



# Federal Emergency Management: A Brief Introduction

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## Summary

The federal government plays a significant role in emergency management, which generally refers to activities associated with avoiding and responding to natural and human-caused hazards. Emergency management in the United States is highly decentralized and contextual in nature: activities often involve multiple jurisdictions as well as a vast number of agencies, nongovernmental organizations, and private sector entities. In addition, the number and type of actors involved in an incident will vary tremendously depending on the context and severity of the event. Similarly, the legal framework through which emergency management functions and activities are authorized is also decentralized and stems from multiple authorities.

Congress annually appropriates funds for a wide range of activities and efforts related to emergency management. For example, between 2005 and 2011 Congress provided an average of \$12 billion annually to the Federal Emergency Management Agency, the lead federal agency responsible for disaster relief through regular and supplemental appropriations. Congress has also invested over \$120 billion through various federal agencies to help the Gulf Coast Region recover from the hurricanes that hit the Gulf Coast in 2005 and 2008.

In recent years congressional interest in emergency management has focused on funding, program administration, and program coordination—both among federal agencies and state emergency management agencies. This report provides an introduction to the principles and foundations of federal emergency management in the United States and a description of the activities of the federal agencies that provide assistance, focusing primarily on the Federal Emergency Management Agency, but also including information on the National Guard, Department of Agriculture, Department of Defense, Army Corps of Engineers, Department of Health and Human Services, Department of Housing and Urban Development, Department of Transportation, Environmental Protection Agency, Forest Service, and Small Business Administration.

This report is designed to provide Members of Congress and congressional staff with a general overview of principles and foundations of federal emergency management in the United States as well as the types of activities provided by various federal agencies. The report begins with a description of the four phases of emergency management: (1) mitigation, (2) preparedness, (3) response, and (4) recovery, and includes examples of some of the activities that take place in each of these phases. The report then discusses a recent movement at the federal level to carry out these phases of emergency management through a system of frameworks. The frameworks include (1) the National Prevention Framework, (2) the National Protection Framework, (3) the National Mitigation Framework, (4) the National Response Framework, and (5) the National Disaster Recovery Framework. The frameworks are used to designate roles and responsibilities and coordinate various activities.

Next, this report describes the process for requesting federal assistance for major disasters, emergencies, and fire suppression. The declaration section also includes brief summaries of the types of assistance provided through each type of declaration. This discussion is followed by description of federal-to-state cost shares, how federal assistance is funded, and the process through which FEMA requests assistance from other federal entities. The section then provides a description of the close-out process—the process in which FEMA terminates its recovery efforts. The report includes a discussion of key federal laws and policies that influence federal emergency

management, and concludes by highlighting some of the federal activities that take place in response to emergencies and disasters.

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## **Introduction**

Emergency management generally refers to activities associated with avoiding and responding to natural and human-caused hazards. Emergency management in the United States is highly decentralized and contextual in nature. Multiple jurisdictions as well as a vast number of agencies, nongovernmental organizations, and private sector entities are often involved. In general, emergency management begins locally, but the federal government plays an important role when a state requests assistance. Consequently, the number and type of actors involved in an incident vary tremendously depending on the context and severity of the event. Similarly, the legal framework through which emergency management functions and activities are authorized is also decentralized and stems from multiple authorities. This report provides Members of Congress and their staffs with an introduction to the principles and foundations of federal emergency management in the United States. It examines the activities of several federal agencies including the Federal Emergency Management Agency (FEMA) the National Guard, Department of Agriculture, Department of Defense, Army Corps of Engineers, Department of Health and Human Services, Department of Housing and Urban Development, Department of Transportation, Environmental Protection Agency, Forest Service, and Small Business Administration.

In addition, this report discusses the four phases of emergency management: (1) mitigation, (2) preparedness, (3) response, and (4) recovery; the process for requesting federal assistance for major disasters, emergencies, and fires; and the types of assistance provided through each type of Stafford Act declaration. This report also includes a description of federal-to-state cost shares under the Stafford Act, a discussion on how federal assistance is funded, and the process through which FEMA requests assistance from other federal entities.

This report also outlines the frameworks that guide various emergency management activities at the federal and state level, and discusses some of the key federal laws and policies influencing federal emergency management and highlights federal entities that provide assistance to states and localities.

Related CRS products examining these issues more in-depth are footnoted in this report.

## **Key Concepts and Approaches in Emergency Management**

The following sections describe key concepts that undergird federal emergency management. Many of these concepts originated at the state level and are still being put to use by states and localities. Some concepts developed by the states have been modified and/or adopted by the federal government as a national standard.

### **All-Hazards Model**

The all-hazards model is based on the idea that there are generic processes and capabilities needed to address most kinds of emergencies and disasters. For example, preparing and responding to an earthquake entails similar activities and capabilities for preparing and responding to an explosion or terrorist bombing. Thus emergency managers can conduct

emergency management activities in a more flexible and cost-effective manner than using a standalone, emergency, or disaster-specific program. Another benefit is that carrying out emergency management functions generally involves adaptation, which is a guiding principle of the all-hazards model.<sup>1</sup> Thus preparations and lessons learned associated with one type of event, can often be applied to another type of emergency or disaster scenario.

## **NIMS and ICS**

Emergency management functions are managed according to the principles of the National Incident Management System (NIMS). Authorized by Homeland Security Presidential Directive 5 (HSPD-5), NIMS is a preparedness and response management model based on the Incident Command System (ICS).<sup>2</sup> ICS is a command and control model developed by firefighters after the 1970 fires in southern California. The response to the fires was hindered due to duplication of efforts, lack of coordination, and communication problems. ICS standardizes response operations by using similar terminology, communication systems, and organizational structure to eliminate or reduce confusion during a unified response.<sup>3</sup> NIMS uses ICS concepts to establish a response structure that is scalable (capable of growing as more organizations come together to respond to the incident) that can be used by all jurisdictions, agencies, and organizations to ensure a unified response to complex events. State and local governments must be NIMS compliant to be eligible for certain preparedness grants.

## **Phases of Emergency Management**

Emergency management functions are generally grouped into four phases: (1) Mitigation, (2) Preparedness, (3) Response, and (4) Recovery. The grouping of emergency management functions is useful for classifying and conceptualizing activities. Use of the four phases at the state level is not, however, a requirement for grant funding. As discussed later, the federal government uses a framework approach that differs somewhat from the four phases. The following sections provide examples of the types of activities that take place in each phase.<sup>4</sup>

While conceptually useful for targeting efforts and resources, the phases of emergency management are not distinct—activities in each phase often overlap. For example, recovery projects often include elements of mitigation (for example, rebuilding structures using current building codes) and response often includes recovery measures (immediate debris removal). The phases are also cyclical in nature—lessons learned from an incident might be applied in preparedness efforts for future emergencies and major disasters.

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<sup>1</sup> William L. Waugh, Jr., *Living with Hazards, Dealing with Disasters An Introduction to Emergency Management* (Armonk, NY: M.E. Sharpe, 2000).

<sup>2</sup> Homeland Security Presidential Directive 5: Management of Domestic Incidents, [http://www.dhs.gov/xabout/laws/gc\\_1214592333605.shtm](http://www.dhs.gov/xabout/laws/gc_1214592333605.shtm)

<sup>3</sup> For example, prior to ICS police and fire departments responding to the same incident might use different radio frequencies and communicate with different terms. A “code blue” for one department might mean something else for another. The organization structure might also be different. A commander in one department might have a different role and responsibility in another. ICS (and NIMS) is therefore an attempt to eliminate potential confusion caused by these differences.

<sup>4</sup> A glossary of emergency and disaster related terms can be located at <http://www.fema.gov/glossary>.

## **Mitigation**

Mitigation activities entail identifying risks and hazards to either substantially reduce or eliminate the impact of an incident usually through structural measures. Mitigation activities often have a long-term or sustained effect and may have an impact on insurance premiums. In many cases, mitigation activities occur in the recovery stage of a major disaster. Some examples of mitigation include:

- building codes that address risks such as fires, high winds, or earthquakes;
- zoning rules that restrict construction in floodplains;
- rebuilding damaged structures with more resilient materials;
- flood mapping to identify low lying areas and relocating homes and structures located in floodplains and flood prone areas; and
- dams and levees that help prevent flooding.

## **Preparedness**

Preparedness is distinct from mitigation because rather than focusing on eliminating or reducing risks, the general focus of preparedness is to enhance the capacity to respond to an incident by taking steps to ensure personnel and entities are capable of responding to a wide range of potential incidents. Preparedness activities may include:

- training;
- planning;
- procuring resources, such as food, water, and medication stockpiles;
- intelligence and surveillance activities to identify potential threats; and
- exercising to assure the adequacy of planning efforts and the use of after-action reports to improve emergency response plans.

## **Response**

Response activities are comprised of the immediate actions to save lives, protect property and the environment, and meet basic human needs. Response involves the execution of emergency plans and related actions, and may include:

- evacuating victims;
- deployment of response teams, medical stockpiles, and other assets; and
- establishment of incident command operations.

## **Recovery**

Recovery activities are intended to restore essential services and repair damages caused by the event. Recovery activities may include:

- the reconstitution of government operations and services (e.g., emergency services, public safety, and schools);



- housing and services for displaced families and individuals; and
- replenishment of stockpiles.

## **The Framework Approach**

On March 30, 2011, President Barack Obama issued Presidential Policy Directive 8: National Preparedness (hereafter PPD-8).<sup>5</sup> PPD-8 superseded Homeland Security Presidential Directive 8 (HSPD-8) which was signed by President George W. Bush on December 17, 2003.<sup>6</sup> Similar to its predecessor, PPD-8 provides a guide as to how the nation, from the federal level to private citizens, can “prevent, protect against, mitigate the effects of, respond to, and recover from those threats that pose the greatest risk to the security of the Nation” including acts of terrorism and other human caused incidents (such as oil spills) as natural disasters.<sup>7</sup> PPD-8 is also intended to meet several “comprehensive preparedness system” requirements in Subtitle C of the Post-Katrina Act.<sup>8</sup>

PPD-8 establishes that preparedness objectives are to be accomplished by subdividing emergency management components into a system of integrated, national planning frameworks according to functionality—prevention, protection, mitigation, response, and recovery.<sup>9</sup> The frameworks are intended to assign roles and responsibilities to various federal agencies with mission areas involved with aspects of federal emergency management.<sup>10</sup>

These frameworks either exist in various stages of development or have been implemented. The following sections provide brief descriptions of each framework.<sup>11</sup>

### **National Prevention Framework**

While the other planning frameworks address natural hazards and disasters as well as human-caused incidents, the focus of the National Prevention Framework is mainly on preventing imminent terrorist threats. As such, upon issue, the National Prevention Framework is to assign roles and responsibilities and coordinate federal agencies involved with intelligence and

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<sup>5</sup> For further analysis on PPD-8 see CRS Report R42073, *Presidential Policy Directive 8 and the National Preparedness System: Background and Issues for Congress*, by Jared T. Brown.

<sup>6</sup> HSPD-8 gave the Secretary of the Department of Homeland Security broad authority to improve preparedness, prevention, response, and recovery operations among others. HSPD-8 also required the creation of a National Preparedness Goal and the implementation of a National Preparedness System. HSPD-8 fulfilled many of the requirements later set forth in the Post Katrina Emergency Management Reform Act of 2006 (Title VI of the Department of Homeland Security Appropriations Act, 2007—hereinafter the Post-Katrina Act) such as actions to approach all hazards within a risk-based framework, and the use of metrics to measure levels of preparedness. Many such requirements, however, were not implemented.

<sup>7</sup> The White House, *Presidential Policy Directive/PPD-8*, March 30, 2011, p. 1, at <http://www.dhs.gov/xlibrary/assets/presidential-policy-directive-8-national-preparedness.pdf>.

<sup>8</sup> P.L. 109-295, 6 U.S.C. §741- 764, 120 STAT. 1424-1433.

<sup>9</sup> The White House, *Presidential Policy Directive/PPD-8*, March 30, 2011, p. 3, at <http://www.dhs.gov/xlibrary/assets/presidential-policy-directive-8-national-preparedness.pdf>.

<sup>10</sup> *Ibid*, p. 3.

<sup>11</sup> These descriptions should not be viewed as definitive. Some of the planning frameworks are being updated or still in draft form. They could conceivably change in form or content before being implemented.

information sharing, surveillance, providing public information and warnings, as well as other elements that help the federal government identify, discover, or locate terrorist threats.<sup>12</sup>

### **National Protection Framework**

The National Protection Framework, upon issue, would assign roles and responsibilities and coordinate agencies on a wide range of emergency management and homeland security areas, encompassing cyber security, border security, transportation security, and agriculture and food security, among others. In addition, the working draft of the National Protection Framework proposes the use of academic and research centers to develop new protection technologies and establish protection-related curricula and degree programs.<sup>13</sup>

### **National Mitigation Framework**

The National Mitigation Framework, upon issue, would address capabilities that reduce the loss of life and property by lessening the impact of disasters.<sup>14</sup> The National Mitigation Framework is distinct from the other planning frameworks because most mitigation activities take place at the local level, the role of the federal government in the National Mitigation Framework is not as prominent as with the other planning frameworks.<sup>15</sup>

### **National Response Framework**

Issued in January 2008, the National Response Framework (NRF) is the successor of two previous response documents, the Federal Response Plan, which was thought to be too narrow in scope, and the National Response Plan, which was found to be problematic for a variety of reasons, including unclear designations and confusing language and jargon.<sup>16</sup> The NRF guides the federal response to natural and human-caused incidents. However, the NRF is not an “operational plan.” Rather, it articulates the overarching emergency management principles used to coordinate and conduct a multi-agency and multijurisdictional response to all types of incidents. The NRF is executed through the use of three supplemental annexes consisting of the (1) Emergency Support Functions Annex, (2) Support Annexes, and (3) Incident Annexes.

### ***Emergency Support Functions Annexes***

There are 15 Emergency Support Function (ESF) Annexes. ESFs group federal departments and agencies by matching their resources and capabilities with a particular incident.<sup>17</sup> For example, federal entities with a role in responding to an oil spill are listed in ESF #10—the Oil and

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<sup>12</sup> Federal Emergency Management Agency, *Presidential Policy Directive 8: National Preparedness: Working Drafts of the National Planning Frameworks - Prevention Framework*, p. 9.

<sup>13</sup> *Ibid.*, p. 10.

<sup>14</sup> *Ibid.*, p. 1.

<sup>15</sup> *Ibid.*, p. 12.

<sup>16</sup> For further information on the NRF see CRS Report RL34758, *The National Response Framework: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

<sup>17</sup> U.S. Federal Emergency Management Agency, *ESF Annexes Introduction*, January 2008, at <http://www.fema.gov/pdf/emergency/nrf/nrf-esf-intro.pdf>.

Hazardous Materials Response Annex. ESFs also designate which federal entities have management oversight responsibility and which entities have a support role.

### ***Support Annexes***

There are eight Support Annexes that group federal, state, local, private sector, and nongovernmental organizations that execute functional processes and administrative functions. The Support Annexes also designate roles and responsibilities.<sup>18</sup>

### ***Incident Annexes***

There are eight Incident Annexes that explain the authorities and policies relevant to a particular incident, describe the incident situation, and make planning assumptions for the incident. An Incident Annex also identifies the “coordinating and cooperating” agencies involved with response to the incident.<sup>19</sup>

### **National Disaster Recovery Framework**

Issued in September 2011, the National Disaster Recovery Framework (NDRF) coordinates and assigns roles and responsibilities to entities involved in disaster recovery. The focus of the NDRF is to “restore, redevelop and revitalize the health, social, economic, natural and environmental” aspects of disaster-impacted states and local jurisdictions.<sup>20</sup> The NDRF has six Recovery Support Functions (RSF): (1) Community Planning and Capacity Building, (2) Economic, (3) Health and Social Services, (4) Housing, (5) Infrastructure Systems, and (6) Natural and Cultural Resources.

## **Federal Assistance Through Stafford Declarations**

The system of emergency management in the United States is scalable. This means that local governments request assistance from the state if responding or recovering from the incident is beyond their capacity. In cases when a state is overwhelmed by the incident, the state governor may elect to request assistance from the federal government.

Scalability makes emergency management response more practical, but it also contains a political element because it is embedded within the federalist system of governance aimed at the preservation of state autonomy. The state-initiated request may also alleviate concern that the federal government might assume leadership of response and recovery operations. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter the Stafford Act)<sup>21</sup> does provide the President authority to issue an emergency declaration in the absence of a

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<sup>18</sup> U.S. Federal Emergency Management Agency, *Support Annexes: Introduction*, January 2008, at <http://www.fema.gov/pdf/emergency/nrf/nrf-support-intro.pdf>.

<sup>19</sup> U.S. Federal Emergency Management Agency, *Incident Annexes Introduction: National Response Plan*, December 2004, pp. INC-i, at [http://www.learningservices.us/pdf/emergency/nrf/nrp\\_incidentannexintroduction.pdf](http://www.learningservices.us/pdf/emergency/nrf/nrp_incidentannexintroduction.pdf).

<sup>20</sup> Federal Emergency Management Agency, *National Disaster Recovery Framework: Strengthening Disaster Recovery for the Nation*, September 2011, p. 1, at <http://www.fema.gov/pdf/recoveryframework/ndrf.pdf>.

<sup>21</sup> Codified at 42 U.S.C. §5121 *et seq.* For further analysis on the Stafford Act see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by Francis X. McCarthy.

gubernatorial request if the President determines the incident involves a subject area under the Constitution or laws of the United States, in which the United States exercises preeminent responsibility and authority of the incident.<sup>22</sup> Such cases, however, are rare. The majority of federal disaster assistance is released only after a presidential declaration is issued in response to a gubernatorial request for federal assistance.

The Stafford Act authorizes federal assistance through three types of declarations: (1) major disaster declarations, (2) emergency declarations, and (3) Fire Management Assistance Grant declarations (FMAG).<sup>23</sup> However, FMAG declarations are typically declared through the Federal Emergency Management Agency (FEMA) Regional Director.<sup>24</sup> Emergency and major disaster declarations can only be issued by the President. Each of these declarations are described in more detail in the following sections.

## Major Disaster Declarations

The Stafford Act defines a major disaster as:

any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.<sup>25</sup>

When a governor submits a request for major disaster declaration FEMA meets with state representatives to develop preliminary damage assessments. In general, FEMA will make a recommendation to the President to declare a major disaster if the state's preliminary damage assessment exceeds certain thresholds established in regulation.<sup>26</sup> The President in turn may or may not act on the recommendation.

## Assistance Provided Under Major Disaster Declarations

Under the Stafford Act three main types of assistance can be provided and administered through FEMA when the President issues a major disaster declaration: (1) the Public Assistance (PA) Grant Program, (2) the Individual Assistance (IA) program, and (3) the Hazard Mitigation Grant Program (HMGP). Under the Stafford Act, the President may issue a major disaster declaration

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<sup>22</sup> P.L. 93-288, 42 U.S.C. §5191(b). The President is required to consult with the state governor when practical. Examples of these declarations include the April 19, 1995, bombing of the Alfred P. Murrah Building in Oklahoma City, and the September 11, 2001, attack on the Pentagon in Virginia.

<sup>23</sup> For further analysis on emergency and disaster declarations see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy, and CRS Report R41981, *Congressional Primer on Major Disasters and Emergencies*, by Francis X. McCarthy and Jared T. Brown.

<sup>24</sup> There are ten FEMA regions in the United States (including the U.S. territories). The authority to issue a FMAG through the FEMA Regional Director is designed to make the issuance of a FMAG as quickly as possible.

<sup>25</sup> P.L. 93-288, 42 U.S.C. §5122(2).

<sup>26</sup> 44 C.F.R. §206.48.

that provides only PA if damage to dwellings is not severe enough to warrant IA, or if there is sufficient damage, both PA and IA may be provided.

The PA program provides assistance to state and local governments, and certain nonprofit organizations and includes emergency protective measures, debris removal, and the repair, replacement, or restoration of eligible facilities.<sup>27</sup> Hazard mitigation measures during the recovery process are also provided under the PA program. However, not all of the entities affected by the incident are eligible for assistance—aid is only provided to entities that have been determined by FEMA officials to be in need of the assistance. There is no cap to the amount of assistance that can be provided through the PA program.

The IA program is also limited to those deemed to be in need of assistance by FEMA officials. IA assistance includes temporary housing, disaster unemployment, legal services, crisis counseling and other needs assistance (e.g., disaster-related medical, dental, and burial costs), and the repair and replacement of uninsured damages to a home. At the time of this writing, the maximum grant amount available to an individual household is roughly \$31,400.<sup>28</sup>

HMGP provides grants to states in which major disasters have been declared. These funds must be used for activities that prevent future disasters or reduce their impact if they cannot be prevented. The Post-Katrina Act<sup>29</sup> adjusted the percentage amounts for HMGP awards by establishing a scale that authorizes a higher percentage (15% of the total Stafford Act assistance in a state) for major disasters in which no more than \$2 billion is provided, 10% for assistance that ranges from more than \$2 billion to \$10 billion, and 7.5% for major disasters that involve Stafford Act assistance of more than \$10 billion to \$35.3 billion.<sup>30</sup>

## **Emergency Declarations<sup>31</sup>**

The Stafford Act defines an emergency as:

any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.<sup>32</sup>

As with disaster declarations, FEMA generally meets with state representatives to make a recommendation to the President on whether to issue an emergency declaration. However, unlike major disasters, a per capita formula to assess the magnitude of the disaster's costs is not used for the recommendation.

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<sup>27</sup> For more detail see the complete Public Assistance Policy Reference Manual at <http://www.fema.gov/pdf/government/grant/pa/policy.pdf>. Private businesses are not eligible for PA.

<sup>28</sup> The maximum amount is been modified to reflect inflationary change.

<sup>29</sup> Title VI of P.L. 109-295, the FY2007 DHS appropriations legislation.

<sup>30</sup> P.L. 109-295, §684, Stafford Act amended §404, 120 Stat. 1447.

<sup>31</sup> Emergency declarations are different from a “state of emergency.” A state of emergency is generally issued by the state governor and varies from state to state. States of emergency usually trigger the activation or notification of certain entities at the state level to respond to a threat or incident.

<sup>32</sup> P.L. 93-288, 42 U.S.C. §5122(1).

## **Assistance Provided Under Emergency Declarations**

Emergency declarations authorize activities that can help states and localities carry out essential services and activities that may reduce future damage. As such, emergency declarations may be declared before an incident occurs to save lives and lessen the impact of the incident. For example, emergency declarations have been declared prior to a hurricane making landfall to help state and local governments conduct evacuations and pre-position resources.<sup>33</sup> The types of assistance provided after an emergency declaration is declared include debris removal, distribution of food and medicine, and technical advisory assistance to state and local governments.

Emergency declarations do not provide assistance for repairs and replacement of public infrastructure or nonprofit facilities, nor do they provide assistance to individuals and households.

## **Fire Management Assistance Grant Declarations**

Section 420 of the Stafford Act authorizes various forms of federal assistance, such as equipment, personnel, and grants to any state or local government for the control, management and mitigation of any fire on public or private forest land or grassland that might become a major disaster.<sup>34</sup>

FEMA meets with state representatives when a governor submits a request for a FMAG, but does not use a per capita formula to assess the magnitude of the fire's costs when making recommendations whether to issue a FMAG declaration.

## **Assistance Provided under Fire Management Assistance Grants**

Section 420(c) authorizes the President to provide essential assistance under Section 403 of the Stafford Act.<sup>35</sup> Essential assistance includes the distribution of medicine, medical equipment, and food through local governments, and disaster assistance organizations such as the National Red Cross and the Salvation Army. Essential assistance also includes debris removal, search and rescue, emergency mass care and shelter, clearance of roads and temporary structures such as bridges and facilities for schools, and other services deemed essential to the community. Other essential assistance includes warnings, and the dissemination of public information. FMAG does not provide long term assistance to individuals and households.

## **Cost-Shares**

Under the Stafford Act, the costs of response and recovery efforts are usually split between the state and the federal government. The Stafford Act contains language detailing the amount the federal government must pay to the state for eligible repairs, restoration projects, and

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<sup>33</sup> Recent examples of pre-event declarations include emergency declarations prior to Hurricanes Katrina, Rita, and Gustav making landfall (emergency declarations 3212, 3260, and 3290 respectively).

<sup>34</sup> P.L. 93-288, 42 U.S.C. §5187(a).

<sup>35</sup> P.L. 93-288, 42 U.S.C. §5170b.

replacements of damaged facilities. The formula is called a “cost-share” and the Stafford Act provides that the federal share “shall be not less than 75 percent.”<sup>36</sup>

The cost-share can be adjusted to reduce, but not increase, the state share. The reduced state share is known as a cost-share waiver. In most cases, waivers are adjusted according to FEMA regulatory authority and carried out by the executive branch through administrative actions based on per capita preliminary damage estimates.<sup>37</sup> Additionally, since 1997, and particularly in the wake of concerns raised about state capacity to meet their cost-shares following the Gulf Coast storms of 2005, Congress has begun to exercise its authority to adjust cost-shares.<sup>38</sup>

## Disaster Relief Fund

The majority of assistance provided under the Stafford Act is paid out of FEMA’s Disaster Relief Fund (DRF).<sup>39</sup> The DRF is a no-year account<sup>40</sup> used to fund response activities and pay for ongoing recovery programs. The DRF is also used to reimburse Mission Assignments (discussed in the next section) to other federal agencies. Current budgetary practice generally consists of funding the DRF through regular appropriations acts and then providing additional funding through supplemental appropriations when the account is deemed to be at risk of running out of funding. When the DRF balance becomes low, FEMA generally initiates a spending freeze on long-term recovery projects (primarily PA and HMGP projects), to save DRF funds to meet immediate, life-threatening needs. This policy remains in effect until the DRF is replenished with a new appropriation.<sup>41</sup>

The DRF balance is not a criterion used by FEMA to recommend a major disaster declaration, nor does the President use the available balance to determine whether to issue a major disaster declaration.

## Closeout

The termination of Stafford Act recovery projects are not subject to strict deadlines.<sup>42</sup> The requirements to “close out” a major disaster are established in 44 C.F.R. 13.50. In general, PA and

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<sup>36</sup> 42 U.S.C. 5172(b).

<sup>37</sup> Per 44 CFR §206.47, a state must have accumulated more than \$125 in damages per capita within the state to reach a traditional cost-share waiver. The cost-share cannot be waived administratively for all federal Stafford Act disaster assistance programs. For example, the Hazard Mitigation Grant Program and the Other Needs Assistance program would require a statutory waiver of the existing statutory cost-share.

<sup>38</sup> For further analysis on cost-shares see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy.

<sup>39</sup> For further analysis on the DRF see CRS Report R40708, *Disaster Relief Funding and Emergency Supplemental Appropriations*, by Bruce R. Lindsay and Justin Murray.

<sup>40</sup> While most appropriations expire after a set period of time, no-year appropriations are available until expended. This is helpful in disaster recovery since infrastructure repair and mitigation projects can stretch out over several years.

<sup>41</sup> P.L. 112-25, the Budget Control Act of 2011 (hereafter the BCA) provides a mechanism designed, arguably, to limit spending on major disasters declared under the Stafford Act. For further analysis of disaster relief under the BCA see CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy.

<sup>42</sup> Applications for assistance are subject to deadlines. While some assistance has suggested end dates, the President has (continued...)

HMGP projects take the longest to complete. Typically, major infrastructure projects take years to complete. Both the PA and HMPG have a common closeout sequence:

- Individual projects are managed by applicants and each project is separately closed by FEMA and the state when all of the costs associated with the project have been reconciled with supporting documentation.
- Disasters and emergencies are closed when all of the applicant's projects are closed and the applicant's administrative allowance expenses have been reconciled to supporting documentation.
- When all of the disaster's applicants are closed, the program can be closed. Programs are closed when the state's administrative costs have been reconciled with supporting documentation.
- When all programs within a disaster are closed, the disaster can be closed.<sup>43</sup>

Funding for recovery projects and activities carried out by federal agencies through Mission Assignments that are completed under budget is returned to the DRF. The state can make an appeal if they believe the project requires additional federal funding to be completed.<sup>44</sup>

## Other Types of Federal Declarations

In some cases a major disaster declaration issued under the Stafford Act will trigger certain federal programs outside of FEMA. For instance, in certain circumstances a major disaster declaration will also trigger the Small Business Administration (SBA) disaster loan program. However, several federal departments and agencies have authorities to respond and declare certain types of disasters and emergencies separate from the Stafford Act. As with the above SBA example, these authorities may be exercised concurrently, or independently of FEMA. They may also be part of a response coordinated by the Secretary of Homeland Security under Homeland Presidential Directive-5. As mentioned previously, these authorities and responsibilities are carried out within the construct set forth in the National Response Framework (NRF), or under supplementary (known as "Annexes"), or complementary operational plans.

**Table 1** provides brief examples of other federal agencies and departments with separate authorities to respond to and declare certain types of disasters.

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(...continued)

discretion to extend the deadline (e.g., temporary housing).

<sup>43</sup> Richard L. Skinner, *Opportunities to Improve FEMA's Disaster Closeout Process*, U.S. Department of Homeland Security Office of Inspector General, OIG-10-49, Washington, DC, January 27, 2010, p. 4, at [http://www.oig.dhs.gov/assets/Mgmt/OIG\\_10-49\\_Feb10.pdf](http://www.oig.dhs.gov/assets/Mgmt/OIG_10-49_Feb10.pdf).

<sup>44</sup> See Federal Emergency Management Agency, *Program Management and Grant Closeout: Standard Operating Procedure*, p. 30, at [http://www.fema.gov/pdf/government/grant/pa/9570\\_14.pdf](http://www.fema.gov/pdf/government/grant/pa/9570_14.pdf).



**Table I. Other Types of Federal Declarations**

Scenario	Department/Agency	Authorities
Agriculture and Food	U.S. Department of Agriculture	<p>The Secretary of Agriculture has the authority to declare an extraordinary emergency and take action due to the presence of a pest or disease of livestock that threatens livestock in the United States (7 U.S. Code § 8306 [2007]).</p> <p>The Secretary of Agriculture also has the authority to declare an extraordinary emergency and take action due to the presence of a plant pest or noxious weed whose presence threatens plants or plant products of the United States (7 U.S. Code § 7715 [2007]).</p>
Public Health Emergency	Department of Health and Human Services	<p>The Secretary of the Department of Health and Human Services has the authority to take actions to protect the public health and welfare, declare a public health emergency and to prepare for and respond to public health emergencies. (Public Health Service Act, 42 U.S.C. § 201, et seq. [2007]).</p>
Oil and Hazardous Materials Spills	Environmental Protection Agency in the inland zone, or U.S. Coast Guard in the coastal zone	<p>The EPA Administrator or Commandant of the USCG may classify an oil discharge as a as a Spill of National Significance. This designation allows for the appointment of a National Incident Commander. However, such designation does not provide additional funding or authority, nor does it alter response procedures. (40 CFR Part 300 [2006]).</p>
Home and Business Disaster Loans	Small Business Administration	<p>The Administrator of the Small Business Administration has the authority to provide home and business, and economic injury disaster loans in response to a gubernatorial request, the determination of a natural disaster by the Secretary of Agriculture, or based on the determination of the Secretary of Commerce that a fishery resource disaster or commercial fishery failure has occurred (P.L. 85-536, Section 7(b) 72 Stat. 387, as amended).</p>

**Source:** Derived in part from exhibit 3 of Federal Emergency Management Agency/U.S. Department of Homeland Security, *Presidential Policy Directive/PPD-8, Working Draft—National Response Framework*, p. 17, at <http://www.fema.gov/library/viewRecord.do?fromSearch=fromsearch&id=5450>.

## **Federal to Federal Support**

Federal agencies and departments with responsibilities for handling incidents may work in conjunction with other federal entities when the scope of the work is beyond their normal operations. Federal to federal support under the Stafford Act is generally carried out through “Mission Assignments” while non-Stafford incidents, such as the ones described in **Table 1**, are carried out through other mechanisms such as interagency agreements and mutual aid agreements.

### **Stafford Act Incidents and Mission Assignments**

Even when an emergency or major disaster is declared, FEMA does not exclusively perform all disaster response and recovery operations for the federal government. The President has the authority to direct any federal agency to use its authorities and resources in support of state and local response and recovery efforts under sections 402, 403, and 502 of the Stafford Act. In general, when an emergency or major disaster declaration is declared FEMA coordinates federal entities and organizations that are involved in the incident by “assigning” missions to relevant agencies to address a state’s request for federal assistance or support overall federal operations pursuant to, or in anticipation of a Stafford Act declaration. The activities carried out by other agencies through Mission Assignments are generally reimbursed by FEMA through the DRF.<sup>45</sup> For example, FEMA may request the Department of Health and Human Services to establish and operate a shelter collocated with a federal medical station to support non-medical care givers and family members accompanying patients being treated at the station.

### **Non-Stafford Act Incidents**

Federal agencies and departments that respond to incidents under the NRF may request and provide federal to federal support by executing interagency, intra-agency, or mutual aid agreements in accordance with applicable authorities.

## **Other Key Federal Laws and Policies**

A number of statutory laws and policies supplement the Stafford Act. These statutes and policies organize and define the federal role in emergency preparedness, mitigation, response, and disaster relief. The following sections highlight some of these key laws and policies.<sup>46</sup>

### **Disaster Mitigation Act of 2000**

P.L. 106-390, the Disaster Mitigation Act of 2000, amended the Stafford Act to authorize the President to establish a program of technical and financial assistance to states and local

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<sup>45</sup> Funds from the DRF are not available for activities undertaken under other authorities or agency missions, or for non-Stafford Act incidents requiring a coordinated federal response.

<sup>46</sup> The Public Health Service Act is discussed in the Department of Health and Human Services section of this report. See also **Table 1**. The Small Business Act is discussed in **Table 1**.

governments to assist in the implementation of pre-disaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and property damage and destruction, including damage to critical services and facilities under the jurisdiction of the states or local governments.

The Disaster Mitigation Act of 2000 also established the National Predisaster Mitigation Fund and authorized the President to provide technical and financial assistance to each state and local government that has identified all natural disaster hazards in its jurisdiction and has demonstrated its ability to form effective public-private disaster hazard mitigation partnerships.

## **Post Katrina Emergency Management Reform Act**

A wide range of reforms in federal emergency management were made in response to the 2005 hurricane season. Most of those reforms were included in Title VI of the DHS appropriations legislation for FY2007, the Post Katrina Emergency Management and Reform Act of 2006 (hereinafter the Post Katrina Act).<sup>47</sup>

The Post Katrina Act established new leadership positions and position requirements within FEMA, brought new missions into FEMA and restored some that had previously been removed. The Post Katrina Act also enhanced the agency's authority by directing the FEMA Administrator to undertake a broad range of activities before and after disasters occur. The Post Katrina Act contains provisions that set out new law, and amended the Stafford Act and the Homeland Security Act (hereinafter HSA).<sup>48</sup>

Among the provisions set forth by the Post Katrina Act were certain preparedness requirements. For example, the President was authorized to establish a national preparedness goal and national preparedness system, and to complete, revise, and update (as necessary) the goal to ensure the nation's ability to prevent, respond to, recover from, and mitigate against disasters of all kinds, including acts of terrorism.<sup>49</sup> The goal must be consistent with NIMS and the National Response Plan (now the NRF).<sup>50</sup>

The Post Katrina Act also established reporting requirements intended to ensure that Congress receives information on the implementation of specified new policies, including those directed at ensuring that a qualified workforce exists, and guidelines for enhanced aid to individuals and families are developed.<sup>51</sup> Other provisions included oversight and accountability measures to audit expenditures and develop and maintain internal management controls to detect and eliminate fraud, waste, and abuse.

## **Homeland Security Presidential Directives**

In response to the September 11<sup>th</sup> terrorist attacks, President Bush signed a number of Homeland Security Presidential Directives (HSPD) that have influenced federal emergency management

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<sup>47</sup> P.L. 109-295.

<sup>48</sup> P.L. 107-296, 116 Stat. 2140-2321, as amended, 6 U.S.C. 101 et seq.

<sup>49</sup> P.L. 109-295, §§ 642 and 643, 120 STAT. 1425.

<sup>50</sup> P.L. 109-295, § 643(b) 120 STAT. 1425.

<sup>51</sup> P.L. 109-295, §§ 642 and 643, 120 STAT. 1425.

policies.<sup>52</sup> Key among these are HSPD-8 (see “The Framework Approach”) signed on December 17, 2003, and HSPD-5 signed on February 28, 2003. The purpose of HSPD-5 is to enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system. HSPD-5 mandated the DHS Secretary to develop a national response plan, and a concept of operations that would incorporate all levels of government within a single unifying framework to manage domestic incidents through the implementation of NIMS. Under HSPD-5, all federal agencies are required to adopt NIMS.

## **Homeland Security Act**

On November 25, 2002, President Bush signed into law the Homeland Security Act of 2002 (hereinafter HSA).<sup>53</sup> HSA authorized the reorganization of various federal agencies and established the Department of Homeland Security (DHS). In addition to the creation of DHS, HSA made several changes to existing federal programs and created new ones. Most of these changes were related to terrorism. However, others had an influence on emergency management. Section 501 of Title V established in DHS the Directorate of Directorate of Emergency Preparedness and Response. Section 502 makes the DHS Secretary responsible for helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies, aiding recovery from terrorist attacks and major disasters, consolidating existing federal government emergency response plans into a single, coordinated national response plan, and developing comprehensive programs for developing interoperative communications technology and helping to ensure that emergency response providers acquire such technology.

## **National Oil and Hazardous Substances Pollution Contingency Plan<sup>54</sup>**

The National Oil and Hazardous Substances Pollution Contingency Plan, commonly referred to as the National Contingency Plan (NCP) for short, is the federal government’s principal plan for responding to oil spills and releases of hazardous substances.<sup>55</sup> It provides the framework for coordinating the federal, state, and local roles in responding to such incidents and notifying the relevant agencies. The procedures of the NCP are codified in federal regulation and are binding and enforceable.<sup>56</sup> In contrast, most federal emergency response plans are only administrative frameworks internal to the federal government for guiding agency roles and responsibilities, making the NCP somewhat unique in this respect among federal emergency response plans.

Three federal laws authorized the development of the regulations that are embodied in the NCP. The first two, the Oil Pollution Act (OPA) and Section 311 of the Clean Water Act, authorize

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<sup>52</sup> See U.S. Congress, House Committee on Homeland Security, *Compilation of Homeland Security Directives (HSPD)*, Updated through December 31, 2007), 110<sup>th</sup> Cong., 2<sup>nd</sup> sess., December 31, 2007, Committee Print 110–B (Washington: GPO, 2008).

<sup>53</sup> P.L. 107-296.

<sup>54</sup> This section was authored by David M. Bearden, Specialist in Environmental Policy, Resources, Science, and Industry Division.

<sup>55</sup> The NCP also applies to releases of pollutant or contaminants that may present an imminent and substantial danger to public health or welfare.

<sup>56</sup> 40 C.F.R. Part 300.

federal emergency response to oil spills into U.S. waters, onto adjoining shorelines, or that may affect natural resources under the jurisdiction of the United States.<sup>57</sup> The third law, the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA, commonly referred to as Superfund) authorizes federal emergency response to releases of hazardous substances into the environment.<sup>58</sup> The term “environment” includes surface and subsurface lands, surface waters, groundwater, and ambient air, making the response authorities for hazardous substances broader in terms of their physical reach than that for oil spills. Other response authorities apply to oil released under certain circumstances not covered by the NCP.<sup>59</sup>

The President’s response authorities under these three laws are delegated by executive order to the Environmental Protection Agency (EPA) in the inland zone and to the U.S. Coast Guard in the coastal zone.<sup>60</sup> The inland zone is the environment inland of the coastal zone, excluding the Great Lakes and specified ports and harbors on inland rivers which are part of the coastal zone.<sup>61</sup> The above laws also directed the President to develop the regulations of the NCP to establish procedures for carrying out response actions. Consistent with the executive orders, the NCP designates EPA and the U.S. Coast Guard as the lead federal agencies within their respective zones, and outlines the roles of other supporting federal agencies and state and local governments that may participate in a federal response. State and local officials often act as the “first responders” under the NCP to initiate measures to protect public safety.<sup>62</sup>

Two dedicated trust funds finance the costs of federal response actions carried out under the NCP.<sup>63</sup> The U.S. Coast Guard administers the Oil Spill Liability Trust Fund to finance the costs of responding to oil spills. EPA administers the Hazardous Substance Superfund Trust Fund to finance the costs of responding to releases of hazardous substances. The federal government may recover its response costs from the responsible parties, which are to be deposited back into the respective trust fund to finance future response actions. The responsible parties also may use their own funds to carry out response actions under federal oversight. If the responsible parties cannot be found or cannot pay, federal response costs ultimately are borne by the taxpayer.<sup>64</sup>

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<sup>57</sup> 33 U.S.C. § 2701 et. seq. and 33 U.S.C. § 1321, respectively. For further discussion of the authorities of OPA and Section 311 of the Clean Water Act, see CRS Report RL33705, *Oil Spills in U.S. Coastal Waters: Background and Governance*, by Jonathan L. Ramseur.

<sup>58</sup> 42 U.S.C. § 9601 et. seq. For further discussion of the authorities of CERCLA, see CRS Report R41039, *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act*, by David M. Bearden.

<sup>59</sup> Subtitle I of the Solid Waste Disposal Act addresses petroleum leaked from underground storage tanks. This role is performed mainly by the states under cooperative agreements with EPA.

<sup>60</sup> Executive Order 12580 delegated the President’s authorities under CERCLA, and Executive Order 12777 delegated the President’s authorities under OPA and Section 311 of the Clean Water Act. Executive Order 13286 amended these executive orders to reflect the transfer of the U.S. Coast Guard from the Department of Transportation to the Department of Homeland Security in 2003.

<sup>61</sup> 40 C.F.R. § 300.5.

<sup>62</sup> 40 C.F.R. § 300.180(f).

<sup>63</sup> Response costs for incidents occurring on federal facilities or vessels are funded with separate appropriations to the agencies with administrative jurisdiction over those facilities or vessels.

<sup>64</sup> Currently, the vast majority of the revenues for the Oil Spill Liability Trust Fund are derived from a dedicated eight cents per-barrel tax on domestic and imported oil. The tax is scheduled to terminate at the end of 2017. The Hazardous Substance Superfund Trust Fund is financed mostly with revenues transferred from the General Fund of the U.S. Treasury, since the taxes on domestic and imported oil, chemical feedstocks, and corporate income that once financed this trust fund expired at the end of 1995.

Once an emergency response is complete, the NCP also governs any long-term remediation of environmental contamination that may be needed. Long-term remediation may continue for several years, even decades in some cases, depending on the nature and extent of the contamination. For example, the remediation of contamination in groundwater typically is a lengthy and technically complex process lasting multiple years. In some cases, the federal response also may entail the long-term restoration of natural resources affected by an oil spill or a release of a hazardous substance.

Although the NCP is most often used as a stand-alone authority, the Secretary of Homeland Security may invoke the NCP under the National Response Framework in situations that may warrant coordination with other federal response plans. Such situations may include a major disaster or emergency declared under the Stafford Act, and other multi-faceted incidents. ESF#10 of the National Response Framework—Oil and Hazardous Materials Annex—applies the NCP as the operative federal response plan for incidents involving an oil spill or a release of “hazardous materials” (i.e., hazardous substances, as termed in the NCP). Regardless of whether the NCP is applied as a stand-alone authority or through the structure of the National Response Framework, the procedures for responding to an oil spill or a release of a hazardous substance are the same because the NCP remains the operative federal response plan in either instance.

## **Key Federal Assistance for Disaster Response and Recovery**

As mentioned earlier in this report, while the majority of emergency and disaster assistance is coordinated and provided by FEMA, other federal agencies provide assistance under authorities in conjunction with the Stafford Act declaration or through separate authorities. Several of these agencies are able to provide assistance without a presidential declaration. The concluding section highlights of some of the key agencies that provide emergency and disaster assistance to states and localities including a brief description of the work performed by each agency.

### **National Guard<sup>65</sup>**

The National Guard is both a state and federal organization: it is simultaneously the organized militia of a state or territory and a reserve component of the Army and the Air Force. Due to its size (over 450,000 individuals), trained personnel, and available equipment, it is frequently used for emergency response. Normally, the National Guard operates in a state status, under the control of state and territorial governors, who can order National Guard personnel to perform full-time “state active duty” in response to disasters and civil disorders. In this state capacity, National Guard personnel are not subject to the restrictions of the Posse Comitatus Act (that is, they can perform law enforcement functions).

The National Guard can also be activated under the authority of 32 U.S.C. 502(f). This provision of federal law provides that “a member of the National Guard may ... without his consent, but with the pay and allowances provided by law ... be ordered to perform training or other duty in

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<sup>65</sup> This section was authored by Lawrence Kapp, Specialist in Military Manpower Policy, Foreign Affairs, Defense, and Trade Division.

addition to [inactive duty for training or annual training].” The advantage of using this authority is that the National Guard personnel called will receive federal pay and benefits and are entitled to certain legal protections as though they were in federal service, but they remain under the control of their state or territorial governor and are therefore not subject to the restrictions of the Posse Comitatus Act. Such activation can only occur with the approval of the Department of Defense.<sup>66</sup>

Finally, the National Guard can be activated in a purely federal status. When federally activated, National Guard personnel operate under the control of the President, receive federal pay and benefits and are subject to the Posse Comitatus Act.<sup>67</sup>

## **Department of Agriculture<sup>68</sup>**

The U.S. Department of Agriculture (USDA) has several agencies that provide emergency and disaster assistance, including the Farm Service Agency, the Natural Resources Conservation Service, and Rural Development. The majority of USDA assistance does not require a Stafford declaration. Rather, depending on the program, decisions regarding assistance are typically made by the Secretary (e.g., emergency loans). Assistance may also be provided to participating producers under standing programs (e.g., federally subsidized crop insurance).

Assistance for agricultural producers includes emergency loans, direct payments under the noninsured crop disaster program, and crop insurance.<sup>69</sup> Disaster assistance is also provided for impairments to watersheds, including debris removal from stream channels, road culverts, and bridges, repairing levees, reseeding damaged areas, and purchasing floodplain easements. Private land assistance includes repairs to damaged farmland and re-establishment of forest land.<sup>70</sup> Community assistance is also available in the form of housing disaster loans and grants, moratorium on loan payments, loan servicing assistance for essential community facilities, and emergency community water assistance grants.<sup>71</sup>

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<sup>66</sup>See the section on Department of Defense for further information on this topic.

<sup>67</sup> For further analysis on the use of Reserve Personnel see also CRS Report RL30802, *Reserve Component Personnel Issues: Questions and Answers*, by Lawrence Kapp.

<sup>68</sup> This section was authored by Dennis Shields, Specialist in Agricultural Policy; Megan Stubbs, Specialist in Agricultural Conservation and Natural Resources Policy; and Tadlock Cowan, Analyst in Natural Resources and Rural Development, Resources, Science and Industry Division.

<sup>69</sup> For more information, see CRS Report RS21212, *Agricultural Disaster Assistance*, by Dennis A. Shields. For a summary of USDA Farm Service agency disaster programs, see [http://www.fsa.usda.gov/Internet/FSA\\_File/emerfsaprograms.pdf](http://www.fsa.usda.gov/Internet/FSA_File/emerfsaprograms.pdf). For information on crop insurance, see CRS Report R40532, *Federal Crop Insurance: Background and Issues*, by Dennis A. Shields.

<sup>70</sup> See CRS Report R40763, *Agricultural Conservation: A Guide to Programs*, by Megan Stubbs for information on watershed assistance (p. 14) and private land assistance (p.13). See CRS Report RL31065, *Forestry Assistance Programs*, by Megan Stubbs, for information on forestry programs (p. 17).

<sup>71</sup> For information on Rural Development programs, see <http://www.rurdev.usda.gov/rd/disasters/disassistance.html> and CRS Report RL31837, *An Overview of USDA Rural Development Programs*, by Tadlock Cowan (p.31).

## **Department of Defense<sup>72</sup>**

The role of the Department of Defense (DoD) and its components in supporting domestic response efforts is potentially significant. DoD has a broad range of capabilities that could be useful to civil authorities in emergency situations, including transportation assets, medical personnel and supplies, security forces, and communications equipment. However, the extent of the support DoD can provide is limited by the need to conduct its principal mission of national defense. The two principal ways in which DoD can provide defense support of civil authorities (DSCA) are by way of an “immediate response,” or in response to a formal “request for assistance” (RFA). Additionally, as part of a proactive federal response, DoD could preposition assets in anticipation of a request.

### **Immediate Response**

Certain defense officials can provide DSCA in a limited manner using “immediate response” authority. Immediate response authority enables local military commanders and certain DoD civilians to act immediately to “save lives, prevent human suffering, or mitigate great property damage within the United States” when they receive a request for assistance from a civil authority under conditions that are “imminently serious” and when time “does not permit approval from higher authority.”<sup>73</sup> Assistance provided under this authority might include providing medical care, restoring critical public services, and distributing food and other supplies. However, commanders using this authority are obligated to seek approval or authorization through their chain of command as soon as possible.

### **Requests for Assistance**

The Department of Defense may also provide support in response to a “request for assistance” from state, local, or tribal entities, or from another federal agency.<sup>74</sup> The Secretary of Defense has the principal authority for approving DSCA requests and retains control of all DoD assets provided. The forces provided in response to an RFA could include units from multiple military services and could include activated members of the National Guard and Reserve. Members of the federal reserves<sup>75</sup> are always activated after a request for assistance under Title 10 of the U.S. Code. Therefore when acting in a federal capacity, the National Guard operates under the control of the President, receives federal pay and benefits, and is subject to the Posse Comitatus Act in the same manner as active duty military personnel. National Guard forces remain under the control of their respective governors unless ordered into federal service (see the previous section on the National Guard). There are a number of statutory authorities which can be used to activate

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<sup>72</sup> This section was authored by Lawrence Kapp, Specialist in Military Manpower Policy, Foreign Affairs, Defense, and Trade Division.

<sup>73</sup> Department of Defense, Department of Defense Directive 3025.18, “Defense Support of Civil Authorities,” Washington, DC, December 29, 2010, para. 4.g., at <http://www.dtic.mil/whs/directives/corres/pdf/302518p.pdf>.

<sup>74</sup> For a summary of how the Department of Defense handles requests for assistance, see Joint Publication 3-28, Civil Support, September 14, 2007, pages II-3 to II-7, at [http://www.dtic.mil/doctrine/new\\_pubs/jp3\\_28.pdf](http://www.dtic.mil/doctrine/new_pubs/jp3_28.pdf).

<sup>75</sup> The Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve. The Coast Guard Reserve normally operates under the control of the Secretary of Homeland Security.



members of the National Guard and Reserve, although they all have constraints that could potentially limit their utility in providing reserve forces for domestic response missions.<sup>76</sup>

## **Army Corps of Engineers<sup>77</sup>**

Under its Civil Works Program, the U.S. Army Corps of Engineers (Corps) performs emergency response actions to respond to flood and coastal emergencies, droughts, and other disasters.<sup>78</sup> The Corps also plans, builds, operates, and maintains a wide range of water resources facilities, including hurricane protection and flood damage reduction projects.

The Stafford Act authorizes FEMA to direct the Department of Defense (DoD), which generally works through the Corps, to provide assistance in the event of an emergency or major disaster. The Corps provides assistance to monitor and stabilize damaged structures and demolish structures designated as immediate hazards to public health and safety. Other forms of assistance include technical assistance in clearing, removing, and disposing of contaminated and uncontaminated debris from public property, and establishing ground and water routes into affected areas.<sup>79</sup>

The Corps also has authorities specific to the type of natural disaster that has occurred. After a flooding event, the Corps has the authority to rehabilitate certified flood control works (e.g., levees) and federally constructed hurricane or shore protection projects and to conduct related inspections.<sup>80</sup> In the case of drought emergencies, the Corps may allow for temporary water withdrawal from reservoirs for municipal and industrial use, as well as the construction of wells for transport of water to drought-distressed areas.<sup>81</sup>

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<sup>76</sup> The principal statutes for activating members of the reserve component are 10 USC § 12301(a), 12301(b), 12301(d), 12302, 12304, 12304a and 12304b. Each of these authorities contains constraints, including whether Congress, the President, or the Service Secretary can invoke it; how many reservists can be activated; how long reservists can be activated; the purposes for which the reservists may be used; and/or limitations on the activation of National Guard forces. The authority most likely to be used in the event of a major disaster or emergency is the recently enacted 10 USC 12304a, which permits activation of members of the Army Reserve, Navy Reserve, Marine Corps Reserve and Air Force Reserve for up to 120 days when a governor requests federal assistance in responding to a major disaster or emergency. National Guard personnel can also be called into federal service under 10 USC § 331-333 and § 12406 for certain purposes, including the suppression of insurrection against a state government, the enforcement of federal laws, and the prevention of interference with state and federal laws, if that interference deprives a class of people of rights, privileges, immunities, or protections named in the Constitution.

<sup>77</sup> This section was authored by Charles Stern, Specialist in Natural Resources Policy, Resources, Science and Industry Division.

<sup>78</sup> The Corps is an agency within the Department of Defense with military and civilian missions. For more information on Corps emergency authorities, see CRS Report R41243, *Army Corps of Engineers Water Resource Projects: Authorization and Appropriations*, by Nicole T. Carter and Charles V. Stern.

<sup>79</sup> Contaminated debris management is coordinated with the Environmental Protection Agency. See CRS Report RL33477, *Disaster Debris Removal After Hurricane Katrina: Status and Associated Issues*, by Linda Luther.

<sup>80</sup> This program is known as the Rehabilitation and Inspection Program. For more information, see CRS Report R41752, *Locally Operated Levees: Issues and Federal Programs*, by Natalie Keegan et al.

<sup>81</sup> 33 U.S.C. 708 and 33 U.S.C. 701n. In the case of reservoir withdrawals, Administration policy limits application to governor-declared drought emergencies and up to 99 acre-feet.

## **Department of Health and Human Services<sup>82</sup>**

The Department of Health and Human Services (HHS) provides grants to states and localities to strengthen public health and medical system capacity in preparedness for health threats.<sup>83</sup> Under the NRF, the department serves as the primary agency for ESF #8 (Public Health and Medical Services) to respond to the public health and medical consequences resulting from natural disasters and human-caused incidents.

The Secretary of HHS has general authority under the Public Health Service Act to provide public health assistance to states, upon their request, without a Stafford Act declaration. In addition, the Secretary has authority to determine that a public health emergency exists.<sup>84</sup> Pursuant to such a determination, the Secretary may waive certain administrative requirements, provide additional forms of assistance, and take certain other actions to expand federal aid to state and local governments, not-for-profit entities, and others. In either case, however, the Secretary lacks a dedicated funding mechanism for the provision of assistance.

## **Department of Housing of Housing and Urban Development<sup>85</sup>**

The Department of Housing and Urban Development (HUD) may play a variety of roles in disaster recovery. When the President declares a major disaster, HUD may offer waivers of various program rules and regulations to allow communities to use their existing HUD program funding and resources to meet needs arising from the disaster.<sup>86</sup> In some years, Congress has provided additional appropriations for these programs—particularly the Community Development Block Grant (CDBG) program—to be used specifically for disaster assistance and recovery. Similarly, in some years, Congress has provided HUD with funding to provide housing vouchers to disaster displaced survivors, in conjunction with FEMA, or directed FEMA to contract with HUD for the provision of such vouchers. HUD, through the Federal Housing Administration (FHA), may also offer special mortgage insurance products to and special forbearance for borrowers affected by major disasters.<sup>87</sup>

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<sup>82</sup> This section authored by Sarah A. Lister, Specialist in Public Health and Epidemiology, Domestic Social Policy Division. For further analysis on public health and medical emergencies see CRS Report RL33579, *The Public Health and Medical Response to Disasters: Federal Authority and Funding*, by Sarah A. Lister.

<sup>83</sup> See HHS, Public Health and Emergency Preparedness cooperative agreements (a type of grant), at <http://www.cdc.gov/phpr/coopagreement.htm>; and Hospital Preparedness Program, at <http://www.phe.gov/preparedness/planning/hpp/pages/default.aspx>.

<sup>84</sup> Public Health Service Act §319; 42 U.S.C. 247d.

<sup>85</sup> This section authored by Maggie McCarty, Specialist in Housing Policy, Domestic Social Policy Division.

<sup>86</sup> For example, communities may amend their community development plans and reprogram existing Community Development Block Grant funds without prior HUD approval, citing the “urgent need” objectives of program.

<sup>87</sup> For more information on the role of HUD in disaster response see CRS Report RS22358, *The Role of HUD Housing Programs in Response to Hurricane Katrina*, by Maggie McCarty, Libby Perl, and Eugene Boyd; CRS Report RL33078, *The Role of HUD Housing Programs in Response to Past Disasters*, by Maggie McCarty, Libby Perl, and Bruce E. Foote; and CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by Eugene Boyd.

## **Community Development Block Grants**

HUD's Community Development Block Grant (CDBG) program provides formula grants to eligible communities to use for a range of housing and community development activities. The CDBG program has been used frequently by the federal government to respond to natural and human-caused incidents. In general, Congress has provided increased flexibility and allocated additional CDBG funds to affected communities and states to help them mitigate against, respond to, and recover from presidentially declared disasters.<sup>88</sup>

## **Department of Transportation<sup>89</sup>**

The U.S. Department of Transportation (DOT) works with FEMA to coordinate transportation support to disaster stricken areas.<sup>90</sup> DOT reports on damage to transportation infrastructure, coordinates alternative transportation services, and coordinates the restoration and recovery of the transportation infrastructure, as well as other emergency responses involving transportation.

DOT's Federal Highway Administration's (FHWA) Emergency Relief Program (ER) is the Department's disaster program for highways.<sup>91</sup> The ER program is administered through the state departments of transportation in close coordination with FHWA's division offices.<sup>92</sup> While ER is a federal program, the decision to seek ER funding is made by the state rather than the federal government. The ER program provides funds for the repair and reconstruction of roads on the federal-aid highway system that have suffered serious damage as a result of either (1) a natural disaster, such as a flood, hurricane, tidal wave, earthquake, tornado, severe storm, or landslide; or (2) a catastrophic failure from any external cause.<sup>93</sup>

In 2012, Congress passed the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21; P.L. 112-141). Section 20017 of the Act included a new disaster relief program for mass transit, the Public Transportation Emergency Relief Program. Once established, the program is to fund "operating costs" for evacuation services; rescue operations; temporary public transportation service; or reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency. The program is to be funded from the General Fund on a such sums as necessary basis and will require appropriations action. Most observers expect the new program will be administered by the Federal Transit Administration.

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<sup>88</sup> For more information about CDBG, see CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by Eugene Boyd.

<sup>89</sup> This section authored by Robert Kirk, Specialist in Transportation Policy, Resources, Science and Industry Division.

<sup>90</sup> U.S. Department of Homeland Security, *National Response Framework*. "Emergency Support Function #1 – Transportation Annex Washington, at <http://www.fema.gov/pdf/emergency/nrf/nrf-esf-01.pdf>.

<sup>91</sup> For more information about the ER program see CRS Report R42021, *Emergency Relief Program: Federal-Aid Highway Assistance for Disaster-Damaged Roads and Bridges*, by Robert S. Kirk, and CRS Report RS22268, *Repairing and Reconstructing Disaster-Damaged Roads and Bridges: The Role of Federal-Aid Highway Assistance*, by Robert S. Kirk. Under certain circumstances the Federal Aviation Administration (FAA) and the Federal Transit Administration (FTA) provide disaster assistance.

<sup>92</sup> There is one in each state.

<sup>93</sup> For example, a bridge collapse.

## **Federal Highway Administration**

As noted above, the FHWA has a permanent program dedicated to disaster relief, the ER program. Historically, the vast majority of ER funds have gone for natural disaster repair and reconstruction. For example, since 2005, ER funding allocations for Gulf Coast Hurricane response have totaled over \$3 billion. Funding provided for hurricane relief includes funds from the Program's annual \$100 million highway trust fund authorization and from additional appropriations provided in supplemental or other appropriations acts. Generally, ER funds can only be used for roads and bridges on the federal-aid highway system. Repairs and reconstruction costs for other damaged roads (mostly local roads and neighborhood streets) may be reimbursed by FEMA.

## **Environmental Protection Agency<sup>94</sup>**

The U.S. Environmental Protection Agency (EPA) is most frequently involved in emergency response as the lead federal agency responsible for responding to oil spills and releases of hazardous substances within the inland zone under the National Contingency Plan. EPA also serves in this capacity if this plan is invoked under the National Response Framework through ESF #10—Oil and Hazardous Materials Annex. (See the section on the “National Contingency Plan” in this report.) EPA also has various other response roles under the National Response Framework and may perform a wide array of support functions in responding to a disaster or emergency.<sup>95</sup> EPA support to other federal agencies and state and local governments broadly includes activities necessary to address threats to human health and the environment focusing on impacts to drinking water and wastewater treatment facilities and post-disaster cleanup.

In accordance with various ESFs under the NRF, as well as Homeland Security Presidential Directive 7: Critical Infrastructure Identification, Prioritization, and Protection (HSPD-7), EPA may provide a wide range of support functions to other federal agencies (primarily FEMA and the Army Corps of Engineers) and state and local governments to protect drinking water or wastewater facilities.<sup>96</sup> As needed, EPA may provide guidance and technical assistance to determine impacts from firefighting chemicals on wastewater treatment facilities; safely manage contaminated debris; identify critical water and wastewater systems requiring priority power restoration; or identify alternate water supplies and wastewater collection and treatment for critical health care facilities.

EPA also has additional emergency response roles related to protecting water infrastructure under other response plans and authorities. EPA is the lead federal agency for the water sector under the National Infrastructure Protection Plan.<sup>97</sup> EPA also has statutory “emergency powers” under the

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<sup>94</sup> This section is authored by David M. Bearden, Specialist in Environmental Policy, and Linda Luther, Analyst in Environmental Policy, Resources, Science, and Industry Division.

<sup>95</sup> For more information about EPA responsibilities under the National Response Framework, including those under individual ESFs, see EPA's “Federal Response Plans” website at <http://www.epa.gov/homelandsecurityportal/laws-federalresponse.htm#nrf>.

<sup>96</sup> A summary of EPA responsibilities under various ESFs and HSPD-7 is provided in its factsheet “EPA's Support to the Water Sector Under the National Response Framework,” available at [http://www.epa.gov/safewater/watersecurity/pubs/fs\\_natl\\_response\\_framework\\_nrf\\_fact\\_sheet.pdf](http://www.epa.gov/safewater/watersecurity/pubs/fs_natl_response_framework_nrf_fact_sheet.pdf).

<sup>97</sup> For information on the National Infrastructure Protection Plan and sector-specific agency roles, see the Department of Homeland Security's website, <http://www.dhs.gov/national-infrastructure-protection-plan>.

Safe Drinking Water Act to issue orders and commence civil action if a contaminant likely to enter a public water supply system poses a substantial threat to public health, and state or local officials have not taken adequate action.<sup>98</sup> The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 amended these emergency powers to include the authority for EPA to take actions in response to a threatened or potential terrorist attack, or other intentional act, that would disrupt the provision of safe drinking water or impact the safety of a community's water supply.<sup>99</sup>

EPA may play a prominent role in post-disaster cleanup under the NRF.<sup>100</sup> EPA may support the Army Corps of Engineers in its mission under ESF #3—Public Works and Engineering Annex—to remove disaster debris.<sup>101</sup> The removal of contaminated debris, and hazardous materials comingled with debris, is coordinated under ESF #10—Oil and Hazardous Materials Annex. In responding to such incidents, EPA may provide technical assistance to state solid waste agencies regarding proper hazardous and nonhazardous waste management, including identifying recycling/reuse opportunities to minimize disaster debris and identifying potential waste staging or storage areas and disposal facilities.

EPA also may support the U.S. Department of Energy's responsibility to maintain continuous and reliable energy supplies for the United States during disaster recovery under the National Response Framework through ESF #12—Energy Annex. In practice, EPA support for this function has involved waiving environmental requirements applicable to motor vehicle fuel under the Clean Air Act. As part of the federal response to hurricanes in 2005, EPA granted certain waivers under this statute in response to requests from state and local officials when significant disruptions in fuel production or distribution occurred in the wake of these natural disasters.<sup>102</sup>

## **Forest Service<sup>103</sup>**

The Forest Service (FS) is one of two federal entities responsible for protecting most federal lands from wildfire—a situation that often requires immediate assistance.<sup>104</sup> Wildfire management is generally split into three categories: preparedness, suppression, and fuel reduction. The FS has received more than \$2.0 billion annually over the last few years for wildfire management.<sup>105</sup>

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<sup>98</sup> 42 U.S.C. § 300i.

<sup>99</sup> For more information, see CRS Report RL34576, *Managing Disaster Debris: Overview of Regulatory Requirements, Agency Roles, and Selected Challenges*, by Linda Luther.

<sup>100</sup> Examples of EPA activities associated with post-disaster cleanup are available in CRS Report RL33115, *Cleanup After Hurricane Katrina: Environmental Considerations*, by Robert Esworthy et al..

<sup>101</sup> For more information, see CRS Report RL34576, *Managing Disaster Debris: Overview of Regulatory Requirements, Agency Roles, and Selected Challenges*, by Linda Luther.

<sup>102</sup> See EPA's website, "Fuels Waivers Response to 2005 Hurricanes," <http://www.epa.gov/compliance/katrina/waiver/index.html>.

<sup>103</sup> This section is authored by Kelsi Bracmort, Specialist in Agricultural Conservation and Natural Resources Policy, Resources, Science, and Industry Division.

<sup>104</sup> The Department of the Interior (DOI) is the other federal entity, although DOI receives significantly less funding to manage wildfires.

<sup>105</sup> For more information on wildfire funding, see CRS Report RL33990, *Federal Funding for Wildfire Control and Management*, by Kelsi Bracmort.

Federal wildfire policy is to actively suppress all wildfires and to protect lives, property, and resources on federal lands.<sup>106</sup>

In an emergency wildfire situation, the FS may work with multiple agencies. The National Interagency Fire Center (NIFC)—of which the FS is a member of—coordinates federal, state, and private forces to assist the state or region in need for complex situations while maintaining local wildfire protection.<sup>107</sup> As mentioned previously, there are FMAGs available from FEMA that provide grants, equipment, personnel, and supplies to supplement community resources when fires threaten destruction that might warrant a major disaster declaration. If the President declares a disaster, fire management assistance and other recovery programs are also available from FEMA under the Stafford Act.<sup>108</sup> The type of assistance depends on a number of factors, such as the nature and severity of the wildfire damages and the insurance coverage of the affected parties. Also, the FS is involved in site rehabilitation and restoration following a wildfire via the Burned Area Emergency Response (BAER) program. Under BAER, emergency treatments on federal lands are prescribed and implemented to minimize threats to life or property resulting from the effects of a fire or to stabilize and prevent unacceptable degradation to natural and cultural resources.

## **Small Business Administration**

Since its creation in 1953, the Small Business Administration (SBA) Disaster Loan Program has offered direct loans to individuals and businesses to help repair, rebuild, and recover from economic losses after a disaster. The majority of disaster loans (approximately 80%) are made to individuals and households (renters and property owners) to help repair and replace homes and personal property.

The three main types of loans for disaster-related losses provided by the SBA Disaster Loan Program are (1) Home Disaster Loans, (2) Business Disaster Loans, and (3) Economic Injury Disaster Loans (EIDL).

Home disaster loans are used by homeowners and renters to repair or replace their disaster-damaged primary residences or personal property. SBA regulations limit home loans to \$200,000 for the repair or replacement of real estate and \$40,000 for the repair or replacement of personal property. Business disaster loans help businesses of all sizes and nonprofit organizations repair or replace disaster-damaged property, including inventory and supplies. EIDLs provide working capital to businesses that have been impacted by an incident. EIDLs cannot be used to restore or repair businesses.

Both Business Disaster Loans and EIDLs are limited by law to \$2 million per applicant. They also provide assistance to small agricultural cooperatives (but not enterprises), and certain private, nonprofit organizations that have suffered substantial economic injury resulting from a physical disaster or an agricultural production disaster.<sup>109</sup>

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<sup>106</sup> There are some instances where less aggressive suppression efforts are appropriate.

<sup>107</sup> NIFC is the national interagency support center for wildland firefighting.

<sup>108</sup> 42 U.S.C. §5187.

<sup>109</sup> For further analysis on SBA disaster loans see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

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