

111TH CONGRESS
1ST SESSION

S. 412

To establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2009

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Emergency
5 Management Advancement Act of 2009” or the “FEMA
6 Act”.

7 **TITLE I—FEDERAL EMERGENCY**
8 **MANAGEMENT AGENCY**

9 **SEC. 101. DEFINITIONS.**

10 In this title—

1 (1) the term “catastrophic incident” means any
2 natural disaster, act of terrorism, or other man-
3 made disaster that results in extraordinary levels of
4 casualties or damage or disruption severely affecting
5 the population (including mass evacuations), infra-
6 structure, environment, economy, national morale, or
7 government functions in an area;

8 (2) the term “Director” means the Director of
9 the Federal Emergency Management Agency;

10 (3) the term “Federal coordinating officer”
11 means a Federal coordinating officer as described in
12 section 302 of the Robert T. Stafford Disaster Relief
13 and Emergency Assistance Act (42 U.S.C. 5143);

14 (4) the term “interoperable” has the meaning
15 given the term “interoperable communications”
16 under section 7303(g)(1) of the Intelligence Reform
17 and Terrorism Prevention Act of 2004 (6 U.S.C.
18 194(g)(1));

19 (5) the term “National Advisory Council”
20 means the National Advisory Council established
21 under section 508 of the Homeland Security Act of
22 2002;

23 (6) the term “National Incident Management
24 System” means a system to enable effective, effi-
25 cient, and collaborative incident management;

1 (7) the term “National Response Plan” means
2 the National Response Plan or any successor plan
3 prepared under section 104(b)(6);

4 (8) the term “Nuclear Incident Response
5 Team” means a resource that includes—

6 (A) those entities of the Department of
7 Energy that perform nuclear or radiological
8 emergency support functions (including accident
9 response, search response, advisory, and tech-
10 nical operations functions), radiation exposure
11 functions at the medical assistance facility
12 known as the Radiation Emergency Assistance
13 Center/Training Site (REAC/TS), radiological
14 assistance functions, and related functions; and

15 (B) those entities of the Environmental
16 Protection Agency that perform such support
17 functions (including radiological emergency re-
18 sponse functions) and related functions; and

19 (9) the term “tribal government” means the
20 government of any entity described under section
21 2(10)(B) of the Homeland Security Act of 2002 (6
22 U.S.C. 101(10)(B)).

1 **SEC. 102. ESTABLISHMENT OF AGENCY AND DIRECTOR AND**
2 **DEPUTY DIRECTOR.**

3 (a) ESTABLISHMENT.—The Federal Emergency
4 Management Agency is established as an independent es-
5 tablishment in the executive branch as defined under sec-
6 tion 104 of title 5, United States Code.

7 (b) DIRECTOR.—

8 (1) IN GENERAL.—The Director shall be the
9 head of the Federal Emergency Management Agen-
10 cy. The Director shall be appointed by the President,
11 by and with the advice and consent of the Senate.
12 The Director shall report directly to the President.

13 (2) QUALIFICATIONS.—The Director shall have
14 significant experience, knowledge, training, and ex-
15 pertise in the area of emergency preparedness, re-
16 sponse, recovery, and mitigation as related to nat-
17 ural disasters and other national cataclysmic events.

18 (3) EXECUTIVE SCHEDULE POSITION.—Section
19 5312 of title 5, United States Code, is amended by
20 adding at the end the following:

21 “Director of the Federal Emergency Manage-
22 ment Agency.”.

23 (4) PRINCIPAL ADVISOR ON EMERGENCY MAN-
24 AGEMENT.—

25 (A) IN GENERAL.—The Director is the
26 principal advisor to the President, the Home-

1 land Security Council, and the Secretary of
2 Homeland Security for all matters relating to
3 emergency management in the United States.

4 (B) ADVICE AND RECOMMENDATIONS.—

5 (i) IN GENERAL.—In presenting ad-
6 vice with respect to any matter to the
7 President, the Homeland Security Council,
8 or the Secretary of Homeland Security, the
9 Director shall, as the Director considers
10 appropriate, inform the President, the
11 Homeland Security Council, or the Sec-
12 retary, as the case may be, of the range of
13 emergency preparedness, protection, re-
14 sponse, recovery, and mitigation options
15 with respect to that matter.

16 (ii) ADVICE ON REQUEST.—The Di-
17 rector, as the principal advisor on emer-
18 gency management, shall provide advice to
19 the President, the Homeland Security
20 Council, or the Secretary of Homeland Se-
21 curity on a particular matter when the
22 President, the Homeland Security Council,
23 or the Secretary requests such advice.

24 (iii) RECOMMENDATIONS TO CON-
25 GRESS.—After informing the President,

1 the Director may make such recommenda-
2 tions to Congress relating to emergency
3 management as the Director considers ap-
4 propriate.

5 (5) CABINET STATUS.—The President shall
6 designate the Administrator to serve as a member of
7 the Cabinet in the event of natural disasters, acts of
8 terrorism, or other man-made disasters.

9 (c) DEPUTY DIRECTOR.—

10 (1) IN GENERAL.—The Deputy Director of the
11 Federal Emergency Management Agency shall assist
12 the Director of the Federal Emergency Management
13 Agency. The Deputy Director shall be appointed by
14 the President, by and with the advice and consent
15 of the Senate.

16 (2) QUALIFICATIONS.—The Deputy Director of
17 the Federal Emergency Management Agency shall
18 have significant experience, knowledge, training, and
19 expertise in the area of emergency preparedness, re-
20 sponse, recovery, and mitigation as related to nat-
21 ural disasters and other national cataclysmic events.

22 (3) EXECUTIVE SCHEDULE POSITION.—Section
23 5313 of title 5, United States Code, is amended—

24 (A) by striking the following:

1 “Administrator of the Federal Emergency Man-
2 agement Agency.”;

3 and

4 (B) by adding at the end the following:

5 “Deputy Director of the Federal Emergency
6 Management Agency.”.

7 **SEC. 103. MISSION.**

8 (a) PRIMARY MISSION.—The primary mission of the
9 Federal Emergency Management Agency is to reduce the
10 loss of life and property and protect the Nation from all
11 hazards, including natural disasters, acts of terrorism, and
12 other man-made disasters, by leading and supporting the
13 Nation in a risk-based, comprehensive emergency manage-
14 ment system of preparedness, protection, response, recov-
15 ery, and mitigation.

16 (b) SPECIFIC ACTIVITIES.—In support of the primary
17 mission of the Federal Emergency Management Agency,
18 the Director shall—

19 (1) lead the Nation’s efforts to prepare for, pro-
20 tect against, respond to, recover from, and mitigate
21 against the risk of natural disasters, acts of ter-
22 rorism, and other man-made disasters, including cat-
23 astrophic incidents;

24 (2) partner with State, local, and tribal govern-
25 ments and emergency response providers, with other

1 Federal agencies, with the private sector, and with
2 nongovernmental organizations to build a national
3 system of emergency management that can effec-
4 tively and efficiently utilize the full measure of the
5 Nation's resources to respond to natural disasters,
6 acts of terrorism, and other man-made disasters, in-
7 cluding catastrophic incidents;

8 (3) develop a Federal response capability that,
9 when necessary and appropriate, can act effectively
10 and rapidly to deliver assistance essential to saving
11 lives or protecting or preserving property or public
12 health and safety in a natural disaster, act of ter-
13 rorism, or other man-made disaster;

14 (4) integrate the Federal Emergency Manage-
15 ment Agency's emergency preparedness, protection,
16 response, recovery, and mitigation responsibilities to
17 confront effectively the challenges of a natural dis-
18 aster, act of terrorism, or other man-made disaster;

19 (5) develop and maintain robust Regional Of-
20 fices that will work with State, local, and tribal gov-
21 ernments, emergency response providers, and other
22 appropriate entities to identify and address regional
23 priorities;

24 (6) coordinate with the Secretary of Homeland
25 Security, the Commandant of the Coast Guard, the

1 Director of Customs and Border Protection, the Di-
2 rector of Immigration and Customs Enforcement,
3 the National Operations Center, and other agencies
4 and offices in the Department of Homeland Security
5 to take full advantage of the substantial range of re-
6 sources in that Department;

7 (7) coordinate with the Administrator of the
8 Small Business Administration, the Chief of Engi-
9 neers of the United States Army Corps of Engi-
10 neers, and the Secretary of Housing and Urban De-
11 velopment to take full advantage of the resources of
12 those departments and agencies;

13 (8) provide funding, training, exercises, tech-
14 nical assistance, planning, and other assistance to
15 build tribal, local, State, regional, and national capa-
16 bilities (including communications capabilities), nec-
17 essary to respond to a natural disaster, act of ter-
18 rorism, or other man-made disaster; and

19 (9) develop and coordinate the implementation
20 of a risk-based, all-hazards strategy for preparedness
21 that builds those common capabilities necessary to
22 respond to natural disasters, acts of terrorism, and
23 other man-made disasters while also building the
24 unique capabilities necessary to respond to specific

1 types of incidents that pose the greatest risk to our
2 Nation.

3 **SEC. 104. AUTHORITY AND RESPONSIBILITIES.**

4 (a) IN GENERAL.—The Director shall provide Fed-
5 eral leadership necessary to prepare for, protect against,
6 respond to, recover from, or mitigate against a natural
7 disaster, act of terrorism, or other man-made disaster, in-
8 cluding—

9 (1) helping to ensure the effectiveness of emer-
10 gency response providers to terrorist attacks, major
11 disasters, and other emergencies;

12 (2) with respect to the Nuclear Incident Re-
13 sponse Team, regardless of whether it is operating
14 as an organizational unit of the Department of
15 Homeland Security, and in consultation with the
16 Secretary of Homeland Security—

17 (A) establishing standards and certifying
18 when those standards have been met;

19 (B) conducting joint and other exercises
20 and training and evaluating performance; and

21 (C) providing funds to the Department of
22 Energy and the Environmental Protection
23 Agency, as appropriate, for homeland security
24 planning, exercises and training, and equip-
25 ment;

1 (3) providing the Federal Government’s re-
2 sponse to terrorist attacks and major disasters, in-
3 cluding—

4 (A) managing such response;

5 (B) directing the Domestic Emergency
6 Support Team, the National Disaster Medical
7 System, and, in consultation with the Secretary
8 of Homeland Security, the Nuclear Incident Re-
9 sponse Team (when that team is operating as
10 an organizational unit of the Department of
11 Homeland Security);

12 (C) overseeing the Metropolitan Medical
13 Response System; and

14 (D) coordinating other Federal response
15 resources, including requiring deployment of the
16 Strategic National Stockpile, in the event of a
17 terrorist attack or major disaster;

18 (4) aiding the recovery from terrorist attacks
19 and major disasters;

20 (5) building a comprehensive national incident
21 management system with Federal, State, and local
22 government personnel, agencies, and authorities, to
23 respond to such attacks and disasters;

1 (6) consolidating existing Federal Government
2 emergency response plans into a single, coordinated
3 national response plan;

4 (7) helping ensure the acquisition of operable
5 and interoperable communications capabilities by
6 Federal, State, local, and tribal governments and
7 emergency response providers;

8 (8) assisting the President in carrying out the
9 functions under the Robert T. Stafford Disaster Re-
10 lief and Emergency Assistance Act (42 U.S.C. 5121
11 et seq.) and carrying out all functions and authori-
12 ties given to the Director under that Act;

13 (9) carrying out the mission of the Federal
14 Emergency Management Agency to reduce the loss
15 of life and property and protect the Nation from all
16 hazards by leading and supporting the Nation in a
17 risk-based, comprehensive emergency management
18 system of—

19 (A) mitigation, by taking sustained actions
20 to reduce or eliminate long-term risks to people
21 and property from hazards and their effects;

22 (B) preparedness, by planning, training,
23 and building the emergency management pro-
24 fession to prepare effectively for, mitigate

1 against, respond to, and recover from any haz-
2 ard;

3 (C) response, by conducting emergency op-
4 erations to save lives and property through po-
5 sitioning emergency equipment, personnel, and
6 supplies, through evacuating potential victims,
7 through providing food, water, shelter, and
8 medical care to those in need, and through re-
9 storing critical public services; and

10 (D) recovery, by rebuilding communities so
11 individuals, businesses, and governments can
12 function on their own, return to normal life,
13 and protect against future hazards;

14 (10) increasing efficiencies, by coordinating ef-
15 forts relating to preparedness, protection, response,
16 recovery, and mitigation;

17 (11) helping to ensure the effectiveness of emer-
18 gency response providers in responding to a natural
19 disaster, act of terrorism, or other man-made dis-
20 aster;

21 (12) supervising grant programs administered
22 by the Federal Emergency Management Agency;

23 (13) administering and ensuring the implemen-
24 tation of the National Response Plan, including co-
25 ordinating and ensuring the readiness of each emer-

1 agency support function under the National Response
2 Plan;

3 (14) coordinating with the National Advisory
4 Council;

5 (15) preparing and implementing the plans and
6 programs of the Federal Government for—

7 (A) continuity of operations;

8 (B) continuity of government; and

9 (C) continuity of plans;

10 (16) minimizing, to the extent practicable, over-
11 lapping planning and reporting requirements appli-
12 cable to State, local, and tribal governments and the
13 private sector;

14 (17) maintaining and operating within the Fed-
15 eral Emergency Management Agency the National
16 Response Coordination Center or its successor;

17 (18) developing a national emergency manage-
18 ment system that is capable of preparing for, pro-
19 tecting against, responding to, recovering from, and
20 mitigating against catastrophic incidents;

21 (19) assisting the President in carrying out the
22 functions under the national preparedness goal and
23 the national preparedness system and carrying out
24 all functions and authorities of the Director under
25 the national preparedness System;

1 (20) carrying out all authorities of the Federal
2 Emergency Management Agency; and

3 (21) otherwise carrying out the mission of the
4 Federal Emergency Management Agency as de-
5 scribed in section 103.

6 (b) ALL-HAZARDS APPROACH.—In carrying out the
7 responsibilities under this section, the Director shall co-
8 ordinate the implementation of a risk-based, all-hazards
9 strategy that builds those common capabilities necessary
10 to prepare for, protect against, respond to, recover from,
11 or mitigate against natural disasters, acts of terrorism,
12 and other man-made disasters, while also building the
13 unique capabilities necessary to prepare for, protect
14 against, respond to, recover from, or mitigate against the
15 risks of specific types of incidents that pose the greatest
16 risk to the Nation.

17 (c) CONFLICT OF AUTHORITIES.—If the Director de-
18 termines that there is a conflict between any authority of
19 the Director under this Act, the amendments made by this
20 Act, or the Robert T. Stafford Disaster Relief and Emer-
21 gency Assistance Act (42 U.S.C. 5121 et seq.) and any
22 authority of another Federal officer, the Director shall re-
23 quest that the President make such determinations as may
24 be necessary regarding such authorities.

1 **SEC. 105. REGIONAL OFFICES.**

2 (a) IN GENERAL.—There are in the Federal Emer-
3 gency Management Agency 10 regional offices, as identi-
4 fied by the Director.

5 (b) MANAGEMENT OF REGIONAL OFFICES.—

6 (1) REGIONAL ADMINISTRATOR.—Each Re-
7 gional Office shall be headed by a Regional Adminis-
8 trator who shall be appointed by the Director, after
9 consulting with State, local, and tribal government
10 officials in the region. Each Regional Administrator
11 shall report directly to the Director and be in the
12 Senior Executive Service.

13 (2) QUALIFICATIONS.—

14 (A) IN GENERAL.—Each Regional Admin-
15 istrator shall be appointed from among individ-
16 uals who have a demonstrated ability in and
17 knowledge of emergency management and
18 homeland security.

19 (B) CONSIDERATIONS.—In selecting a Re-
20 gional Administrator for a Regional Office, the
21 Director shall consider the familiarity of an in-
22 dividual with the geographical area and demo-
23 graphic characteristics of the population served
24 by such Regional Office.

25 (c) RESPONSIBILITIES.—

1 (1) IN GENERAL.—The Regional Administrator
2 shall work in partnership with State, local, and trib-
3 al governments, emergency managers, emergency re-
4 sponse providers, medical providers, the private sec-
5 tor, nongovernmental organizations, multijuris-
6 dictional councils of governments, and regional plan-
7 ning commissions and organizations in the geo-
8 graphical area served by the Regional Office to carry
9 out the responsibilities of a Regional Administrator
10 under this section.

11 (2) RESPONSIBILITIES.—The responsibilities of
12 a Regional Administrator include—

13 (A) ensuring effective, coordinated, and in-
14 tegrated regional preparedness, protection, re-
15 sponse, recovery, and mitigation activities and
16 programs for natural disasters, acts of ter-
17 rorism, and other man-made disasters (includ-
18 ing planning, training, exercises, and profes-
19 sional development);

20 (B) assisting in the development of re-
21 gional capabilities needed for a national cata-
22 strophic response system;

23 (C) coordinating the establishment of ef-
24 fective regional operable and interoperable
25 emergency communications capabilities;

1 (D) staffing and overseeing 1 or more
2 strike teams within the region under subsection
3 (f), to serve as the focal point of the Federal
4 Government's initial response efforts for nat-
5 ural disasters, acts of terrorism, and other
6 man-made disasters within that region, and
7 otherwise building Federal response capabilities
8 to respond to natural disasters, acts of ter-
9 rorism, and other man-made disasters within
10 that region;

11 (E) designating an individual responsible
12 for the development of strategic and operational
13 regional plans in support of the National Re-
14 sponse Plan;

15 (F) fostering the development of mutual
16 aid and other cooperative agreements;

17 (G) identifying critical gaps in regional ca-
18 pabilities to respond to populations with special
19 needs;

20 (H) maintaining and operating a Regional
21 Response Coordination Center or its successor;
22 and

23 (I) performing such other duties relating
24 to such responsibilities as the Director may re-
25 quire.

1 (3) TRAINING AND EXERCISE REQUIRE-
2 MENTS.—

3 (A) TRAINING.—The Director shall require
4 each Regional Administrator to undergo specific
5 training periodically to complement the quali-
6 fications of the Regional Administrator. Such
7 training, as appropriate, shall include training
8 with respect to the National Incident Manage-
9 ment System, the National Response Plan, and
10 such other subjects as determined by the Direc-
11 tor.

12 (B) EXERCISES.—The Director shall re-
13 quire each Regional Administrator to partici-
14 pate as appropriate in regional and national ex-
15 ercises.

16 (d) AREA OFFICES.—The Director shall establish
17 Area Offices as components in the appropriate Regional
18 Office, as determined appropriate by the Director.

19 (e) REGIONAL ADVISORY COUNCIL.—

20 (1) ESTABLISHMENT.—Each Regional Adminis-
21 trator shall establish a Regional Advisory Council.

22 (2) NOMINATIONS.—A State, local, or tribal
23 government located within the geographic area
24 served by the Regional Office may nominate offi-
25 cials, including Adjutants General and emergency

1 managers, to serve as members of the Regional Ad-
2 visory Council for that region.

3 (3) RESPONSIBILITIES.—Each Regional Advi-
4 sory Council shall—

5 (A) advise the Regional Administrator on
6 emergency management issues specific to that
7 region;

8 (B) identify any geographic, demographic,
9 or other characteristics peculiar to any State,
10 local, or tribal government within the region
11 that might make preparedness, protection, re-
12 sponse, recovery, or mitigation more com-
13 plicated or difficult; and

14 (C) advise the Regional Administrator of
15 any weaknesses or deficiencies in preparedness,
16 protection, response, recovery, and mitigation
17 for any State, local, and tribal government
18 within the region of which the Regional Advi-
19 sory Council is aware.

20 (f) REGIONAL OFFICE STRIKE TEAMS.—

21 (1) IN GENERAL.—In coordination with other
22 relevant Federal agencies, each Regional Adminis-
23 trator shall oversee multi-agency strike teams au-
24 thorized under section 303 of the Robert T. Stafford

1 Disaster Relief and Emergency Assistance Act (42
2 U.S.C. 5144) that shall consist of—

3 (A) a designated Federal coordinating offi-
4 cer;

5 (B) personnel trained in incident manage-
6 ment;

7 (C) public affairs, response and recovery,
8 and communications support personnel;

9 (D) a defense coordinating officer;

10 (E) liaisons to other Federal agencies;

11 (F) such other personnel as the Director or
12 Regional Administrator determines appropriate;
13 and

14 (G) individuals from the agencies with pri-
15 mary responsibility for each of the emergency
16 support functions in the National Response
17 Plan.

18 (2) OTHER DUTIES.—The duties of an indi-
19 vidual assigned to a Regional Office strike team
20 from another relevant agency when such individual
21 is not functioning as a member of the strike team
22 shall be consistent with the emergency preparedness
23 activities of the agency that employs such individual.

24 (3) LOCATION OF MEMBERS.—The members of
25 each Regional Office strike team, including rep-

1 representatives from agencies other than the Depart-
2 ment, shall be based primarily within the region that
3 corresponds to that strike team.

4 (4) COORDINATION.—Each Regional Office
5 strike team shall coordinate the training and exer-
6 cises of that strike team with the State, local, and
7 tribal governments and private sector and non-
8 governmental entities which the strike team shall
9 support when a natural disaster, act of terrorism, or
10 other man-made disaster occurs.

11 (5) PREPAREDNESS.—Each Regional Office
12 strike team shall be trained as a unit on a regular
13 basis and equipped and staffed to be well prepared
14 to respond to natural disasters, acts of terrorism,
15 and other man-made disasters, including cata-
16 strophic incidents.

17 (6) AUTHORITIES.—If the Director determines
18 that statutory authority is inadequate for the pre-
19 paredness and deployment of individuals in strike
20 teams under this subsection, the Director shall re-
21 port to Congress regarding the additional statutory
22 authorities that the Director determines are nec-
23 essary.

24 **SEC. 106. NATIONAL RESPONSE PLAN.**

25 (a) IN GENERAL.—The Director shall—

1 (1) in consultation with other Federal depart-
2 ments and agencies and the National Advisory
3 Council, ensure ongoing management and mainte-
4 nance of the National Incident Management System,
5 the National Response Plan, and any successor to
6 such system or plan; and

7 (2) periodically review and report to Congress
8 on the integration of Federal authorities to ensure
9 effective response to address response responsibilities
10 and capabilities in the event of a catastrophic inci-
11 dent.

12 (b) CHAIN OF COMMAND.—

13 (1) IN GENERAL.—The Director, in consulta-
14 tion with the Secretary of Homeland Security, shall
15 ensure that the National Response Plan provides for
16 a clear chain of command to lead and coordinate the
17 Federal response to any natural disaster, act of ter-
18 rorism, or other man-made disaster.

19 (2) DIRECTOR OF THE FEDERAL EMERGENCY
20 MANAGEMENT AGENCY.—The chain of the command
21 specified in the National Response Plan shall—

22 (A) provide for a role for the Director con-
23 sistent with the role of the Director under this
24 Act and the amendments made by this Act; and

1 (B) provide for a role for the Federal Co-
2 ordinating Officer consistent with the respon-
3 sibilities under section 302(b) of the Robert T.
4 Stafford Disaster Relief and Emergency Assist-
5 ance Act (42 U.S.C. 5143(b)).

6 (3) PRINCIPAL FEDERAL OFFICIAL.—The Prin-
7 cipal Federal Official (or the successor thereto) shall
8 not—

9 (A) direct or replace the incident command
10 structure established at the incident; or

11 (B) have directive authority over the Sen-
12 ior Federal Law Enforcement Official, Federal
13 Coordinating Officer, or other Federal and
14 State officials.

15 **SEC. 107. CREDENTIALING AND TYPING.**

16 The Director shall enter into a memorandum of un-
17 derstanding with the administrators of the Emergency
18 Management Assistance Compact, State, local, and tribal
19 governments, and organizations that represent emergency
20 response providers, to collaborate on developing standards
21 for deployment capabilities, including credentialing of per-
22 sonnel and typing of resources likely needed to respond
23 to natural disasters, acts of terrorism, and other man-
24 made disasters.

1 **SEC. 108. FEDERAL AND STATE COOPERATION FOR DIS-**
2 **ASTER INCIDENT PERIODS.**

3 In determining the duration of a major disaster or
4 emergency (as those terms are defined in section 102 of
5 the Robert T. Stafford Disaster Relief and Emergency As-
6 sistance Act (42 U.S.C. 5122)) or other incident, and in
7 establishing the period for public or individual assistance
8 or other disaster relief assistance for which a State or local
9 government or individual may be eligible, the Director
10 shall defer to weather reports and other substantiating
11 documentation submitted by a State.

12 **SEC. 109. NATIONAL OPERATIONS CENTER.**

13 (a) DEFINITION.—In this section, the term “situa-
14 tional awareness” means information gathered from a va-
15 riety of sources that, when communicated to emergency
16 managers and decision makers, can form the basis for inci-
17 dent management decisionmaking.

18 (b) ESTABLISHMENT.—The National Operations
19 Center is the principal operations center for the Federal
20 Emergency Management Agency and shall—

21 (1) provide situational awareness and a com-
22 mon operating picture for the entire Federal Govern-
23 ment, and for State, local, and tribal governments as
24 appropriate, in the event of a natural disaster, act
25 of terrorism, or other man-made disaster; and

1 (2) ensure that critical terrorism and disaster-
2 related information reaches government decision-
3 makers.

4 **SEC. 110. GRANT PROGRAMS.**

5 (a) IN GENERAL.—Title XX of the Homeland Secu-
6 rity Act of 2002 (6 U.S.C. 601 et seq.) is amended—

7 (1) in section 2001—

8 (A) in paragraph (1)—

9 (i) in the paragraph heading, by strik-
10 ing “ADMINISTRATOR” and inserting “DI-
11 RECTOR”; and

12 (ii) by striking “Administrator” each
13 place that term appears and inserting “Di-
14 rector”;

15 (B) in paragraph (4)(A)(iv), by striking
16 “Secretary” and inserting “Director”; and

17 (C) in paragraph (12), by striking “Sec-
18 retary” each place that term appears and in-
19 serting “Director”;

20 (2) in section 2002(a), by striking “The Sec-
21 retary, through the Administrator,” and inserting
22 “‘The Director’”;

23 (3) in section 2003—

1 (A) by striking “Administrator” each place
2 that term appears and inserting “Director”;
3 and

4 (B) by striking “Department” each place
5 that term appears and inserting “Federal
6 Emergency Management Agency”;

7 (4) in section 2004, by striking “Adminis-
8 trator” each place that term appears and inserting
9 “Director”;

10 (5) in section 2005—

11 (A) by striking “Administrator” each place
12 that term appears and inserting “Director”;
13 and

14 (B) by striking “Department” each place
15 that term appears and inserting “Federal
16 Emergency Management Agency”;

17 (6) in section 2006, by striking “Adminis-
18 trator” each place that term appears and inserting
19 “Director”;

20 (7) in section 2007—

21 (A) by striking “Administrator” each place
22 that term appears and inserting “Director”;
23 and

1 (B) in subsection (a)(1)(E), by striking
2 “Department” and inserting “Federal Emer-
3 gency Management Agency”;

4 (8) in 2008, by striking “Administrator” each
5 place that term appears and inserting “Director”;

6 (9) in section 2021—

7 (A) in subsection (a), by striking “Admin-
8 istrator” and inserting “Director”;

9 (B) in subsection (c)(1), by striking “(act-
10 ing through the Administrator)” and inserting
11 “, the Director”; and

12 (C) by striking “Department” each place
13 that term appears and inserting “Federal
14 Emergency Management Agency”; and

15 (10) in section 2022—

16 (A) by striking “Administrator” each place
17 that term appears and inserting “Director”;

18 (B) by striking “Department” each place
19 that term appears and inserting “Federal
20 Emergency Management Agency”;

21 (C) in subsection (a)(3)(F), in the sub-
22 paragraph heading, by striking “ADMINIS-
23 TRATOR” and inserting “DIRECTOR”; and

1 (D) in subsection (c), in the subsection
2 heading, by striking “ADMINISTRATOR” and in-
3 serting “DIRECTOR”.

4 (b) OTHER GRANT PROGRAMS.—

5 (1) EMERGENCY MANAGEMENT PERFORMANCE
6 GRANT PROGRAM.—Section 662 of the Post-Katrina
7 Emergency Management Reform Act of 2006 (6
8 U.S.C. 762) is amended by striking “Administrator”
9 each place that term appears and inserting “Direc-
10 tor”.

11 (2) INTEROPERABLE EMERGENCY COMMUNICA-
12 TIONS GRANT PROGRAM.—Section 1809 of the
13 Homeland Security Act of 2002 (6 U.S.C. 579) is
14 amended—

15 (A) in subsection (a), by striking “Sec-
16 retary” and inserting “Director of the Federal
17 Emergency Management Agency”;

18 (B) in subsection (b), by striking “Director
19 for Emergency Communications” and inserting
20 “Director of the Federal Emergency Manage-
21 ment Agency”;

22 (C) by amending paragraph (1) of sub-
23 section (c) to read as follows:

24 “(1) IN GENERAL.—The Director of the Fed-
25 eral Emergency Management Agency shall admin-

1 ister the Interoperable Emergency Communications
2 Grant Program.”; and

3 (D) by striking “Administrator” each place
4 that term appears and inserting “Director of
5 the Federal Emergency Management Agency”.

6 **SEC. 111. MODEL STANDARDS AND GUIDELINES; GUIDANCE**
7 **AND RECOMMENDATIONS; VOLUNTARY PRI-**
8 **VATE SECTOR PREPAREDNESS.**

9 Title V of the Homeland Security Act of 2002 (6
10 U.S.C. 311 et seq.) is amended—

11 (1) in section 522, by striking “Administrator”
12 each place that term appears and inserting “Direc-
13 tor of the Federal Emergency Management Agency”;

14 (2) in section 523—

15 (A) by striking “Administrator” each place
16 that term appears and inserting “Director of
17 the Federal Emergency Management Agency”;
18 and

19 (B) in subsection (b)(2), by striking “Sec-
20 retary” and inserting “Director of the Federal
21 Emergency Management Agency”; and

22 (3) in section 524—

23 (A) by amending subsection (a) to read as
24 follows:

1 “(a) ESTABLISHMENT.—The Administrator (herein-
2 after referred to in this section as the ‘designated officer’)
3 shall establish and implement the voluntary private sector
4 preparedness accreditation and certification program in
5 accordance with this section.”; and

6 (B) by amending subsection
7 (b)(2)(E)(ii)(I) to read as follows:

8 “(I) private sector related pro-
9 grams of the Department; and”.

10 **SEC. 112. TECHNICAL AND CONFORMING AMENDMENTS.**

11 (a) IN GENERAL.—Title V of the Homeland Security
12 Act of 2002 (6 U.S.C. 311 et seq.) is amended—

13 (1) in section 501, by striking all after “In this
14 title” and inserting “the term ‘tribal government’
15 means the government of any entity described under
16 section 2(10)(B).”;

17 (2) by striking sections 503 through 507, 510,
18 and 515;

19 (3) in section 508—

20 (A) by striking “Administrator” each place
21 that term appears and inserting “Director of
22 Federal Emergency Management Agency”;

23 (B) in subsection (b)(2), by striking “De-
24 partment” and inserting “Federal Emergency
25 Management Agency”; and

1 (C) in subsection (c)—

2 (i) in paragraph (1), by inserting “in
3 consultation with the Secretary,” before
4 “and shall, to the extent practicable”; and

5 (ii) in paragraph (3), by inserting “,
6 in consultation with the Secretary,” before
7 “shall designate”;

8 (4) in section 509—

9 (A) in subsection (a), by striking “Agency”
10 and inserting “Department”; and

11 (B) by striking subsection (c);

12 (5) in section 512(e), by striking “Adminis-
13 trator” each place that term appears and inserting
14 “Secretary”;

15 (6) in section 513—

16 (A) by striking “Administrator” each place
17 that term appears and inserting “Secretary”;
18 and

19 (B) in subsection (b)(2), by striking
20 “Agency” and inserting “Department”; and

21 (7) in section 514—

22 (A) by striking subsection (a); and

23 (B) redesignating subsections (b) and (c)
24 as subsections (a) and (b), respectively.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 the Homeland Security Act of 2002 (6 U.S.C. 101) is
3 amended by striking the items relating to sections 503
4 through 507, 510, and 515.

5 **SEC. 113. RULE OF CONSTRUCTION.**

6 Nothing in this Act shall be construed to detract from
7 the Department of Homeland Security’s primary mission
8 to secure the homeland from terrorist attacks.

9 **TITLE II—TRANSFER AND**
10 **SAVINGS PROVISIONS**

11 **SEC. 201. DEFINITIONS.**

12 In this title, unless otherwise provided or indicated
13 by the context—

14 (1) the term “Federal agency” has the meaning
15 given to the term “agency” by section 551(1) of title
16 5, United States Code;

17 (2) the term “function” means any duty, obli-
18 gation, power, authority, responsibility, right, privi-
19 lege, activity, or program; and

20 (3) the term “office” includes any office, ad-
21 ministration, agency, institute, unit, organizational
22 entity, or component thereof.

23 **SEC. 202. TRANSFER OF FUNCTIONS.**

24 There are transferred to the Federal Emergency
25 Management Agency established under section 101 of this

1 Act all functions which the Director of the Federal Emer-
2 gency Management Agency of the Department of Home-
3 land Security exercised before the date of the enactment
4 of this title, including all the functions described under
5 section 505 of the Homeland Security Act of 2002 (before
6 the repeal of that section under section 104 of this Act).

7 **SEC. 203. PERSONNEL PROVISIONS.**

8 (a) APPOINTMENTS.—The Director of the Federal
9 Emergency Management Agency may appoint and fix the
10 compensation of such officers and employees, including in-
11 vestigators, attorneys, and administrative law judges, as
12 may be necessary to carry out the respective functions
13 transferred under this title. Except as otherwise provided
14 by law, such officers and employees shall be appointed in
15 accordance with the civil service laws and their compensa-
16 tion fixed in accordance with title 5, United States Code.

17 (b) EXPERTS AND CONSULTANTS.—The Director of
18 the Federal Emergency Management Agency may obtain
19 the services of experts and consultants in accordance with
20 section 3109 of title 5, United States Code, and com-
21 pensate such experts and consultants for each day (includ-
22 ing traveltime) at rates not in excess of the rate of pay
23 for level IV of the Executive Schedule under section 5315
24 of such title. The Director of the Federal Emergency Man-
25 agement Agency may pay experts and consultants who are

1 serving away from their homes or regular place of busi-
2 ness, travel expenses and per diem in lieu of subsistence
3 at rates authorized by sections 5702 and 5703 of such
4 title for persons in Government service employed intermit-
5 tently.

6 **SEC. 204. DELEGATION AND ASSIGNMENT.**

7 Except where otherwise expressly prohibited by law
8 or otherwise provided by this title, the Director of the Fed-
9 eral Emergency Management Agency may delegate any of
10 the functions transferred to the Director of the Federal
11 Emergency Management Agency by this title and any
12 function transferred or granted to such Director after the
13 effective date of this title to such officers and employees
14 of the Federal Emergency Management Agency as the Di-
15 rector may designate, and may authorize successive redele-
16 gations of such functions as may be necessary or appro-
17 priate. No delegation of functions by the Director of the
18 Federal Emergency Management Agency under this sec-
19 tion or under any other provision of this title shall relieve
20 such Director of responsibility for the administration of
21 such functions.

22 **SEC. 205. REORGANIZATION.**

23 The Director of the Federal Emergency Management
24 Agency is authorized to allocate or reallocate any function
25 transferred under section 202 among the officers of the

1 Federal Emergency Management Agency, and to estab-
2 lish, consolidate, alter, or discontinue such organizational
3 entities in the Federal Emergency Management Agency as
4 may be necessary or appropriate.

5 **SEC. 206. RULES.**

6 The Director of the Federal Emergency Management
7 Agency is authorized to prescribe, in accordance with the
8 provisions of chapters 5 and 6 of title 5, United States
9 Code, such rules and regulations as the Director deter-
10 mines necessary or appropriate to administer and manage
11 the functions of the Federal Emergency Management
12 Agency.

13 **SEC. 207. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
14 **TIONS AND PERSONNEL.**

15 Except as otherwise provided in this title, the per-
16 sonnel employed in connection with, and the assets, liabil-
17 ities, contracts, property, records, and unexpended bal-
18 ances of appropriations, authorizations, allocations, and
19 other funds employed, used, held, arising from, available
20 to, or to be made available in connection with the func-
21 tions transferred by this title, subject to section 1531 of
22 title 31, United States Code, shall be transferred to the
23 Federal Emergency Management Agency. Unexpended
24 funds transferred pursuant to this section shall be used

1 only for the purposes for which the funds were originally
2 authorized and appropriated.

3 **SEC. 208. INCIDENTAL TRANSFERS.**

4 The Director of the Office of Management and Budg-
5 et, at such time or times as the Director shall provide,
6 is authorized to make such determinations as may be nec-
7 essary with regard to the functions transferred by this
8 title, and to make such additional incidental dispositions
9 of personnel, assets, liabilities, grants, contracts, property,
10 records, and unexpended balances of appropriations, au-
11 thorizations, allocations, and other funds held, used, aris-
12 ing from, available to, or to be made available in connec-
13 tion with such functions, as may be necessary to carry out
14 the provisions of this title. The Director of the Office of
15 Management and Budget shall provide for the termination
16 of the affairs of all entities terminated by this title and
17 for such further measures and dispositions as may be nec-
18 essary to effectuate the purposes of this title.

19 **SEC. 209. EFFECT ON PERSONNEL.**

20 (a) IN GENERAL.—Except as otherwise provided by
21 this title, the transfer pursuant to this title of full-time
22 personnel (except special Government employees) and
23 part-time personnel holding permanent positions shall not
24 cause any such employee to be separated or reduced in

1 grade or compensation for one year after the date of trans-
2 fer of such employee under this title.

3 (b) EXECUTIVE SCHEDULE POSITIONS.—Except as
4 otherwise provided in this title, any person who, on the
5 day preceding the effective date of this title, held a posi-
6 tion compensated in accordance with the Executive Sched-
7 ule prescribed in chapter 53 of title 5, United States Code,
8 and who, without a break in service, is appointed in the
9 Federal Emergency Management Agency to a position
10 having duties comparable to the duties performed imme-
11 diately preceding such appointment shall continue to be
12 compensated in such new position at not less than the rate
13 provided for such previous position, for the duration of
14 the service of such person in such new position.

15 **SEC. 210. SAVINGS PROVISIONS.**

16 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—
17 All orders, determinations, rules, regulations, permits,
18 agreements, grants, contracts, certificates, licenses, reg-
19 istrations, privileges, and other administrative actions—

20 (1) which have been issued, made, granted, or
21 allowed to become effective by the President, any
22 Federal agency or official thereof, or by a court of
23 competent jurisdiction, in the performance of func-
24 tions which are transferred under this title, and

1 (2) which are in effect at the time this title
2 takes effect, or were final before the effective date
3 of this title and are to become effective on or after
4 the effective date of this title,
5 shall continue in effect according to their terms until
6 modified, terminated, superseded, set aside, or revoked in
7 accordance with law by the President, the Director of the
8 Federal Emergency Management Agency or other author-
9 ized official, a court of competent jurisdiction, or by oper-
10 ation of law.

11 (b) PROCEEDINGS NOT AFFECTED.—The provisions
12 of this title shall not affect any proceedings, including no-
13 tices of proposed rulemaking, or any application for any
14 license, permit, certificate, or financial assistance pending
15 before the Federal Emergency Management Agency at the
16 time this title takes effect, with respect to functions trans-
17 ferred by this title but such proceedings and applications
18 shall continue. Orders shall be issued in such proceedings,
19 appeals shall be taken therefrom, and payments shall be
20 made pursuant to such orders, as if this title had not been
21 enacted, and orders issued in any such proceedings shall
22 continue in effect until modified, terminated, superseded,
23 or revoked by a duly authorized official, by a court of com-
24 petent jurisdiction, or by operation of law. Nothing in this
25 subsection shall be deemed to prohibit the discontinuance

1 or modification of any such proceeding under the same
2 terms and conditions and to the same extent that such
3 proceeding could have been discontinued or modified if
4 this title had not been enacted.

5 (c) SUITS NOT AFFECTED.—The provisions of this
6 title shall not affect suits commenced before the effective
7 date of this title, and in all such suits, proceedings shall
8 be had, appeals taken, and judgments rendered in the
9 same manner and with the same effect as if this title had
10 not been enacted.

11 (d) NONABATEMENT OF ACTIONS.—No suit, action,
12 or other proceeding commenced by or against the Federal
13 Emergency Management Agency, or by or against any in-
14 dividual in the official capacity of such individual as an
15 officer of the Federal Emergency Management Agency,
16 shall abate by reason of the enactment of this title.

17 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
18 MULGATION OF REGULATIONS.—Any administrative ac-
19 tion relating to the preparation or promulgation of a regu-
20 lation by the Federal Emergency Management Agency re-
21 lating to a function transferred under this title may be
22 continued by the Federal Emergency Management Agency
23 with the same effect as if this title had not been enacted.

1 **SEC. 211. SEPARABILITY.**

2 If a provision of this title or its application to any
3 person or circumstance is held invalid, neither the remain-
4 der of this title nor the application of the provision to
5 other persons or circumstances shall be affected.

6 **SEC. 212. TRANSITION.**

7 The Director of the Federal Emergency Management
8 Agency is authorized to utilize—

9 (1) the services of such officers, employees, and
10 other personnel of the Federal Emergency Manage-
11 ment Agency with respect to functions transferred
12 by this title; and

13 (2) funds appropriated to such functions for
14 such period of time as may reasonably be needed to
15 facilitate the orderly implementation of this title.

16 **SEC. 213. REFERENCES.**

17 Any reference in any other Federal law, Executive
18 order, rule, regulation, or delegation of authority, or any
19 document of or pertaining to a department, agency, or of-
20 fice from which a function is transferred by this title—

21 (1) to the head of such department, agency, or
22 office is deemed to refer to the head of the depart-
23 ment, agency, or office to which such function is
24 transferred; or

1 (2) to such department, agency, or office is
2 deemed to refer to the department, agency, or office
3 to which such function is transferred.

4 **SEC. 214. ADDITIONAL CONFORMING AMENDMENTS.**

5 (a) **RECOMMENDED LEGISLATION.**—After consulta-
6 tion with the appropriate committees of the Congress and
7 the Director of the Office of Management and Budget, the
8 Director of the Federal Emergency Management Agency
9 shall prepare and submit to Congress recommended legis-
10 lation containing technical and conforming amendments to
11 reflect the changes made by this Act.

12 (b) **SUBMISSION TO CONGRESS.**—Not later than 6
13 months after the effective date of this title, the Director
14 of the Federal Emergency Management Agency shall sub-
15 mit the recommended legislation referred to under sub-
16 section (a).

○