

proclamation or order and will be given the widest possible publicity by all available media. Federal Armed Forces ordinarily will exercise police powers previously inoperative in the affected area, restore and maintain order, insure the essential mechanics of distribution, transportation, and communication, and initiate necessary relief measures.

§ 501.5 Protection of Federal property.

The right of the United States to protect Federal property or functions by intervention with Federal Armed Forces is an accepted principle of our Government. This form of intervention is warranted only where the need for protection exists and the local civil authorities cannot or will not give adequate protection. This right is exercised by executive authority and extends to all Federal property and functions.

§ 501.6 End of commitment.

The use of Federal Armed Forces for civil disturbance operations should end as soon as the necessity therefor ceases and the normal civil processes can be restored. Determination of the end of the necessity will be made by the Department of the Army.

§ 501.7 Loan of military resources to civil authorities.

(a) The Department of the Army in certain limited situations can lend military equipment to civil law enforcement authorities in the event of civil disturbances. Such loans of equipment are limited to those necessary to meet an urgent need during an actual civil disturbance (except as provided in paragraph (b) of this section) and the loans are considered to be a temporary emergency action. Civil law enforcement authorities are to be encouraged to procure their own equipment for police use since, even though requests are handled expeditiously, normally some time will elapse before the military equipment can be in the hands of the civil law enforcement authorities. Law enforcement authorities are to be cautioned not to rely on the loan of military equipment in the event of a civil disturbance in their locality because the availability of military equipment

for civilian use is contingent upon military requirements for the Department of the Army resources.

(b) A loan agreement will be executed with the civil authority in each case. The agreement will indicate that the property may be retained by the civil authorities only for the duration of the civil disturbance, but for not more than 15 days; however, should the civil disturbance exceed 15 days the approving authority may extend the agreement for another 15-day period. It is recognized that there is often a substantial leadtime before equipment procured by civil law enforcement authorities will be delivered to them. For this reason loans of equipment beyond the 15-day limit are authorized when a request is made in anticipation of imminent threatened civil disturbance and the civil authority requesting the loan has initiated procurement action for equipment substantially similar to the military property requested. Loans may be approved for terms of up to 90 days pending delivery to the civil authority of its own equipment and renewed by the approving authority for another 90-day period if necessary.

(c) Each loan agreement will contain provisions for a cash bond, performance bond, or the equivalent equal to the value of the loaned equipment, as a condition to making the loan; waiver of the requirement to post bond will be approved only by the Department of the Army. With the prior concurrence of the Department of the Army, the bond will be forfeited in the event the equipment is not returned at the time specified. However, the forfeiture of the bond will not constitute a sale of the equipment, and the borrower will not be relieved of his obligation to return the loaned equipment. Loan agreements will clearly state the expenses and obligations assumed by the civil authority.

PART 502—RELIEF ASSISTANCE

DISASTER RELIEF

Sec.

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502.11 Commercial freight shipments of supplies by voluntary non-profit relief agencies.

AUTHORITY: Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

SOURCE: 31 FR 7966, June 4, 1966, unless otherwise noted.

DISASTER RELIEF

§ 502.1 Purpose and applicability.

(a) Sections 502.1 through 502.5 contain Department of the Army policy and responsibilities for operations involving participation in natural disaster relief activities.

(b) Sections 502.1 through 502.5 are applicable in the 48 contiguous States and the District of Columbia, and where not in conflict with public law or other proper authority, have equal application to Alaska, Hawaii, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Within the latter areas, the commander of the unified command concerned is responsible for emergency employment of military resources in disaster relief.

(c) Policy and guidance for related type emergencies involving employment of Army resources are contained in AR 600-50 (Civil Disturbances), AR 500-70 (Civil Defense), and AR 420-90 (Fire Prevention and Protection).

(d) The provisions of §§ 502.1 through 502.5 apply generally except as otherwise covered in directives of Chief of Engineers pertinent to the Civil Works Program.

§ 502.2 Definitions.

For the purpose of §§ 502.1 through 502.5 the following definitions apply:

(a) *Natural disaster.* All domestic emergencies except those created as a result of enemy attack or civil disturbance.

(b) *Major disaster.* Any disaster caused by flood, drought, fire, earthquake, storm, hurricane, or other catastrophe, which in the determination of the President, is or threatens to be, of such severity and magnitude as to

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warrant disaster assistance by the Federal Government under the provisions of Pub. L. 875 (see § 502.3(a)) to supplement the efforts and available resources of State and local governments in alleviating the damage, hardship or suffering caused thereby.

(c) *Imminent seriousness.* An emergency condition of immediate urgency in which it would be dangerous to delay necessary action by waiting for instructions from higher authority despite the fact such instructions are requested through command channels by the most expeditious means of communication available.

(d) *Military resources.* Includes personnel, equipment, and supplies of Department of Defense agencies including the Army, Navy, Air Force, Marine Corps, and Defense Supply Agency.

(e) *State.* Includes any State in the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(f) *Local government.* Includes any county, city, village, town, district, or other political subdivision of any State, or the District of Columbia.

(g) *Federal agency.* Includes any departmental, independent establishment, government corporation, or other agency of the executive branch of the Federal Government, excepting, however, the American National Red Cross.

(h) *Office of Emergency Planning (OEP).* The Federal Executive agency in the Executive Office of the President responsible for coordinating Federal assistance for major disasters in behalf of the President.

(i) *Office of Civil Defense (OCD).* The office under the Secretary of the Army responsible for plans and preparations for civil defense.

(j) *American National Red Cross (ANRC).* The national organization of the Red Cross organized to undertake activities for the relief of persons suffering from disaster as stated in section 3 of the Act of January 5, 1905, chapter 23, as amended (36 U.S.C. 3), entitled "An Act To Incorporate the American National Red Cross."

(k) *DOD components.* Army, Navy, Air Force, Marine Corps, Defense Supply

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Agency, and other Department of Defense agencies.

§ 502.3 Provisions of disaster relief legislation and Executive orders and other authorities.

The following guidelines are pertinent to disaster relief action.

(a) Public Law 875, 81st Congress, as amended, 42 U.S.C. 1855-1855g (Federal Disaster Act of 30 September 1950), hereinafter referred to as Pub. L. 875, which provides for supplementary Federal assistance to State and local governments in major disasters, and for other purposes.

(b) Executive Order 10427 dated January 16, 1953, as amended, which delegates to the Director, OEP the authority to direct and coordinate other Federal agencies in rendering assistance to State and local governments under provisions of Pub. L. 875.

(c) Executive Order 10737, dated October 29, 1957, which amends Executive Order 10427 to include authority for the reimbursement of any Federal agency, subject to the concurrence of the Director of the Bureau of the Budget, for authorized expenditures for funds allocated by the President for use in assistance to a specific State.

(d) Executive Order 11051 dated September 27, 1962, which specifically prescribes the responsibility of the Director, OEP as set forth in Executive Orders 10427 and 10737.

(e) Federal assistance is authorized under provisions of Pub. L. 875 only after the President has declared the specific disaster as defined in the Act. Such declaration is made after a request for Federal assistance by the Governor of the State (or the Board of Commissioners of the District of Columbia), through the appropriate OEP Regional Office Director.

(f) Section 5 of the Act of August 18, 1941, ch. 377, as amended, 33 U.S.C. 701n; is commonly known and hereinafter referred to as Public Law 99 (Pub. L. 99). It provides basic guidance for the applicable emergency activities of the Corps of Engineers. The law provides discretionary authority for expenditures for flood emergency preparation; flood fighting and rescue operations, and emergency repair or restoration of flood control works and Federal shore

protection or hurricane flood protection works. Administration of Pub. L. 99 is under the direction of the Secretary of the Army and the supervision of the Chief of Engineers. No declaration of a major disaster is required.

(g) Existing statutes and Executive orders do not in any way limit Federal agencies from taking necessary action in accordance with existing policy and statutory authority in the event of a disaster which will not brook delay in the commencement of Federal assistance or other Federal action and/or pending the designation by the President of a major disaster.

(h) The American National Red Cross is charged in accordance with its Charter, with continuing a system of national and international relief with voluntary service and financing, which in effect supports official disaster relief action.

§ 502.4 Department of Defense policies and delegation of authority.

(a) Responsibility for alleviating disaster conditions rests primarily with individuals, families, private industry, local and State governments, the American National Red Cross, and those Federal agencies having special statutory responsibilities.

(b) DOD components are authorized to assist civilian authorities as necessary or as directed by competent authority.

(c) Where the disaster is of such imminent seriousness that delay in awaiting instructions from higher authority is unwarranted, a military commander will take such action as may be required and justified under the circumstances to save human life, prevent immediate human suffering, or mitigate major property damage or destruction. The commander will immediately report to higher authority the action taken and request appropriate guidance.

(d) DOD components have been directed to develop, as appropriate, contingency plans for major disaster operations and insure that these are coordinated with appropriate civil authorities at State and local level.

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(e) DOD components overseas will participate in foreign disaster relief operations as directed by unified commanders.

(f) The Department of the Army has been directed to assume responsibility for military support in disasters within the continental United States (48 contiguous States and the District of Columbia). This includes responsibility for effective utilization, coordination, and control of resources made available by the Department of the Navy, the Department of the Air Force, and other DOD components as appropriate.

(g) The Department of the Navy has been directed to coordinate with the Department of the Army in planning and supporting civil authorities in disaster relief operations.

(h) The Department of the Air Force has been directed to coordinate with the Department of the Army in planning and supporting civil authorities in disaster relief operations including activities of the Civil Air Patrol.

(i) The Joint Chiefs of Staff have been directed to issue instructions to appropriate unified commanders to insure proper planning and use of military resources for disaster relief operations in Alaska, Hawaii, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

§ 502.5 Department of the Army policies and designation of responsibilities.

(a) Military commanders will conduct relief operations in the event of emergency as described in § 502.4(c), or when directed by higher military authority or by direction of OEP under Pub. L. 875.

(b) Use of military resources and other military participation in disaster relief will be on a minimum essential basis and terminated at the earliest practicable time. Military assistance in rehabilitation following a disaster is not authorized, except as directed by the OEP, or in support of emergency operations conducted by the Corps of Engineers as authorized by law.

(c) Federal troops used in disaster relief activities will be under command of, and directly responsible to, their military superiors.

(d) National Guard forces, if not in active Federal service, will remain under control of the State governor and will be considered part of the local resources available to civil authorities. Federally owned National Guard equipment may accompany a unit when ordered into disaster relief operations by a governor.

(e) The Commanding General, U.S. Continental Army Command (CG USCONARC) is delegated responsibility for the conduct of Army support activities. Specifically he—

(1) Is, under the provisions of §§ 502.1 through 502.5, assigned responsibility for the conduct of military disaster relief in the 48 contiguous States and the District of Columbia.

(2) Will be prepared to conduct disaster relief operations as appropriate in Mexico or Canada upon direction of the Department of the Army.

(3) Will coordinate and insure establishment of joint control of the disaster relief efforts of all DOD components. In local disasters not warranting a declaration of a major disaster, local civil authorities can be expected to make appeals for assistance direct to installations or activities other than those operated by the Department of the Army.

(4) Will report to the Deputy Chief of Staff for Military Operations by the fastest electrical means when resources of DOD components are committed to disaster relief or when disaster conditions prevail that make commitment of DOD resources imminent.

(5) Will, as appropriate, furnish available personnel and resources to District and Division Engineers of the Corps of Engineers prosecuting a flood fight under provisions of Pub. L. 99, or acting in response to a disaster relief directive from OEP under provisions of Pub. L. 875.

(6) Will establish and maintain liaison with the Directors of OEP and OCD, the American National Red Cross, and such other Federal, State, and local governmental agencies as are necessary to discharge responsibilities under §§ 502.1 through 502.5.

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(7) Has full authority to approve or disapprove personal requests for military assistance made by a State governor or a member of Congress. This authority will not be delegated lower than ZI army commanders. Information on such requests and action taken will be furnished to Deputy Chief of Staff for Military Operations, Department of the Army, Washington, DC, 20310.

(8) Will insure that ZI army commanders have an effective natural disaster information plan for use in the event of military operations. The plan should provide for early dispatch of information personnel to the scene.

(f) ZI army commanders are specifically charged, under the overall direction of CG USCONARC, with supporting disaster relief operations, and they—

(1) Will establish and maintain, as appropriate, liaison with Regional Directors, OEP and OCD, area offices of the American National Red Cross and other Federal, State, and local governmental agencies.

(2) Will establish and maintain, as necessary, working relationships with appropriate DOD component headquarters, class II installations and Division/District Engineers to insure coordination of the overall military disaster relief effort within the Army area and will secure necessary information from such installations as required for reports.

(3) Will assume control of resources made available by class II installations and activities for disaster assistance. If class II installation or activity resources are required but have not been made available by the activity commander, the ZI army commander will forward a request with justification through command channels to the Deputy Chief of Staff for Military Operations, Department of the Army. In those cases where commanders are unable to communicate with Headquarters, Department of the Army, and where in the opinion of the ZI army commander concerned, the extreme emergency warrants the temporary use of such resources, he will direct their use and report this action through command channels to the Deputy Chief of Staff for Military Operations.

(4) Will, upon request, make resources available to District and Division Engineers performing a flood fight under provisions of Pub. L. 99 and/or support the Corps of Engineers response to directive from OEP under provisions of Pub. L. 875.

(5) Will coordinate the military relief effort with assistance provided by the Corps of Engineers under statutory authorities of the Chief of Engineers or as directed by the OEP under Pub. L. 875.

(g) Class II installation and activity commanders are responsible for supporting disaster relief efforts under the provisions of §§502.1 through 502.5, and they—

(1) Will take action in local disasters of imminent seriousness as appropriate. Such action will be reported concurrently to his headquarters and to the respective ZI army commander.

(2) Will, upon the request of the ZI army commander, designate those resources under their control which can be made immediately available for disaster relief operations. Only such resources will be placed under the operational control of the ZI army commander or Division/District Engineer conducting relief operations.

(h) The Chief of Engineers is responsible for the provision of disaster assistance by applicable Division and District Engineers when required by disaster of imminent seriousness and as authorized by statutory authorities or as directed by the OEP under Pub. L. 875. He will—

(1) Insure that Division and District Engineers establish and maintain appropriate liaison with ZI army commanders, regional Directors of OCD and OEP, the American National Red Cross, and other Federal, State and local governmental agencies as necessary to discharge assigned responsibilities.

(2) Furnish the ZI army commanders concerned all pertinent information on floods or other natural disasters including activities undertaken by the Corps of Engineers. Information furnished will be by the fastest electrical means and consistent with reporting requirements placed on ZI army commanders.

(3) Insure that Engineers preplanned procedures for disaster operations are

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coordinated among Division/District Engineers and the ZI army commanders, and include provisions covering flood emergencies.

RELIEF SHIPMENTS

§ 502.11 Commercial freight shipments of supplies by voluntary non-profit relief agencies.

(a) *Scope of section.* Provided in this section are the rules under which the Department of the Army, in order to further the efficient use of United States voluntary contributions for relief in the foreign country hereinafter named, will pay ocean freight charges from United States ports to designated foreign ports of entry on supplies donated to or purchased by United States voluntary nonprofit relief agencies registered with and recommended by the Advisory Committee on Voluntary Foreign Aid (called "the Committee" in this section), for distribution in the Ryukyu Islands.

(b) *Agencies within scope of this section.* Any United States voluntary nonprofit relief agency may make application to the Chief of Civil Affairs, Department of the Army, Washington, DC 20310, for reimbursement of ocean freight charges on shipments of supplies donated to or purchased by it for distribution within the foreign country listed in paragraph (a) of this section, *Provided:*

(1) The agency is registered with and recommended by the Committee to the Department of the Army;

(2) The supplies are within the general program and projects of the agency as previously submitted to and approved by the Committee, and are essential in support of such programs and projects;

(3) The agency's representatives to whom the supplies are consigned for distribution abroad are acceptable to the Committee;

(4) The Committee has notified the Department of the Army that:

(i) The agency is not engaged in commercial or political activities;

(ii) Contributions to the agency are eligible for tax exemption under income tax laws;

(iii) The agency is directed by an active and responsible board of American

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citizens who serve without compensation;

(iv) The accounts of the agency are regularly audited by a certified public accountant;

(v) The agency currently reports its activities and operations to the Committee including its budget and reports of income and expenditures, its transfer of funds, and its exports of commodities and such other information as the Committee may deem necessary, and such reports are open for public inspection;

(vi) The general program and projects by countries of operation of the agency have been approved by the Committee to permit the coordination of private agency programs with each other and with the programs of the Department of the Army in the Ryukyu Islands;

(vii) The Government of the country in which the supplies are distributed affords appropriate facilities for the necessary and economic operation of the agency's general program and projects;

(viii) The supplies are free of customs duties, other duties, tolls, and taxes;

(ix) The agency has assumed responsibility for noncommercial distribution of the supplies free of cost to the person or persons ultimately receiving them and distribution of the supplies is supervised by United States citizens, and such operations are appropriately identified as to their American character.

(c) *Manner of payment of ocean freight charges.* (1) The Department of the Army will reimburse agencies qualified under this section, to the extent of ocean freight charges paid by them for shipments made in conformity with this section: *Provided,* That application for such reimbursement on shipments must be submitted to the Department within thirty days of date of shipment, together with receipted invoices for such charges, supported by ocean bills of lading, showing that such charges are limited to the actual cost of transportation of the supplies from end of ship's tackle at the United States port of loading to end of ship's tackle at port of discharge, correctly assessed at the time of loading by the carrier for freight on a weight, measurement or

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unit basis, and free of any other charges.

(2) The voluntary non-profit relief agencies which qualify under this section may apply to the Office of the Chief of Civil Affairs, Department of the Army, Washington, DC 20310, for authorization to make shipments via Military Sea Transportation Service vessels, in conformity with this section. Upon approval of the request, the Chief of Civil Affairs will issue a Department of Army Approved Part Program authorizing shipment from a designated Port of Embarkation to end of ship's tackle at port of discharge, and including fund citation for reimbursement of Chief of Transportation. All costs of inland transportation are to be borne by the voluntary agencies.

(d) *Refund by agencies.* Any agency reimbursed under this section will refund promptly to the Department of the Army upon demand the entire amount reimbursed (or such lesser amount as the Department may demand) whenever it is determined that the reimbursement was improper as being in violation of any of the provisions of the Foreign Assistance Act of 1948, any acts amendatory thereof or supplemental thereto, any relevant appropriation acts, or any rules, regulations or procedures of the Department of the Army.

(e) *Saving clause.* The Secretary of the Army may waive, withdraw, or amend at any time or from time to time any or all of the provisions of this section.

(Interpret or apply Title II, sec. 112, 75 Stat. 719, 22 U.S.C. 2366 note)

[27 FR 177, Jan 6, 1962]

PART 503—APPREHENSION AND RESTRAINT

Sec.
503.1 Persons not subject to military law.
503.2 Delivery to civil authorities.

§ 503.1 Persons not subject to military law.

Persons not subject to military law may be apprehended or restrained by members of the Department of the Army, other than in foreign countries, as follows:

(a) *General.* All members of the Department of the Army having the ordinary right and duty of citizens to assist in the maintenance of the peace. Where, therefore, a felony or a misdemeanor amounting to a breach of the peace is being committed in his presence, it is the right and duty of every member of the military service, as of every civilian, to apprehend the perpetrator.

(b) *Restraint.* The restraint imposed under the provisions of paragraph (a) of this section will not exceed that reasonably necessary, nor extend beyond such time as may be required to dispose of the case by orderly transfer of custody to civil authority or otherwise, under the law.

(c) *Ejection.* Persons not subject to military law who are found within the limits of military reservations in the act of committing a breach of regulations, not amounting to a felony or a breach of the peace, may be removed therefrom upon orders from the commanding officer and ordered by him not to reenter. For penalty imposed upon reentrance after ejection, see title 18, United States Code, section 1382.

(Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

[28 FR 2732, Mar. 20, 1963]

§ 503.2 Delivery to civil authorities.

(a) *Authority.* Any commanding officer exercising general court-martial jurisdiction or commanding officer designated by him may, in accordance with the Uniform Code of Military Justice, Article 14 (10 U.S.C. 814), authorize the delivery of a member of the Armed Forces under his command, when such member is accused of a crime or offense made punishable by the laws of the jurisdiction making the request, to the civil authorities of the United States, a State of the United States, or a political subdivision thereof under the conditions prescribed in this section.

(b) *Policy.* The policy of the Department of the Army is that commanding officers will cooperate with civil authorities and, unless the best interests of the service will be prejudiced thereby, will deliver a member of the Armed Forces to such authorities upon presentation of a proper request accompanied