''National Advisory Council'' means the National Advisory Council established under section 508 of the Homeland Security Act of 2002;

(6) the term ''National Incident Management System'' means a system to enable effective, efficient, and collaborative incident management;

(7) the term ''National Response Plan'' means the National Response Plan or any successor plan prepared under section 104(b)(6);

(8) the term ''Nuclear Incident Response Team'' means a resource that includes—

(A) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(B) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions; and

(9) the term ''tribal government'' means the government of any entity described under section 2(10)(B) of the Homeland Security Act of 2002 (6 U.S.C. 101(10)(B)).

SEC. 102. ESTABLISHMENT OF AGENCY AND DIRECTOR AND DEPUTY DIRECTOR.

(a) ESTABLISHMENT.—The Federal Emergency Management Agency is established as an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(b) DIRECTOR.—

(1) IN GENERAL.—The Director shall be the head of the Federal Emergency Management Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report directly to the President.

(2) QUALIFICATIONS.—The Director shall have significant experience, knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national cataclysmic events.

(3) EXECUTIVE SCHEDULE POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

''Director of the Federal Emergency Management Agency.''.

(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.—

(A) IN GENERAL.—The Director is the principal advisor to the President, the Home-

land Security Council, and the Secretary of Homeland Security 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 of Homeland Security, the Director shall, as the Director 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 Director, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary of Homeland Security on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

(iii) RECOMMENDATIONS TO CONGRESS.—After informing the President,

the Director may make such recommendations to Congress relating to emergency management as the Director considers appropriate.

(5) CABINET STATUS.—The President shall 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.

(c) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Deputy Director of the Federal Emergency Management Agency shall assist the Director of the Federal Emergency Management Agency. The Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The Deputy Director of the Federal Emergency Management Agency shall have significant experience, knowledge, training, and expertise in the area of emergency preparedness, response, recovery, and mitigation as related to natural disasters and other national cataclysmic events.

(3) EXECUTIVE SCHEDULE POSITION.—Section 5313 of title 5, United States Code, is amended—

(A) by striking the following:

"Administrator of the Federal Emergency Management Agency.";

and

(B) by adding at the end the following:

"Deputy Director of the Federal Emergency Management Agency.".

SEC. 103. MISSION.

(a) PRIMARY MISSION.—The primary mission of the Federal Emergency Management 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.

(b) SPECIFIC ACTIVITIES.—In support of the primary mission of the Federal Emergency Management Agency, the Director shall—

(1) 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;

(2) 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;

(3) 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;

(4) integrate the Federal Emergency Management 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;

(5) 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;

(6) coordinate with the Secretary of Homeland Security, 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 of Homeland Security to take full advantage of the substantial range of resources in that Department;

(7) coordinate with the Administrator of the Small Business Administration, the Chief of Engineers of the United States Army Corps of Engineers, and the Secretary of Housing and Urban Development to take full advantage of the resources of those departments and agencies;

(8) 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

(9) 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.

SEC. 104. AUTHORITY AND RESPONSIBILITIES.

(a) IN GENERAL.—The Director 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 of Homeland Security, and in consultation with the Secretary of Homeland Security—

(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, in consultation with the Secretary of Homeland Security, the Nuclear Incident Response Team (when that team is operating as an organizational unit of the Department of Homeland Security);

(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 Director under that Act;

(9) carrying out the mission of the Federal Emergency Management 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 Federal Emergency Management Agency;

(13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emer-

gency support function under the National Response Plan;

(14) coordinating with the National Advisory Council;

(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 Federal Emergency Management 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 Director under the national preparedness System;

(20) carrying out all authorities of the Federal Emergency Management Agency; and

(21) otherwise carrying out the mission of the Federal Emergency Management Agency as described in section 103.

(b) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Director 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.

(c) CONFLICT OF AUTHORITIES.—If the Director determines that there is a conflict between any authority of the Director under this Act, the amendments made by this Act, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and any authority of another Federal officer, the Director shall request that the President make such determinations as may be necessary regarding such authorities.

SEC. 105. REGIONAL OFFICES.

(a) IN GENERAL.—There are in the Federal Emergency Management Agency 10 regional offices, as identified by the Director.

(b) MANAGEMENT OF REGIONAL OFFICES.—

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

(I) performing such other duties relating to such responsibilities as the Director may require.

(3) TRAINING AND EXERCISE REQUIREMENTS.—

(A) TRAINING.—The Director 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 Director.

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

(d) AREA OFFICES.—The Director shall establish Area Offices as components in the appropriate Regional Office, as determined appropriate by the Director.

(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 Director 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 rep-

resentatives 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 non-governmental 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 Director determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Director shall report to Congress regarding the additional statutory authorities that the Director determines are necessary.

SEC. 106. NATIONAL RESPONSE PLAN.

(a) IN GENERAL.—The Director shall—

(1) in consultation with other Federal departments and agencies and the National Advisory Council, ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan; and

(2) periodically review and report to Congress on the integration of Federal authorities to ensure effective response to address response responsibilities and capabilities in the event of a catastrophic incident.

(b) CHAIN OF COMMAND.—

(1) IN GENERAL.—The Director, in consultation with the Secretary of Homeland Security, 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.

(2) DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.—The chain of the command specified in the National Response Plan shall—

(A) provide for a role for the Director consistent with the role of the Director under this Act and the amendments made by this Act; and

(B) 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)).

(3) 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. 107. CREDENTIALING AND TYPING.

The Director 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 credentialing of personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

SEC. 108. FEDERAL AND STATE COOPERATION FOR DISASTER INCIDENT PERIODS.

In determining the duration of a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) or other incident, and in establishing the period for public or individual assistance or other disaster relief assistance for which a State or local government or individual may be eligible, the Director shall defer to weather reports and other substantiating documentation submitted by a State.

SEC. 109. 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 Federal Emergency Management Agency 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.

SEC. 110. GRANT PROGRAMS.

(a) IN GENERAL.—Title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended—

(1) in section 2001—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking ''ADMINISTRATOR'' and inserting ''DIRECTOR''; and

(ii) by striking ''Administrator'' each place that term appears and inserting ''Director'';

(B) in paragraph (4)(A)(iv), by striking ''Secretary'' and inserting ''Director''; and

(C) in paragraph (12), by striking ''Secretary'' each place that term appears and inserting ''Director'';

(2) in section 2002(a), by striking ''The Secretary, through the Administrator,'' and inserting ''The Director'';

(3) in section 2003—

(A) by striking ''Administrator'' each place that term appears and inserting ''Director''; and

(B) by striking ''Department'' each place that term appears and inserting ''Federal Emergency Management Agency'';

(4) in section 2004, by striking ''Administrator'' each place that term appears and inserting ''Director'';

(5) in section 2005—

(A) by striking ''Administrator'' each place that term appears and inserting ''Director''; and

(B) by striking ''Department'' each place that term appears and inserting ''Federal Emergency Management Agency'';

(6) in section 2006, by striking ''Administrator'' each place that term appears and inserting ''Director'';

(7) in section 2007—

(A) by striking ''Administrator'' each place that term appears and inserting ''Director''; and

(B) in subsection (a)(1)(E), by striking ''Department'' and inserting ''Federal Emergency Management Agency'';

(8) in 2008, by striking ''Administrator'' each place that term appears and inserting ''Director'';

(9) in section 2021—

(A) in subsection (a), by striking ''Administrator'' and inserting ''Director'';

(B) in subsection (c)(1), by striking ''(acting through the Administrator)'' and inserting '', the Director''; and

(C) by striking ''Department'' each place that term appears and inserting ''Federal Emergency Management Agency''; and

(10) in section 2022—

(A) by striking ''Administrator'' each place that term appears and inserting ''Director'';

(B) by striking ''Department'' each place that term appears and inserting ''Federal Emergency Management Agency'';

(C) in subsection (a)(3)(F), in the subparagraph heading, by striking ''ADMINISTRATOR'' and inserting ''DIRECTOR''; and

(D) in subsection (c), in the subsection heading, by striking ''ADMINISTRATOR'' and inserting ''DIRECTOR''.

(b) OTHER GRANT PROGRAMS.—

(1) EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM.—Section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762) is amended by striking ''Administrator'' each place that term appears and inserting ''Director''.

(2) INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM.—Section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579) is amended—

(A) in subsection (a), by striking ''Secretary'' and inserting ''Director of the Federal Emergency Management Agency'';

(B) in subsection (b), by striking ''Director for Emergency Communications'' and inserting ''Director of the Federal Emergency Management Agency'';

(C) by amending paragraph (1) of subsection (c) to read as follows:

''(1) IN GENERAL.—The Director of the Federal Emergency Management Agency shall admin-

ister the Interoperable Emergency Communications Grant Program.''; and

(D) by striking ''Administrator'' each place that term appears and inserting ''Director of the Federal Emergency Management Agency''.

SEC. 111. MODEL STANDARDS AND GUIDELINES; GUIDANCE AND RECOMMENDATIONS; VOLUNTARY PRIVATE SECTOR PREPAREDNESS.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(1) in section 522, by striking ''Administrator'' each place that term appears and inserting ''Director of the Federal Emergency Management Agency'';

(2) in section 523—

(A) by striking ''Administrator'' each place that term appears and inserting ''Director of the Federal Emergency Management Agency''; and

(B) in subsection (b)(2), by striking ''Secretary'' and inserting ''Director of the Federal Emergency Management Agency''; and

(3) in section 524—

(A) by amending subsection (a) to read as follows:

"(a) ESTABLISHMENT.—The Administrator (hereinafter referred to in this section as the 'designated officer') shall establish and implement the voluntary private sector preparedness accreditation and certification program in accordance with this section."; and

(B) by amending subsection (b)(2)(E)(ii)(I) to read as follows:

"(I) private sector related programs of the Department; and".

SEC. 112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(1) in section 501, by striking all after "In this title" and inserting "the term 'tribal government' means the government of any entity described under section 2(10)(B).";

(2) by striking sections 503 through 507, 510, and 515;

(3) in section 508—

(A) by striking "Administrator" each place that term appears and inserting "Director of Federal Emergency Management Agency";

(B) in subsection (b)(2), by striking "Department" and inserting "Federal Emergency Management Agency"; and

(C) in subsection (c)—

(i) in paragraph (1), by inserting ''in consultation with the Secretary,'' before ''and shall, to the extent practicable''; and

(ii) in paragraph (3), by inserting '', in consultation with the Secretary,'' before ''shall designate'';

(4) in section 509—

(A) in subsection (a), by striking ''Agency'' and inserting ''Department''; and

(B) by striking subsection (c);

(5) in section 512(c), by striking ''Administrator'' each place that term appears and inserting ''Secretary'';

(6) in section 513—

(A) by striking ''Administrator'' each place that term appears and inserting ''Secretary''; and

(B) in subsection (b)(2), by striking ''Agency'' and inserting ''Department''; and

(7) in section 514—

(A) by striking subsection (a); and

(B) redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) TABLE OF CONTENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by striking the items relating to sections 503 through 507, 510, and 515.

SEC. 113. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to detract from the Department of Homeland Security's primary mission to secure the homeland from terrorist attacks.

TITLE II—TRANSFER AND SAVINGS PROVISIONS

SEC. 201. DEFINITIONS.

In this title, unless otherwise provided or indicated by the context—

(1) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code;

(2) the term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term ''office'' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

SEC. 202. TRANSFER OF FUNCTIONS.

There are transferred to the Federal Emergency Management Agency established under section 101 of this

Act all functions which the Director of the Federal Emergency Management Agency of the Department of Homeland Security exercised before the date of the enactment of this title, including all the functions described under section 505 of the Homeland Security Act of 2002 (before the repeal of that section under section 104 of this Act).

SEC. 203. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The Director of the Federal Emergency Management Agency 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 this title. 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.

(b) EXPERTS AND CONSULTANTS.—The Director of the Federal Emergency Management Agency 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 traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Director of the Federal Emergency Management Agency 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.

SEC. 204. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the Director of the Federal Emergency Management Agency may delegate any of the functions transferred to the Director of the Federal Emergency Management Agency by this title and any function transferred or granted to such Director after the effective date of this title to such officers and employees of the Federal Emergency Management Agency as the Director may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Director of the Federal Emergency Management Agency under this section or under any other provision of this title shall relieve such Director of responsibility for the administration of such functions.

SEC. 205. REORGANIZATION.

The Director of the Federal Emergency Management Agency is authorized to allocate or reallocate any function transferred under section 202 among the officers of the

Federal Emergency Management Agency, and to establish, consolidate, alter, or discontinue such organizational entities in the Federal Emergency Management Agency as may be necessary or appropriate.

SEC. 206. RULES.

The Director of the Federal Emergency Management Agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director determines necessary or appropriate to administer and manage the functions of the Federal Emergency Management Agency.

SEC. 207. 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 this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Federal Emergency Management Agency. Unexpended funds transferred pursuant to this section shall be used

only for the purposes for which the funds were originally authorized and appropriated.

SEC. 208. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to 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.

SEC. 209. EFFECT ON PERSONNEL.

(a) 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.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, 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 Federal Emergency Management 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. 210. SAVINGS PROVISIONS.

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

(1) 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 which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Federal Emergency Management Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) 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 Federal Emergency Management Agency at the time this title takes effect, with respect to functions transferred by this title 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 subsection 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.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, 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.

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

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Federal Emergency Management Agency relating to a function transferred under this title may be continued by the Federal Emergency Management Agency with the same effect as if this title had not been enacted.

SEC. 211. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SEC. 212. TRANSITION.

The Director of the Federal Emergency Management Agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Federal Emergency Management Agency with respect to functions transferred by this title; and

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

SEC. 213. 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 this title—

(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. 214. ADDITIONAL CONFORMING AMENDMENTS.

(a) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Director of the Federal Emergency Management Agency shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this title, the Director of the Federal Emergency Management Agency shall submit the recommended legislation referred to under subsection (a).

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