

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE**  
**CHAPTER 68 - DISASTER RELIEF**  
**SUBCHAPTER IV - MAJOR DISASTER ASSISTANCE PROGRAMS**

**§ 5170c. Hazard mitigation**

**(a) In general**

The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster. Such measures shall be identified following the evaluation of natural hazards under section 5165 of this title and shall be subject to approval by the President. Subject to section 5165 of this title, the total of contributions under this section for a major disaster shall not exceed 15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000 of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster.

**(b) Property acquisition and relocation assistance**

**(1) General authority**

In providing hazard mitigation assistance under this section in connection with flooding, the Administrator of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

**(2) Terms and conditions**

An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

**(A)** the applicant for the assistance is otherwise eligible to receive assistance under the hazard mitigation grant program established under subsection (a) of this section; and

**(B)** on or after December 3, 1993, the applicant for the assistance enters into an agreement with the Administrator that provides assurances that—

**(i)** any property acquired, accepted, or from which a structure will be removed pursuant to the project will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

**(ii)** no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

**(I)** a public facility that is open on all sides and functionally related to a designated open space;

**(II)** a rest room; or

**(III)** a structure that the Administrator approves in writing before the commencement of the construction of the structure; and

**(iii)** after receipt of the assistance, with respect to any property acquired, accepted or from which a structure was removed under the acquisition or relocation program—

**(I)** no subsequent application for additional disaster assistance for any purpose will be made by the recipient to any Federal entity; and

**(II)** no assistance referred to in subclause (I) will be provided to the applicant by any Federal source.

**(3) Statutory construction**

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

Nothing in this subsection is intended to alter or otherwise affect an agreement for an acquisition or relocation project carried out pursuant to this section that was in effect on the day before December 3, 1993.

**(c) Program administration by States**

**(1) In general**

A State desiring to administer the hazard mitigation grant program established by this section with respect to hazard mitigation assistance in the State may submit to the President an application for the delegation of the authority to administer the program.

**(2) Criteria**

The President, in consultation and coordination with States and local governments, shall establish criteria for the approval of applications submitted under paragraph (1). The criteria shall include, at a minimum—

- (A) the demonstrated ability of the State to manage the grant program under this section;
- (B) there being in effect an approved mitigation plan under section 5165 of this title; and
- (C) a demonstrated commitment to mitigation activities.

**(3) Approval**

The President shall approve an application submitted under paragraph (1) that meets the criteria established under paragraph (2).

**(4) Withdrawal of approval**

If, after approving an application of a State submitted under paragraph (1), the President determines that the State is not administering the hazard mitigation grant program established by this section in a manner satisfactory to the President, the President shall withdraw the approval.

**(5) Audits**

The President shall provide for periodic audits of the hazard mitigation grant programs administered by States under this subsection.

(Pub. L. 93–288, title IV, § 404, as added Pub. L. 100–707, title I, § 106(a)(3), Nov. 23, 1988, 102 Stat. 4698; amended Pub. L. 103–181, §§ 2(a), 3, Dec. 3, 1993, 107 Stat. 2054; Pub. L. 106–390, title I, § 104(c)(1), title II, § 204, Oct. 30, 2000, 114 Stat. 1559, 1561; Pub. L. 108–7, div. K, title IV, § 417, Feb. 20, 2003, 117 Stat. 525; Pub. L. 109–295, title VI, §§ 612(c), 684, Oct. 4, 2006, 120 Stat. 1410, 1447.)

**Prior Provisions**

A prior section 404 of Pub. L. 93–288 was classified to section 5174 of this title prior to repeal by Pub. L. 100–707.

**Amendments**

2006—Subsec. (a). Pub. L. 109–295, § 684, in last sentence substituted “15 percent for amounts not more than \$2,000,000,000, 10 percent for amounts of more than \$2,000,000,000 and not more than \$10,000,000,000, and 7.5 percent on amounts of more than \$10,000,000,000 and not more than \$35,333,000,000” for “7.5 percent”.

2003—Subsec. (a). Pub. L. 108–7 substituted “7.5 percent” for “15 percent”.

2000—Subsec. (a). Pub. L. 106–390, § 104(c)(1), substituted “section 5165” for “section 5176” in second sentence and “Subject to section 5165 of this title, the total” for “The total” in third sentence.

Subsec. (c). Pub. L. 106–390, § 204, added subsec. (c).

1993—Pub. L. 103–181 designated existing provisions as subsec. (a), inserted heading, substituted “75 percent” for “50 percent” in first sentence, substituted “15 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this chapter with respect to the major disaster” for “10 percent of the estimated aggregate amounts of grants to be made under section 5172 of this title with respect to such major disaster” in last sentence, and added subsec. (b).

## **Change of Name**

“Administrator of the Federal Emergency Management Agency” and “Administrator” substituted for “Director of the Federal Emergency Management Agency” and “Director”, respectively, in subsec. (b)(1), (2) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

## **Effective Date of 1993 Amendment**

Section 2(b) of Pub. L. 103–181 provided that: “The amendments made by this section [amending this section] shall apply to any major disaster declared by the President pursuant to The [the] Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after June 10, 1993.”

## **Transfer of Functions**

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315 (a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313 (1) and sections 551 (d), 552 (d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.