



U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

SUBJECT: Hearing on “U.S. Mayors Speak Out: Addressing Disasters in Cities”

PURPOSE OF THE HEARING

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Thursday, March 4, 2010, at 2:00 p.m., in room 2167 of the Rayburn House Office Building to receive testimony on a report released by the United States Conference of Mayors regarding their proposals on changes to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) as well as related programs, policies, and regulations.¹ The hearing will also focus on issues related to disasters in cities.

BACKGROUND

The Federal Emergency Management Agency (FEMA) is the Federal Government’s lead agency for preparing for, mitigating, responding to, and recovering from disasters and emergencies from all hazards, whether natural or man-made. FEMA’s primary authority in carrying out these functions is the Stafford Act. In light of experiences in recent disasters, the United States Conference of Mayors created a task force to look at changes that could be made to the Stafford Act as well as FEMA’s related policies, regulations, and programs. The Chairman of this task force is Mayor C. Ray Nagin of New Orleans, Louisiana and the Vice Chair is Kevin Johnson of Sacramento, California. Mayor T.M. Frank Cownie of Des Moines, Iowa, Mayor Robert J. Duffy of

¹ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (2009).

Rochester, New York, and 22 other mayors also served on the task force. The task force issued a report entitled “Report of the Stafford Act Reform Task Force” (USCM Report) in January 2010.²

I. Assistance Available under the Stafford Act

FEMA’s major Stafford Act programs for disaster response and recovery in the aftermath of a major disaster are the Public Assistance program and the Individual Assistance program. The Public Assistance program, authorized primarily by sections 403, 406, and 407 of the Stafford Act,³ reimburses State and local emergency response costs and provides grants to State and local governments, as well as certain private non-profits to rebuild facilities. The Public Assistance program generally does not provide direct services to citizens.

The Individual Assistance program, also known as the Individuals and Households program, is primarily authorized by section 408 of the Stafford Act.⁴ The program provides assistance to families and individuals impacted by disasters, including housing assistance. Housing assistance includes money for repair, rental assistance, or “direct assistance”, such as the provision of trailers and mobile homes. This section also authorizes the “other needs program”, which provides grants to mostly low-income families for loss of personal property, as well as disaster-related dental, medical, and funeral costs to individuals regardless of income. Other Individual Assistance programs authorized by the Stafford Act include: unemployment assistance (section 410),⁵ disaster food stamps (section 412),⁶ disaster legal services (section 415),⁷ and crisis counseling (section 416).⁸

Section 404 of the Stafford Act⁹ authorizes the Hazard Mitigation Grant Program (HMGP). HMGP is an important part of the recovery effort. HMGP provides grants to State and local governments to rebuild after a disaster in ways that are cost effective and reduce the risk of future damage, hardship, and loss from all hazards. FEMA also provides grants under HMGP to assist families affected by a disaster to reduce the risk of damage to their homes in the event of future disasters, through such steps as elevating the home or purchasing the home to remove it from the floodplain.

The Stafford Act provides for two categories or “levels” of incidents: “major disasters” and “emergencies”. A “major disaster” is defined in section 102(2) of the Stafford Act as:

Any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven 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

² The report can be found at:

<http://www.usmayors.org/pressreleases/uploads/StaffordActReformTaskForceReport.pdf>.

³ 42 U.S.C. §§ 5170b, 5172 and 5173 (2009).

⁴ 42 U.S.C. § 5174 (2009).

⁵ 42 U.S.C. § 5177 (2009).

⁶ 42 U.S.C. § 5179 (2009).

⁷ 42 U.S.C. § 5182 (2009).

⁸ 42 U.S.C. § 5183 (2009).

⁹ 42 U.S.C. § 5170c (2009).

resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.¹⁰

An “emergency” is defined in section 102(1) of the Stafford Act 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.¹¹

The primary distinction between a major disaster and an emergency is that emergencies are primarily “lesser events” that are limited in cost¹², or can be declared to “lessen or avert the threat of a catastrophe” (such as funding activities to protect citizens and communities prior to the landfall of a hurricane). There is also a difference in what programs are available in an emergency declaration versus a major disaster declaration. Section 502 of the Stafford Act¹³ describes the types of assistance available in an emergency, including debris removal, emergency response costs, and the Individual Assistance programs authorized by section 408 of the Stafford Act (i.e. housing assistance and the “other needs” program). In an emergency declaration, there is no assistance for permanent repair or replacement of public or private non-profit infrastructure or hazard mitigation under HMGP. In addition, those Individual Assistance programs authorized outside of section 408 of the Stafford Act (e.g. crisis counseling and disaster legal services) are not available.

II. Recommendations from the U.S. Conference of Mayors Report

The USCM Report makes a number of recommendations regarding the Stafford Act as well as FEMA’s programs, regulations, and policies which implement the Stafford Act. The following is a discussion of some of the key recommendations as well as analysis of some of the recommendations. It should be noted that not all of the recommendations require statutory changes, and in some cases the recommendations are already being addressed by FEMA or have been included in legislation which the Committee has already considered.

Catastrophic Disasters

In light of the magnitude of Hurricane Katrina and the difficulty many Gulf Coast communities faced after that disaster, there have been calls to re-examine the Stafford Act as well as FEMA’s administration of its authority under the Stafford Act, including whether the current statute is sufficient to address catastrophic disasters. For the most part, disasters of a catastrophic magnitude would also meet the definition of a major disaster,¹⁴ and therefore, any additional

¹⁰ 42 U.S.C. § 5122 (2009).

¹¹ *Id.*

¹² Under section 503(b) of the Stafford Act (42 U.S.C. § 5193) emergencies are generally limited to \$5 million unless the President reports to Congress. The \$5 million limitation is often exceeded.

¹³ 42 U.S.C. § 5192 (2009).

¹⁴ Since the definition of emergency is all inclusive (i.e., “any occasion or instance”), it is broader than the definition for a major disaster, and therefore theoretically there are events that could possibly have catastrophic consequences and not meet the definition of a major disaster. The possibility is remote. For example, all the terrorist events for which FEMA has used its Stafford Act authority have met the definition of a major disaster. Even if an event did not meet the definition of a major disaster, FEMA’s emergency authorities would likely provide adequate authority for weeks, if not

assistance for catastrophic events should be based on what assistance is available for a major disaster. The USCM Report recommends a catastrophic designation in the Stafford Act “to differentiate ‘catastrophic disaster’ as one which has more devastating impact than a ‘major disaster.’”¹⁵

A number of other proposals have been made for such a designation of a “catastrophic annex” to the Stafford Act.¹⁶

It is difficult to define a catastrophe. From the perspective of the communities and citizens, the impact of virtually all disasters is catastrophic. The definitions of major disaster and emergency are already quite broad and provide the President a great deal of discretion. Some have suggested that specific types of hazards be included, such as a terrorist attack. However, the severity of the consequences is what denotes a catastrophic event, not the particular hazard that caused the event. Like all of emergency management, planning for catastrophic disasters encompasses an all hazards approach.

In 2006, Congress enacted the Post-Katrina Emergency Management Reform Act of 2006,¹⁷ which addressed some of the potential gaps related to catastrophic disasters. Most of these new provisions are related to planning and response, but not recovery. With respect to planning, the Post-Katrina Emergency Management Reform Act included the definition of a “catastrophic incident” as:

Any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;¹⁸

This definition provides the scope of planning activities for the Federal Government to prepare for a catastrophic incident. However, such a definition may be too broad to be used as a trigger for extraordinary authority to provide Federal assistance in the aftermath of such an event.

In addition, the Post-Katrina Emergency Management Reform Act provided for additional authority for response activities including: “accelerated Federal Assistance”, which can be provided in the absence of a State request, in certain situations during the response to a major disaster¹⁹ or an

months, in the event of a catastrophic incident, while the President and Congress could decide on any additional authority for such event.

¹⁵ U.S. Conference of Mayors, *Report of the Stafford Act Reform Task Force* (Jan. 2010).

¹⁶ See, e.g. Francis X. McCarthy, Congressional Research Service, testimony before the Committee of Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, and Emergency Management, of the United States House of Representatives – *Post Katrina: What it Takes to Cut the Bureaucracy and assure a More Rapid Response After a Catastrophic Disaster* (July 27, 2009); Mitchell L. Moss and Charles Shelhamer, *The Stafford Act Priorities for Reform*, The Center for Catastrophe Preparedness and Response, New York University (2007), at 15 to 16; and *Far From Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita Recommendations for Improvement*. Report of the Ad Hoc Subcommittee on Disaster Recovery of the Senate Committee on Homeland Security and Government Affairs, Senate Report 111-7 (February 2009), at 278-280.

¹⁷ Title VI of P.L. 109-295.

¹⁸ 6 U.S.C. § 701(4) (2009).

¹⁹ 42 U.S.C. § 5170a (2009).

emergency²⁰; expedited payments for debris removal²¹; use of local contractors for Federal disaster response contracts²²; and the rescue, care, and shelter for pets and individuals and households with pets²³.

There are two characteristics of catastrophic disasters that may make new broad authority for recovery unnecessary. First, catastrophic disasters are complex, unusual, and hard to predict. Second, because of their magnitude, the shift from response to recovery often takes weeks or months, rather than days. Therefore, while the needs may be greater, there may be time to be deliberative and provide for specific and targeted authority for the unique problems presented in the recovery of a particular catastrophic disaster.

While every catastrophic disaster would likely have unique problems that would warrant targeted solutions, one difference from other disasters is that the need for Federal assistance would likely be more than what is necessary to “supplement the efforts and available resources of States, local governments, and disaster relief organizations”²⁴. There are a number of specific program requirements in FEMA’s disaster programs that require that Federal disaster assistance be supplemental, and not supplant other sources of funding or assistance. These provisions would likely be an issue in any catastrophic disaster because the damage is likely to be so significant that supplementing State and local efforts would not be sufficient. The USCM Report makes recommendations related to these FEMA program requirements, including:

Provide automatic 100 percent funding for all categories of eligible work in the Public Assistance program - The Stafford Act already provides that Federal share assistance under sections 403, 406 and 407²⁵ shall be “not less than 75 percent”. FEMA regulations set forth under what conditions FEMA will recommend that the President exercise this discretion. However, the President is not bound by this recommendation and therefore can provide higher levels of assistance under current law.²⁶

Provide 100 percent federal cost share for hazard mitigation - Under section 404 of the Stafford Act,²⁷ “The President may contribute up to 75 percent of the cost of hazard mitigation measures”. Therefore, in order to implement this recommendation, a statutory change would need to be made. While a 100 percent Federal cost share may be warranted in a catastrophic disaster, it would be unprecedented.²⁸

Cover the rapid restoration of private for profit utilities after a catastrophic disaster - Assistance under the Public Assistance program is primarily for State and local government facilities.²⁹ However, the Stafford Act also provides assistance to a limited universe of private non profit (PNP) organizations

²⁰ 42 U.S.C. § 5192 (2009).

²¹ 42 U.S.C. § 5173 (2009).

²² 42 U.S.C. § 5150 (2009).

²³ 42 U.S.C. § 5170b (2009).

²⁴ 42 USC § 5122(2) (2009).

²⁵ 42 U.S.C. §§ 5170b, 5172 and 5173 (2009).

²⁶ 44 C.F.R. 206.47.

²⁷ 42 U.S.C. § 5170(c) (2009).

²⁸ Under the Insular Areas Act (48 U.S.C. § 1469a(d)) FEMA may adjust the cost share for the HMGP for insular areas (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands). According to FEMA, they have generally only adjusted the Federal cost share to 90 percent.

²⁹ See section 406(a)(1)(A).

that perform services of a “governmental nature”. For example, it doesn’t matter whether a fire house is owned by the local government or a private non-profit, as it performs a service of a governmental nature. Like municipally-owned utilities, private non-profit utilities are also eligible for assistance under the Stafford Act.

After a disaster, assistance provided directly to for profit businesses is provided through the Small Business Administration (SBA), under the authority of the Small Business Act³⁰ rather than through FEMA. SBA assistance takes the form of loans, not grants. In addition, businesses are encouraged and expected to protect the investments in their business through insurance and preparedness measures such as a continuity of operations plan.

While FEMA does not provide Public Assistance grants to businesses, businesses benefit indirectly from that program. For example, the authority to reimburse State or local governments to remove debris from private property includes debris on commercial property as well as homes. In addition, businesses receive indirect benefits from repairs to public facilities such as roads, sewers, and water systems.

Individual and Household Assistance

The USCM Report makes a number of recommendations regarding the Individual and Households program authorized by section 408 of the Stafford Act. These include:

Provide temporary mortgage or rental payments for individuals or families who face financial hardship caused by a disaster – Congress struck the Mortgage and Rental Assistance (MRA) program from the Stafford Act in 2000. This recommendation is addressed in section 202 of H.R. 3377 as ordered reported by the Committee, which allows FEMA to provide assistance for up to 18 months in the form of mortgage or rental payments to individuals and families who, as a result of financial hardship caused by a major disaster, are at imminent risk of dispossession or eviction from their residence.

Allow all evacuees regardless of citizenship status to be eligible for Individual Assistance so that they do not become a burden on local host communities – Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,³¹ FEMA can only provide assistance to citizens, non-citizen nationals, and qualified aliens. Therefore, implementing this recommendation would require legislation that is outside the jurisdiction of the Transportation and Infrastructure Committee.

Create a national disaster Case Management Program which provides a comprehensive approach to disaster recovery that will ensure interagency cooperation. – Case management services are already authorized by section 426 of the Stafford Act.³² Section 204 of HR 3377 amends this provision to ensure that FEMA is the lead agency for coordinating case management and therefore provide a comprehensive approach.

³⁰ 15 U.S.C. §§ 631-651e (2009).

³¹ P.L. 104-193.

³² 42 U.S.C. § 5189d (2009).

Hazard Mitigation Grant Program

The USCM report also addresses hazard mitigation. Some of their recommendations are discussed in the section on catastrophic disasters. In addition, the Mayors recommend:

Increase the amount of Hazard Mitigation Grant Program funding by 4 percent of the estimated aggregate amount of the grant for both state and local jurisdictions that have building codes consistent with or more stringent than the most recent nationally recognized model building codes if adopted within six years of the most recent version of that code – This is addressed in section 201 of H.R. 3377 as ordered reported by the Committee, which amends section 404 of the Stafford Act by providing for additional assistance under HMGP for States that actively enforce an approved building code throughout the State.

Insurance

Generally, FEMA and the Stafford Act encourage citizens, communities, and non-profits eligible for assistance under the Stafford Act to obtain insurance coverage to protect themselves and reduce the risk to taxpayers.³³ While insurance requirements appear in various provisions of the Stafford Act, the two main provisions dictating insurance rules in the Stafford Act are sections 311³⁴ and 312³⁵. Section 312 addresses “duplications of benefits” and states a general prohibition against providing assistance that is available from “any other program, or from insurance or any other source.”³⁶ However, section 312 permits assistance to be provided, pending the payment of insurance claims, if the applicant agrees to reimburse the Federal Government. Section 312 also allows for reimbursement for any part of the loss not covered by insurance.

Several provisions of the USCM Report specifically address insurance, including:

Waive proof of insurance requirements for Individual Assistance recipients initially so that immediate assistance can be provided to those in need. Require recipients to reimburse the program when and if insurance claims payments are made – This recommendation appears to be authorized already by section 312 of the Stafford Act, which allows FEMA to reimburse for damages also covered by insurance, provided that the recipient agrees to reimburse the Federal Government when the recipient receives insurance proceeds.

Establish criteria whereby local government entities other than just states may be authorized to self insure. – Currently under section 311 of the Stafford Act, only States may meet their insurance requirements through self insurance.

Allow jurisdictions to reimburse the federal government for insurance claims payments received during the close out phase of the grant rather than deducting the anticipated amount from a Public Assistance grant up front. – FEMA appears to already have the authority to implement this provision provided that applicant agrees to reimburse the Federal Government. FEMA should consider using this authority, especially when the slow payment of insurance claims is impeding recovery.

³³ See section 101(b)(4) of the Stafford Act, 42 U.S.C. 5121(b)(1).

³⁴ 42 U.S.C. §. 5154 (2009).

³⁵ 42 U.S.C. § 5155 (2009).

³⁶ *Id.*

Other issues

Give grant standing to local governments that are Community Development Block Grant entitlement communities as grantees for all disaster grant programs including Hazard Mitigation so that they may deal directly with the federal government - Under the Public Assistance program and HMGP, States are the grantees for all grants made by FEMA and local governments are subgrantees. There are a number of reasons for this, including easier program administration and the additional accountability that state administration provides over disaster assistance. However, this is also based on the direct constitutional and statutory responsibility that most, if not all, States (acting through their Governors) have during disasters and other emergencies.³⁷ This is particularly important during the immediate response to the disaster. During the recovery phase of a disaster, FEMA still continues to work through states in providing assistance to local governments.³⁸ However, one exception to this rule is for Indian Tribes, who, despite being defined as a local government under the Stafford Act, may choose to receive assistance directly from the Federal Government under the Public Assistance program and HMGP or apply through a State.³⁹ This is in recognition that the “Federal Government operates within a government-to-government relationship with Federally-recognized Tribal governments”.⁴⁰

The Stafford Act and related laws and amendments should be consolidated into one code to reduce variable and conflicting interpretations and to provide clearer guidance for FEMA and communities working to apply disaster policy, regulation, and law in preparedness, response, mitigation, and recovery - In recent years, some provisions of law directly related to the Stafford Act and FEMA’s disaster program have been authorized outside the Stafford Act. In H.R. 3377, the Committee continues its practice of authorizing all FEMA programs and related disaster and emergency management authorities under the Stafford Act.

H.R. 3377, THE “DISASTER RESPONSE, RECOVERY, AND MITIGATION ENHANCEMENT ACT OF 2009”

H.R. 3377, the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2009”, was ordered reported by the Committee on November 5, 2009. It contains the Committee’s proposals for amendments to the Stafford Act. Specifically, it reauthorizes certain FEMA programs and activities, codifies other programs that FEMA is currently administering under the authority of the Stafford Act but which are not expressly authorized in statute, amends eligibility under FEMA programs, and makes technical corrections to the Stafford Act. H.R. 3377 contains the following provisions which are particularly relevant to the USCM report and today’s hearing:

Section 101. Pre-Disaster Hazard Mitigation. This section amends section 203 of the Stafford Act to authorize the Pre-Disaster Mitigation (PDM) program through fiscal year (FY) 2012 at a level of \$250 million per year and makes improvements to the program, including requiring that projects

³⁷ See National Governors Association, Policy Position - HHS-13, *Emergency Management* (Feb.27, 2008), <http://www.nga.org/portal/site/nga/menuitem.8358ec82f5b198d18a278110501010a0/?vgnnextoid=209a9e2f1b091010VgnVCM1000001a01010aRCRD>.

³⁸ See 44 C.F.R. 206.202(a).

³⁹ See 74 F.R. 60208, November 20, 2009.

⁴⁰ See FEMA Tribal Policy (September 25, 1998), <http://www.fema.gov/government/tribal/natamerpolcy.shtm>.

are selected through a competitive process. The PDM program provides cost-effective technical and financial assistance to State and local governments to reduce injuries, loss of life, and damage to property caused by natural hazards. This important program will sunset on September 30, 2010, unless Congress acts.

Section 102. Integrated Public Alert and Warning System Modernization. This section amends section 202 of the Stafford Act to direct the President to modernize the integrated public alerts and warning system. This section requires FEMA to lead the modernization of Emergency Alert System (EAS); have certain capabilities and meet requirements to modernize the system; develop a system that incorporates multiple communication technologies; provide redundant alert mechanisms; implement pilot programs to demonstrate feasibility; and establish an Advisory Committee comprised of a broad range of stakeholders to develop recommendations for the public alert and warning system under a specific timeline.

Sec. 105. National Urban Search and Rescue Response System. This section authorizes the National Urban Search and Rescue System (US&R) as a new section of the Stafford Act. The activities of the US&R system are currently authorized in various sections of the Stafford Act, but the program is not codified. The US&R is a robust system of 28 teams comprised of State and local responders who work together to respond to both local incidents and major disasters and emergencies under the Stafford Act. These teams provide a very specialized and critical capability that our nation has called upon numerous times since the inception of the US&R system nearly two decades ago. This section also codifies workers compensation and tort liability protection that is currently provided administratively. It also provides new protections to members of US&R teams deployed in response to a disaster under the Uniformed Services Employment and Reemployment Rights Act (USERRA), as well as licensing and professional liability protection.

Sec. 106. Disaster Relief Fund. This section authorizes the Disaster Relief Fund, which was created in appropriations law and is not currently codified in the Stafford Act. The Disaster Relief Fund, funded by Congressional appropriations, provides funding for FEMA's Federal disaster programs authorized by titles IV and V of the Stafford Act, including Individual Assistance and Public Assistance programs. This section also authorizes the Disaster Support Account, which was created in the late 1990s, and provides for ongoing capabilities that are not readily attributable to one specific disaster.

Sec. 201. Additional Mitigation Assistance. This section amends section 404 of the Stafford Act by providing for additional assistance under HMGP for States that actively enforce an approved building code throughout the State.

Sec. 202. Temporary Mortgage and Rental Payments. Pursuant to the Disaster Mitigation Act of 2000 (P.L. 106-390), Congress struck the Mortgage and Rental Assistance (MRA) program from the Stafford Act effective in 2002. Ironically, this program was most used after the provision was repealed (but before the repeal took effect) in New York, New York, after the terrorist attacks of September 11, 2001. This section is very similar to the repealed version and allows FEMA to provide assistance for up to 18 months in the form of mortgage or rental payments to, or on behalf of, individuals and families who, as a result of financial hardship caused by a major disaster, are at imminent risk of dispossession or eviction from a residence due to foreclosure of any mortgage or lien, cancellation of any contract for sale, or termination of any lease entered into prior to the

disaster. This section corrects one of the major weaknesses of the prior law provision, which required a written notice of dispossession or eviction.

Sec. 301. Emergency Management Assistance Compact Grants. This section reauthorizes the Emergency Management Assistance Compact (EMAC) as section 618 of the Stafford Act. EMAC provides form and structure to interstate mutual aid and allows a State impacted by a disaster to request and receive assistance from other states quickly and efficiently. The current authorization for EMAC expired at end of FY 2008.

Sec. 305. Ability to Provide Disaster Information to Individuals with Limited English Proficiency and to Individuals with Disabilities. This section requires the Comptroller General to conduct a study on the ability of existing alert and warning systems to provide information regarding disasters to individuals with limited English Proficiency and to individuals with disabilities.

Sec. 308. Debris Removal. This section authorizes the President to increase the cost share by five percent for States and local governments that have a debris management plan. This section codifies and makes permanent a pilot project authorized by the Post-Katrina Emergency Management Reform Act.

Sec 309. Review of Regulations and Policies. This section requires the President to review FEMA's regulations and policies related to Federal disaster assistance within one year of the date of enactment.

Sec. 310. Appeals Process. This section amends the Stafford Act to change the deadline for decisions on appeals on disaster assistance from 90 days to 60 days. It also requires a written explanation of the failure to make this deadline to the applicant and quarterly reports to Congress.

Sec 312. Issuance of Regulations Related to Eligible Costs. This section requires the President, within 180 days of the date of enactment, to issue regulations to implement a provision from the Disaster Mitigation Act of 2000 to allow cost estimates to be used in the Public Assistance program for damaged facilities.

PRIOR LEGISLATIVE AND OVERSIGHT ACTIVITY

In the 111th Congress, the Committee on Transportation and Infrastructure acted on the following bill related to the Stafford Act and FEMA's disaster assistance program:

- **H.R. 3377, the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2008”:** This legislation amends the Stafford Act to improve the assistance the Federal Government provides to States, local governments, and communities after major disasters and emergencies. On November 5, 2009, the Committee ordered H.R. 3377 reported favorably to the House.
- **H.R. 1174, the “FEMA Independence Act of 2009”:** This legislation removes FEMA from the Department of Homeland Security and reinstates FEMA as an independent, cabinet-level agency. On November 5, 2009, the Subcommittee on Economic

- **H.R. 1746, the “Pre-Disaster Mitigation Act of 2009”:** This legislation reauthorizes and makes improvements to FEMA’s Pre-Disaster Mitigation Program, including codification of the competitive aspects of the program. On April 27, 2009, the House passed H.R. 1746 by voice vote.

In the 110th Congress, the Committee on Transportation and Infrastructure acted on the following bills related to FEMA:

- **H.R. 6658, the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2008”:** This legislation amends the Stafford Act to improve the assistance the Federal Government provides to States, local governments, and communities after major disasters and emergencies. On July 31, 2008, the Committee ordered H.R. 6658 reported favorably to the House.
- **H.R. 6109, the “Pre-Disaster Mitigation Act of 2008”:** This legislation reauthorizes FEMA’s Pre-Disaster Mitigation program and makes improvements, including codification of the competitive aspects of the program. On June 23, 2008, the House passed H.R. 6109 by voice vote.
- **H.R. 3247, the “Hurricane Katrina and Rita Recovery Facilitation Act of 2007”:** This legislation provides additional Federal relief targeted to the recovery from Hurricanes Katrina and Rita in Louisiana and Mississippi. On October 29, 2007, the House passed H.R. 3247 by voice vote.
- **H.R. 1144, the “Hurricanes Katrina and Rita Federal Match Relief Act of 2007”:** This legislation provides significant relief for communities devastated by Hurricanes Katrina, Rita, and Wilma, by raising the Federal cost share for critical disaster relief programs to 100 percent and by authorizing the cancellation of Community Disaster Loans under certain conditions like all previous Community Disaster Loans. H.R. 1144 was enacted as part of P.L. 110-28, the “U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007”.

In the 111th and 110th Congresses, the Committee and Subcommittee held numerous hearings related to the Stafford Act and FEMA’s disaster program, including:

- “FEMA’s Urban Search and Rescue Program in Haiti: How to Apply Lessons Learned at Home” (February 3, 2010)
- “This is NOT a Test: Will the Nation’s Emergency Alert System Deliver the President’s Message to the Public?” (September 30, 2009)
- “Final Breakthrough on the Billion Dollar Katrina Infrastructure Logjam: How is it Working?” (September 29, 2009)
- “Post Katrina: What it Takes to Cut the Bureaucracy” (July 29, 2009)
- “Still Post-Katrina: How FEMA Decides When Housing Responsibilities End” (May 22, 2009)

- “An Independent FEMA: Restoring the Nation’s Capabilities for effective Emergency Management and Disaster Response” (May 14, 2009)
- “FEMA: Preparedness for the 2009 Hurricane Season” (May 1, 2009)
- “Post-Katrina Disaster Response and Recovery: Evaluating FEMA’s Continuing Efforts in the Gulf Coast and Response to Recent Disasters” (February 25, 2009)
- “FEMA's Response to the 2008 Hurricane Season and the National Housing Strategy” (September 23, 2008)
- “ Moving Mississippi Forward: Ongoing Progress and Remaining Problems” (June 19, 2008)
- “Assuring Public Alert Systems Work” (June 4, 2008)
- “Saving Lives And Money Through The Pre-Disaster Mitigation Program” (April 30, 2008)
- “Readiness in the Post Katrina and Post 9.11 World: An Evaluation of the New National Response Framework” (September 11, 2007)
- “Assuring the National Guard is as Ready at Home as it is Abroad” (May 18, 2007)
- “Legislative Fixes for Lingering Problems that Hinder Katrina Recovery” (May 10, 2007)
- “FEMA’s Preparedness and Response to All Hazards” (April 26, 2007)
- “FEMA’s Emergency Food Supply System” (April 20, 2007)
- “Post Katrina Temporary Housing: Dilemmas and Solutions” (March 20, 2007)

WITNESSES

Mr. Robert J. Duffy

Mayor
City of Rochester

Mr. C. Ray Nagin

Mayor
City of New Orleans

Mr. Franklin Cownie

Mayor
City of Des Moines

Mr. Dave Maxwell

Vice-President
National Emergency Management Association

Mr. Larry Gispert

Past President
International Association of Emergency Managers

Mr. Chad Berginnis

Senior Specialist
Hazard Mitigation and Floodplain Management
Michael Baker Corporation
Testifying on Behalf of:
Association of State Flood Plain Managers