

§ 206.14

§ 206.14 Criminal and civil penalties.

(a) *Misuse of funds.* Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under the Stafford Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

(b) *Civil enforcement.* Whenever it appears that any person has violated or is about to violate any provision of the Stafford Act, including any civil penalty imposed under the Stafford Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

(c) *Referral to Attorney General.* The Office of Chief Counsel shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under the Stafford Act that may warrant consideration for criminal prosecution.

(d) *Civil penalty.* Any individual who knowingly violates any order or regulation shall be subject to a civil penalty of not more than \$5,500 for each violation.

[55 FR 2288, Jan. 23, 1990, as amended at 74 FR 15346, Apr. 3, 2009; 74 FR 58850, Nov. 16, 2009]

§ 206.15 Recovery of assistance.

(a) *Party liable.* Any person who intentionally causes a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action shall be brought in an appropriate United States District Court.

(b) *Rendering of care.* A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering

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care or assistance in response to a major disaster or emergency.

§ 206.16 Audit and investigations.

(a) Subject to the provisions of chapter 75 of title 31, United States Code, and 44 CFR part 13, relating to requirements for single audits, the Administrator, the Assistant Administrator for the Disaster Operations Directorate, or the Regional Administrator shall conduct audits and investigations as necessary to assure compliance with the Stafford Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations.

(b) For purposes of audits and investigations under this section, FEMA or State auditors, the Governor's Authorized Representative, the Administrator, the Regional Administrator, the Assistant Administrator for the Disaster Assistance Directorate, the DHS Inspector General, and the Comptroller General of the United States, or their duly authorized representatives, may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under the Stafford Act.

[55 FR 2288, Jan. 23, 1990, as amended at 74 FR 15346, Apr. 3, 2009]

§ 206.17 Effective date.

These regulations are effective for all major disasters or emergencies declared on or after November 23, 1988.

§§ 206.18–206.30 [Reserved]

Subpart B—The Declaration Process

SOURCE: 55 FR 2292, Jan. 23, 1990, unless otherwise noted.

§ 206.31 Purpose.

The purpose of this subpart is to describe the process leading to a Presidential declaration of a major disaster or an emergency and the actions triggered by such a declaration.

§ 206.32 Definitions.

All definitions in the Stafford Act and in § 206.2 apply. In addition, the following definitions apply:

(a) *Appeal*: A request for reconsideration of a determination on any action related to Federal assistance under the Stafford Act and these regulations. Specific procedures for appeals are contained in the relevant subparts of these regulations.

(b) *Commitment*: A certification by the Governor that the State and local governments will expend a reasonable amount of funds to alleviate the effects of the major disaster or emergency, for which no Federal reimbursement will be requested.

(c) *Disaster Application Center*: A center established in a centralized location within the disaster area for individuals, families, or businesses to apply for disaster aid.

(d) *FEMA-State Agreement*: A formal legal document stating the understandings, commitments, and binding conditions for assistance applicable as the result of the major disaster or emergency declared by the President.

(e) *Incident*: Any condition which meets the definition of major disaster or emergency as set forth in §206.2 which causes damage or hardship that may result in a Presidential declaration of a major disaster or an emergency.

(f) *Incident period*: The time interval during which the disaster-causing incident occurs. No Federal assistance under the Act shall be approved unless the damage or hardship to be alleviated resulted from the disaster-causing incident which took place during the incident period or was in anticipation of that incident. The incident period will be established by FEMA in the FEMA-State Agreement and published in the FEDERAL REGISTER.

§ 206.33 Preliminary damage assessment.

The preliminary damage assessment (PDA) process is a mechanism used to determine the impact and magnitude of damage and the resulting unmet needs of individuals, businesses, the public sector, and the community as a whole. Information collected is used by the State as a basis for the Governor's request, and by FEMA to document the recommendation made to the President in response to the Governor's request. It is in the best interest of all parties

to combine State and Federal personnel resources by performing a joint PDA prior to the initiation of a Governor's request, as follows.

(a) *Preassessment by the State*. When an incident occurs, or is imminent, which the State official responsible for disaster operations determines may be beyond the State and local government capabilities to respond, the State will request the Regional Administrator to perform a joint FEMA-State preliminary damage assessment. It is not anticipated that all occurrences will result in the requirement for assistance; therefore, the State will be expected to verify their initial information, in some manner, before requesting this support.

(b) *Damage assessment teams*. Damage assessment teams will be composed of at least one representative of the Federal Government and one representative of the State. A local government representative, familiar with the extent and location of damage in his/her community, should also be included, if possible. Other State and Federal agencies, and voluntary relief organizations may also be asked to participate, as needed. It is the State's responsibility to coordinate State and local participation in the PDA and to ensure that the participants receive timely notification concerning the schedule. A FEMA official will brief team members on damage criteria, the kind of information to be collected for the particular incident, and reporting requirements.

(c) *Review of findings*. At the close of the PDA, FEMA will consult with State officials to discuss findings and reconcile any differences.

(d) *Exceptions*. The requirement for a joint PDA may be waived for those incidents of unusual severity and magnitude that do not require field damage assessments to determine the need for supplemental Federal assistance under the Act, or in such other instances determined by the Regional Administrator upon consultation with the State. It may be necessary, however, to conduct an assessment to determine unmet needs for managerial response purposes.