

**HB**

**366**

<TARGET><BILL>HB 366</BILL><SUBJECT>HB  
366</SUBJECT><COMM>HMLV27</COMM></TARGET>



**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY & REGIONAL AFFAIRS**



**HB 366 DISASTER PLANNING AND SERVICES**

*"An Act establishing an Alaska intrastate mutual aid system and relating to the duties of the Alaska division of homeland security and emergency management and the duties of the Alaska State Emergency Response Commission."*

In 2004 the National Emergency Management Association (NEMA) in conjunction with the Federal Emergency Management Agency (FEMA) and a host of emergency response organizations, began developing and promoting model legislation for an intrastate mutual aid system (IMAS). The goal of IMAS is to provide a framework for all political subdivisions within a state to receive and render aid to other subdivisions within a state in times of need.

HB 366 will implement this model legislation in a manner that will be beneficial for Alaskan communities. The system detailed in HB 366 will provide a framework for mutual assistance among the participating political subdivisions – regions, boroughs, municipalities, and other local jurisdictions - in the prevention of, response to, and recovery from any disaster that results in a formal declaration of local disaster emergency.

The employees and volunteers who serve in emergency services recognize that emergencies transcend political jurisdictional boundaries. They, and the local agencies they serve, understand that intergovernmental coordination is essential for the protection of lives and property and for best use of available assets. Currently, the Alaska Disaster Act does provide for political subdivisions to create mutual aid agreements, which, in practice, works well for neighboring entities or service areas that have an established history of providing mutual aid to one another. These local mutual aid agreements vary widely in their scope and may not all address key issues of liability and compensation. Further, they may not encompass all emergency services. Through HB 366, a statewide agreement would be developed to supplement existing regional or local agreements by establishing a comprehensive, integrated system of mutual aid at a state level that will ensure an efficient and effective response to all hazards and disasters.

HB 366 would allow all political subdivisions to automatically be included in the statewide mutual aid system. A political subdivision may elect to withdraw by enacting an appropriate resolution by its governing body. This legislation would not prevent participating entities from entering into supplementary agreements with other political subdivisions or impact any existing or future agreements. If a participating entity cannot provide assistance to a requesting entity, they are not obligated or bound to provide assistance.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 19, 2012

**SUBJECT:** Sectional summary of HB 366 (Work Order No. 27-LS1450\A)

**TO:** Representative Cathy Muñoz  
Attn: Terry Harvey

**FROM:** Alpheus Bullard  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Requires the Alaska division of homeland security and emergency management ("division") to play an integral part in developing and implementing the Alaska Intrastate Mutual Aid System ("mutual aid system") established by sec. 5 of the bill.

**Section 2.** Requires the division to coordinate the operation of the mutual aid system and assist in the development of certain guidelines and procedures for the mutual aid system.

**Section 3.** Provides that the Alaska State Emergency Response Commission ("commission") will facilitate the preparation and implementation of the mutual aid system.

**Section 4.** Requires the commission to review and make recommendations about the mutual aid system.

**Section 5.** Establishes the mutual aid system between participating political subdivisions of the state. Provides that every political subdivision is a participating member of the mutual aid system unless the subdivision withdraws. Provides what assistance a political subdivision may request assistance for. Addresses qualifications and employment of, and workers' compensation for, emergency responders. Establishes reimbursement procedures for, and tort liability of, participating political subdivisions. Provides definitions for the provisions establishing the mutual aid system.

TLAB:ljw  
12-211.ljw

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version HB 366  
 Fiscal Note Number \_\_\_\_\_  
 ( ) Publish Date \_\_\_\_\_

Identifier (file name) HB366-DMVA-MVA-HSEM-3-25-12 Dept. Affected Dept. of Military & Veterans Affairs  
 Title Disaster Planning and Services Appropriation Military and Veterans Affairs  
 Allocation Homeland Security and  
 Sponsor (H) Community & Regional Affairs Emergency Management  
 Requester (H) Military & Veterans Affairs Special Committee OMB Component Number 2657

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

|                               | FY13<br>Appropriation<br>Requested | Included in<br>Governor's<br>FY13<br>Request | Out-Year Cost Estimates |            |            |            |            |            |
|-------------------------------|------------------------------------|----------------------------------------------|-------------------------|------------|------------|------------|------------|------------|
|                               |                                    |                                              | FY13                    | FY14       | FY15       | FY16       | FY17       | FY18       |
| <b>OPERATING EXPENDITURES</b> |                                    |                                              |                         |            |            |            |            |            |
| Personal Services             |                                    |                                              |                         |            |            |            |            |            |
| Travel                        |                                    |                                              |                         |            |            |            |            |            |
| Services                      |                                    |                                              |                         |            |            |            |            |            |
| Commodities                   |                                    |                                              |                         |            |            |            |            |            |
| Capital Outlay                |                                    |                                              |                         |            |            |            |            |            |
| Grants, Benefits              |                                    |                                              |                         |            |            |            |            |            |
| Miscellaneous                 |                                    |                                              |                         |            |            |            |            |            |
| <b>TOTAL OPERATING</b>        | <b>0.0</b>                         | <b>0.0</b>                                   | <b>0.0</b>              | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

| <b>FUND SOURCE</b> |                  | (Thousands of Dollars) |            |            |            |            |            |            |
|--------------------|------------------|------------------------|------------|------------|------------|------------|------------|------------|
| 1002               | Federal Receipts |                        |            |            |            |            |            |            |
| 1003               | GF Match         |                        |            |            |            |            |            |            |
| 1004               | GF               |                        |            |            |            |            |            |            |
| 1005               | GF/Prgm (DGF)    |                        |            |            |            |            |            |            |
| 1037               | GF/MH (UGF)      |                        |            |            |            |            |            |            |
| 1178               | temp code (UGF)  |                        |            |            |            |            |            |            |
| <b>TOTAL</b>       |                  | <b>0.0</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

| <b>POSITIONS</b> |  |  |  |  |  |  |  |  |
|------------------|--|--|--|--|--|--|--|--|
| Full-time        |  |  |  |  |  |  |  |  |
| Part-time        |  |  |  |  |  |  |  |  |
| Temporary        |  |  |  |  |  |  |  |  |

| <b>CHANGE IN REVENUES</b> |  |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|--|
|                           |  |  |  |  |  |  |  |  |

Estimated **SUPPLEMENTAL (FY12) operating costs** 0.0 (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** 0.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Not applicable, initial version.

Prepared by McHugh Pierre, Deputy Commissioner  
 Division Office of the Commissioner, DMVA  
 Approved by Major General Thomas H. Katkus, Commissioner  
Office of the Commissioner, DMVA

Phone (907) 428-6003  
 Date/Time 3/25/12 4:00 PM  
 Date 3/25/2012

FISCAL NOTE

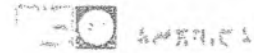
STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 366

**Analysis**

This bill establishes the Alaska intrastate mutual aid system. The Division of Homeland Security and Emergency Management will coordinate the operation of the Alaska intrastate mutual aid system among participating political subdivisions of the state and develop, in coordination with the political subdivisions and appropriate state and federal agencies, comprehensive guidelines and procedures for the Alaska intrastate mutual aid system, including record keeping and reimbursement procedures and forms for use by political subdivisions requesting and providing assistance.

There is no fiscal impact to the Department of Military and Veterans Affairs for this bill.



March 19, 2012

The Honorable Cathy Munoz, Chair  
House Community & Regional Affairs Committee  
Alaska State Capitol, Room 403  
Juneau, AK 99801-1182

RE: Support of HB 366

Dear Chair Munoz:

I'm writing on behalf of Food Bank of Alaska and the state-wide anti-hunger network, in support of HB 366.

In times of disaster, access to safe food and water are a critical part of emergency response services. Food Bank of Alaska currently participates in Alaska VOAD (Volunteer Organizations Active in Disaster) and also responded in times of disaster at the Miller's Reach and Hooper Bay fires. HB 366 will create an infrastructure that provides for coordinated, comprehensive, and consistent emergency response throughout Alaska. Based on model legislation for intrastate mutual aid systems (IMAS), HB 366 is promoted by the National Emergency Management Association (NEMA), Federal Emergency Management Agency (FEMA) and other emergency response organizations.

Food Bank of Alaska believes that HB 366 will provide an efficient structure for emergency services that will benefit everyone in Alaska. I encourage members of the House Community and Regional Affairs Committee to vote in favor of this legislation.

Should you have any questions or if I can be of any assistance, please feel free to contact me at 907-222-3111 or [smorgan@foodbankofalaska.org](mailto:smorgan@foodbankofalaska.org).

Thank you for your consideration.

Sincerely,

Susannah Morgan  
Executive Director

CC: Vice-Chair Neal Foster  
Representative Alan Austerman  
Representative Alan Dick  
Representative Dan Saddler  
Representative Sharon Cissna  
Representative Berta Gardner





Capital City Fire / Rescue  
820 Glacier Avenue  
Juneau, AK. 99801

Representative Cathy Munoz  
State Capitol, Room 403  
Juneau, AK 99801-1182

March 16, 2012

Reference: House Bill 366 "An act establishing an Alaska interstate mutual aid system and relating to the duties of the Alaska division of homeland security and emergency management and the duties of the Alaska state of emergency response commission."

Dear Representative Cathy Munoz,

On behalf of Capital City Fire Rescue, I would like to thank you for introducing house bill 366. Capital City Fire Rescue fully supports this bill and encourages its adoption. This bill will have a direct impact on our community as well as all other Alaskan communities.

This bill will create the framework and set the expectations for local governments to lend and receive assistance in a time of crisis. This is a formal interstate mutual aid agreement that is not currently provided in statute. Currently Alaska is one of only four states that do not have this type of formal agreement.

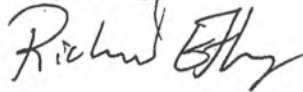
When a disaster occurs and mutual aid is requested, help may be delayed while jurisdictions work out the details of liability coverage and compensation. With the financial struggles of Alaskan communities resources and funding are limited. These struggles may create delays or hesitancy in approving assistance to other communities. This bill creates a statewide program answering all of these details prior to a disaster.

Capital City Fire Rescue has been requested to provide assistance to other communities on an occasional basis. Most recently our Department sent Hazardous Materials Technicians to

Thom Bay to assist with a "white powder incident" in a school. We also sent paramedics to Hoonah as EMS support during the shooting incident of two police officers. Although these requests are not frequent they significantly impact the involved communities.

This bill will clearly spell out the procedures to request assistance and provide municipal administrators the tools they need to quickly evaluate these requests. I strongly urge HB 366 be adopted during this legislative session to give emergency responders the support they need to quickly respond to meet the needs of their communities.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard Etheridge". The signature is written in a cursive style with a large initial "R".

Richard Etheridge  
Fire Chief



**ALASKA FIRE CHIEFS ASSOCIATION**  
2358 Bradway Road, North Pole, Alaska 99705

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March 16, 2012

Representative Cathy Munoz  
State Capitol, Room 403  
Juneau, AK 99801 – 1182

Reference: HB 366 “An act establishing an Alaska intrastate mutual aid system and relating to the duties of the Alaska Division of Homeland Security and Emergency Management and the duties of the Alaska State Emergency Response Commission.”

Dear Representative Munoz,

On behalf of the Alaska fire Chiefs Association, I want to thank you for introducing HB 366. Alaska fire Chiefs Association fully supports this bill and encourages its adoption.

The Alaska Fire Chiefs Association in conjunction with the International Association of Fire Chiefs, the Federal Emergency Management Agency (FEMA), and the Alaska Division of Homeland Security have been working over the last two years to develop and intrastate mutual aid system for the State of Alaska. Currently we are one of only four states who do not have a system in place with the statutory authority that allows communities to come to the aid of other communities in a time of an emergency.

Mutual aid is defined by FEMA as “... agreements between agencies, organizations, and the jurisdictions that provides a mechanism to quickly obtain emergency assistance in the form of personnel, equipment, materials and other associated services. The primary objective is to facilitate rapid, short-term deployment of emergency support to, during, and after an incident.

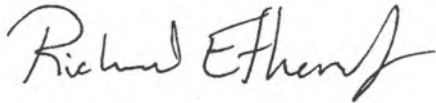
Currently local communities may have mutual aid agreements to provide fire services to their neighboring communities as provided under AS 18.7 0.150 “Adoption of Mutual Fire Aid Agreements”. However these agreements are limited in scope and do not provide for all of the potential needs of communities.

HB 366 gives us the needed framework that will allow us to develop a comprehensive intrastate mutual aid system. HB 366 addresses several key issues including liability and compensation that are not currently addressed and state statute. HB 366 will allow one Alaska community to assist another Alaska community regardless of the location or need however in no way are communities obligated or required to provide assistance.

The Alaska fire Chiefs Association is committed to seeing a comprehensive intrastate mutual aid system work in Alaska. We would also like to see our organization included as one of the participating groups whom the Alaska Division of Homeland Security and Emergency Management would coordinate with in the operation of the Alaska intrastate mutual aid system.

The Alaska fire Chiefs Association supports House Bill 366 and urges its adoption. We look forward to working with the state and local communities in the development of an Alaska intrastate mutual aid system

Sincerely,

A handwritten signature in cursive script that reads "Richard Etheridge". The signature is written in black ink and is positioned above the typed name.

Richard Etheridge, Fire Chief  
AFCA Second Vice President

The Emergency Management Assistance Compact (EMAC), established in 1996, has weathered the storm when tested and stands today as the cornerstone of the nation's mutual aid system.



EMAC is the first national disaster-relief compact since the Civil Defense and Disaster Compact of 1950 to be ratified by Congress. Since ratification and signing into law in 1996 (Public Law 104-321), 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands have enacted legislation to become EMAC members.

EMAC offers assistance during governor-declared states of emergency through a responsive, straightforward system that allows states to send personnel, equipment, and commodities to help disaster relief efforts in other states. Through EMAC states can also transfer services, such as shipping newborn blood from a disaster-impacted lab to a lab in another state.

The strength of EMAC and the quality that distinguishes it from other plans and compacts lie in

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its governance structure; its relationship with federal organizations, states, counties, territories, and regions; the willingness of states and response and recovery personnel to deploy; and the ability to move any resource one state wishes to utilize to assist another state.

EMAC establishes a firm legal foundation. Once the conditions for providing assistance to a requesting state have been set, the terms constitute a legally binding contractual agreement that makes affected states responsible for reimbursement. The EMAC legislation solves the problems of liability and responsibilities of cost and allows for credentials, licenses, and certifications to be honored across state lines.

Deploying resources through EMAC leverages federal grant dollars (such as HMGP & EMPG) invested in state and local emergency management resource capabilities.

Through EMAC, states are able to join forces and help one another when they need it the most: whenever disaster strikes!

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DISASTER ASSISTANCE POLICY

I. TITLE: Mutual Aid Agreements for Public Assistance and Fire Management Assistance

II. DATE: AUG 13, 2007

III. PURPOSE:

This policy specifies criteria by which the Federal Emergency Management Agency (FEMA) will recognize the eligibility of costs under the Public Assistance (PA) Program and the Fire Management Assistance Grant (FMAG) Program incurred through mutual aid agreements between applicants and other entities.

IV. SCOPE AND AUDIENCE:

This policy is applicable to all major disasters, emergencies, and fire management assistance declarations declared on or after the date of this policy. This policy is intended for personnel involved in the administration of the PA and the FMAG programs.

V. AUTHORITY:

This policy applies to emergency work authorized under Sections 403, 407, 420, and 502, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 51215206, and the implementing regulations of 44 CFR § 204 and § 206.

VI. BACKGROUND:

Many State, Tribal, and local governments and private nonprofit organizations enter into mutual aid agreements to provide emergency assistance to each other in the event of disasters or emergencies. These agreements often are written, but occasionally are arranged verbally after a disaster or emergency occurs. This policy addresses both written and verbal mutual aid agreements and the eligibility of costs under the Emergency Management Assistance Compact (EMAC).

**The National Incident Management System (NIMS) maintains that states should participate in these agreements and should look to establish intrastate agreements that encompass all local jurisdictions.** The Incident Management Systems Division will be responsible for developing a national system of standards and guidelines as described in the NIMS as well as the preparation of guidance to assist agencies in implementing the system. This policy supports the NIMS by

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## DISASTER ASSISTANCE POLICY

establishing standard criteria for determining the eligibility of costs incurred through mutual aid agreements.

### VII. POLICY:

#### A. Terms Used in this Policy:

1. Backfill. Replacement personnel who perform the regular duties of other personnel while they are performing eligible emergency work under the PA or FMAG programs.
2. Declared Emergency or Major Disaster. An emergency or major disaster as defined at 44 CFR § 206.2 (a)(9) and (17), respectively.
3. Declared Fire. An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster for which the Disaster Assistance Directorate Assistant Administrator has approved a declaration in accordance with the criteria listed in 44 CFR § 204.21.
4. Emergency Management Assistance Compact (EMAC). This type of interstate mutual aid agreement allows states to assist one another in responding to all kinds of natural and man-made disasters. It is administered by the National Emergency Management Association (NEMA).
5. Incident Commander. The ranking official responsible for overseeing the management of emergency or fire operations, planning, logistics, and finances of the field response.
6. Providing Entity. The entity providing mutual aid assistance to a Requesting Entity pursuant to a local or statewide mutual aid agreement.
7. Requesting Entity. An entity that requests mutual aid assistance from a Providing Entity for emergency work resulting from a declared fire, emergency or major disaster within its legal jurisdiction. The requesting entity is eligible to receive FEMA assistance for the eligible mutual aid activities performed by the providing entities.
8. Intra-state Mutual Aid. Mutual Aid that supports local and regional mutual aid efforts within a State as well as regional mutual aid agreements and compacts involving local

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#### DISASTER ASSISTANCE POLICY

jurisdictions that cross State boundaries, or are adjacent to a neighboring State (i.e. Kansas City, Kansas/Kansas City, Missouri , etc.).

9. Inter-state Mutual Aid. Mutual Aid that supports national mutual aid efforts requested directly between two or more States or territories through established Multi-agency Coordination Systems as directed by approved mutual aid agreements or compacts (i.e. EMAC), etc.

#### B. General:

1. To be eligible for reimbursement by FEMA, the mutual aid assistance should have been requested by a Requesting Entity or Incident Commander; be directly related to a Presidentially-declared emergency or major disaster, or a declared fire; used in the performance of eligible work; and the costs must be reasonable.
2. FEMA will not reimburse costs incurred by entities that "self-deploy" (deploy without a request for mutual aid assistance by a Requesting Entity) except to the extent those resources are subsequently used in the performance of eligible work at the request of the Requesting Entity or Incident Commander.
3. The reimbursement provisions of a mutual aid agreement must not be contingent on a declaration of an emergency, major disaster, or fire by the Federal government.
4. This policy is applicable to all forms of mutual aid assistance, including agreements between Requesting and Providing Entities, statewide mutual aid agreements, and the mutual aid services provided under the EMAC.

#### C. Pre-Event Written Mutual Aid Agreements.

FEMA recognizes mutual aid agreements between Requesting and Providing Entities, and statewide mutual aid agreements wherein the State is responsible for administering the claims for reimbursement of Providing Entities. In addition, FEMA recognizes the standard EMAC agreement as a valid form of mutual aid agreement between member states.

1. FEMA encourages parties to have written mutual aid agreements in place prior to a declared fire, emergency, or major disaster.
  - a. When a pre-event written agreement exists between a Requesting Entity and a Providing Entity, the Providing Entity may be reimbursed through the Requesting Entity. In

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#### DISASTER ASSISTANCE POLICY

these circumstances, the Requesting Entity should claim the eligible costs of the Providing Entity, pursuant to the terms and conditions of the mutual aid agreement and the requirements of this policy, on its subgrant application, and agree to disburse the Federal share of funds to the Providing Entity.

b. When a statewide pre-event mutual aid agreement exists that designates the State responsible for administering the reimbursement of mutual aid costs, a Providing Entity may apply, with the prior consent of the Requesting Entity, for reimbursement directly to the Grantee, in accordance with applicable State law and procedure. In such cases, the Providing Entity should obtain from the Requesting Entity the certification required in section H. (3) of this policy and provide it to the State as part of its reimbursement request.

2. FEMA encourages parties to address the subject of reimbursement in their written mutual aid agreements. FEMA will honor the reimbursement provisions in a pre-event agreement to the extent they meet the requirements of this policy.

3. When a pre-event agreement provides for reimbursement, but also provides for an initial period of unpaid assistance, FEMA will pay the eligible costs of assistance after such initial unpaid period.

4. When a pre-event agreement specifies that no reimbursement will be provided for mutual aid assistance, FEMA will not pay for the costs of assistance.

#### D. Post-Event Mutual Aid Agreements.

1. When the parties do not have a pre-event written mutual aid agreement, or where a written pre-event agreement is silent on reimbursement, the Requesting and Providing Entities may verbally agree on the type and extent of mutual aid resources to be provided in the current event, and on the terms, conditions, and costs of such assistance.

2. Post-event verbal agreements must be documented in writing and executed by an official of each entity with authority to request and provide assistance, and provided to FEMA as a condition of receiving reimbursement. The agreement should be consistent with past practices for mutual-aid between the parties. A written post-event agreement should be submitted within 30 days of the Requesting Entity's Applicant's Briefing.

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## DISASTER ASSISTANCE POLICY

### E. Force Account Labor Costs.

1. The straight- or regular-time wages or salaries of a Requesting Entity's permanently employed personnel performing or supervising emergency work are not eligible costs, pursuant to 44 CFR § 206.228(a)(4), and § 204.43(c), even when such personnel are reassigned or relocated from their usual work location to provide assistance during an emergency. Overtime costs for such personnel are eligible and may be submitted as part of a subgrant application.
2. The labor force expenses of a Providing Entity will be treated as contract labor, with regular time and overtime wages and certain benefits eligible, provided labor rates are reasonable. The labor force expenses of the Providing Entity will not be treated as contract labor if the labor force is employed by the same local or State government as the Requesting Entity.
3. In circumstances where a Providing Entity is also an eligible applicant in its own right, the determination of eligible and ineligible costs will depend on the capacity in which the entity is incurring costs. As stated in paragraphs E(1) and (2), an applicant's straight-time wages are not eligible costs when the applicant is using its permanently employed personnel for emergency work in its own jurisdiction.
4. Requesting and Providing Entities may not mutually deploy their labor forces to assist each other so as to circumvent the limitations of paragraph E(1) or (2) of this policy.
5. The straight- or regular-time wages or salaries for backfill personnel incurred by Providing Entities are not eligible for reimbursement. However, the overtime portion of the replacement personnel's salary is considered an additional cost of deploying personnel who perform eligible work and is eligible for reimbursement under this policy.

### F. Types of Mutual Aid Work

There are two types of mutual aid work eligible for FEMA assistance: Emergency Work and Grant Management Work. Both are subject to the eligibility requirements of the respective PA and FMAG programs:

1. **Emergency Work.** Mutual aid work provided in the performance of emergency work necessary to meet immediate threats to life, public safety, and improved property, including firefighting activities under the FMAG program, is eligible.

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DISASTER ASSISTANCE POLICY

a. Examples of eligible emergency work include:

- (i) Search and rescue, sandbagging, emergency medical care, debris removal;
- (ii) Reasonable supervision and administration in the receiving State that is directly related to eligible emergency work;
- (iii) The cost of transporting equipment and personnel by the Providing Entity to the incident site, subject to the requirements of paragraphs B(1), (2) and (3) of this policy;
- (iv) Costs incurred in the operation of the Incident Command System (ICS), such as operations, planning, logistics and administration, provided such costs are directly related to the performance of eligible work on the disaster or fire to which such resources are assigned;
- (v) State Emergency Operations Center or Joint Field Office assistance in the receiving State to support emergency assistance;
- (vi) Assistance at the National Response Coordination Center (NRCC), and Regional Response Coordination Center (RRCC), if requested by FEMA (labor, per diem and transportation);
- (vii) Dispatch operations in the receiving State;
- (viii) Donations warehousing and management (eligible only upon approval of the Assistant Administrator of the Disaster Assistance Directorate);
- (ix) Firefighting activities; and,
- (x) Dissemination of public information authorized under Section 403 of the Act.

b. Examples of mutual aid work that are not eligible, include:

- (i) Permanent recovery work;
- (ii) Training, exercises, on-the-job training;

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- (iii) Long-term recovery and mitigation consultation;
- (iv) Costs outside the receiving State that are associated with the operations of the EMAC system (except for FEMA facilities noted in paragraph F.(1)(a)(v) and (vi) above);
- (v) Costs for staff performing work that is not eligible under the PA or the FMAG programs;
- (vi) Costs of preparing to deploy or "standing-by" [except to the extent allowed in the FMAG program pursuant to 44 CFR § 204.42(e)];
- (vii) Dispatch operations outside the receiving State;
- (viii) Tracking of EMAC and U.S. Forest Service Incident Cost Accounting and Reporting System (ICARS) resources; and
- (ix) Situation reporting not associated with ICS operations under VII(F)(iv) of this policy.

2. Grant Management Work. For PA only, work associated with the performance of the Grantee's responsibilities as the grant administrator, as outlined in 44 CFR § 206.202(b). Use of EMAC-provided assistance to perform these tasks is eligible mutual aid work.

G. Eligible Applicants.

1. Only Requesting Entities are eligible applicants for FEMA assistance. With the exception of G.(2), below, a Providing Entity must submit its claim for reimbursement to a Requesting Entity.
2. States may be eligible applicants when statewide mutual aid agreements or compacts authorize the State to administer the costs of mutual aid assistance on behalf of local jurisdictions.

H. Reimbursement of Mutual Aid Costs.

1. Requesting and Providing Entities must keep detailed records of the services requested and received, and provide those records as part of the supporting documentation for a reimbursement request.

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2. A request for reimbursement of mutual aid costs must include a copy of the mutual aid agreement - whether pre- or post-event - between the Requesting and Providing Entities.
3. A request for reimbursement of mutual aid costs should include a written and signed certification by the Requesting Entity certifying:
  - a. The types and extent of mutual aid assistance requested and received in the performance of eligible emergency work; and
  - b. The labor and equipment rates used to determine the mutual aid cost reimbursement request.
4. FEMA will not reimburse the value of volunteer labor or the value of paid labor that is provided at no cost to the applicant. However:
  - a. To the extent the Providing Entity is staffed with volunteer labor, the value of the volunteer labor may be credited to the non-Federal cost share of the Requesting Entity's emergency work in accordance with the provisions of Disaster Assistance Policy #9525.2, Donated Resources.
  - b. If a mutual aid agreement provides for an initial period of unpaid assistance or provides for assistance at no cost to the Requesting Entity, the value of the assistance provided at no cost to the Requesting Entity may be credited to the non-Federal cost share of the Requesting Entity's emergency work under the provisions of Disaster Assistance Policy #9525.2. Donated Resources.
5. Reimbursement for work beyond emergency assistance, such as permanent repairs, is not eligible for mutual aid assistance.
6. For PA only, reimbursement for equipment provided to a Requesting Entity will be based on FEMA equipment rates, approved State rates or, in the absence of such standard rates, on rates deemed reasonable by FEMA.
7. For FMAG only, reimbursement for equipment provided to a Requesting Entity will be based on 44 CFR § 204.42 (b)(3) and (4).

# **Model Intrastate Mutual Aid Legislation**

**Developed by the National Emergency Management Association**



**In partnership with National Public Safety Organizations**

***Funding provided by the Federal Emergency Management Agency,  
United States Department of Homeland Security***

**Published March, 2004**

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## Introduction

Over the past two years, emergency disciplines of all types agree there has been a sea change in the country after the terrorist acts committed on United States' soil September 11, 2001. Excepting that, the everyday concerns of emergency responders do not abate as is demonstrated by recent wildfires, earthquakes, mudslides, hurricanes and floods.

In each of these events, the merit of mutual aid between governments, both intra and interstate, has proven its benefit time and time again. As has been repeatedly demonstrated by the Emergency Management Assistance Compact (EMAC), states can depend on each other to provide manpower and material resources in times of need. EMAC shines as the **states** mutual aid system; and currently has 48 states, 2 Territories and Washington D.C. as signatories to the compact. For over a decade, EMAC has served its members well.

Given recent terrorist fears, the Department of Homeland Security has chosen to focus on mutual aid. It is unquestionable that mutual aid systems are needed for state to state assistance and, particularly, between local jurisdictions. Indeed, in a recent edition of *State Government News*, the author wrote: "Through the *National Strategy on Homeland Security*, the Department of Homeland Security (DHS) placed a new focus on state and **local** (emphasis added) mutual aid as a key to the nation's emergency response capabilities for all hazards, man-made or natural. The National Incident Management System (NIMS), currently under development by DHS, provides an operational framework for the response by federal, state and local agencies. In the NIMS, mutual aid is emphasized as an indispensable tool for the swift and coordinated response to disasters of all kinds."<sup>1</sup>

In mid-July 2003, a request was sent to all state Emergency Management Agencies by the National Emergency Management Association (NEMA) asking for copies of existing mutual aid legislation/agreements, enabling legislation and other supporting documents. Preliminary responses were received from 16 states and the District of Columbia confirming that legislation/agreements were or were not in place. Over the summer, additional responses were received, documents were sorted and reviewed, then condensed into a monograph summarizing legislation and agreements; which served as a starting point for development of a model intrastate mutual aid agreement.

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<sup>1</sup> State Government News magazine, March 2004, by Amy Hughes Senior Policy Analyst, National Emergency Management Association.

"Many local jurisdictions have agreements in place, but they vary widely across the country. Moreover, many are not formal agreements, and do not address key issues such as liability and compensation; and encompass multi-disciplines. To be able to move assets effectually between local jurisdictions and across state lines, mutual aid agreements should be robust, inclusive, demonstrate an effective relationship to EMAC and address liability and compensation issues in a manner consistent with state law."<sup>2</sup>

As part of a grant awarded NEMA by FEMA in 2003, NEMA agreed to develop and market model intrastate mutual aid legislation along with several other related tasks.

A multi-discipline review group<sup>3</sup> was selected to ensure many voices from across the emergency services and the public safety fields were included. The interest shown by various associations and entities further demonstrates the ardent interest in mutual aid by this diverse body.

On January 9, 2004, the working group met in New Orleans, LA to review all work. Local perspectives were brought to the forefront by those involved with local government emergency response, and incorporated into the model. At the NEMA Mid-Year Conference, held in Washington, D.C., February 9-13, 2004, the membership unanimously approved the proposed model.

One of the most important aspects of the model is that adoption by jurisdictions is entirely voluntary. The model is meant to be a tool and resource for states and jurisdictions to utilize in developing or refining statewide mutual aid agreements. It is anticipated that states and jurisdictions may wish to modify the model to conform to their own state laws and authorities, or to address unique needs and circumstances. Further, the proposed articles and provisions in the model are complementary to the recommended minimum elements to be included in mutual aid agreements that are a part of the draft National Incident Management System Plan.

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<sup>2</sup> "A Proposal to Amend the NEMA/FEMA Cooperative Agreement, Submitted by [NEMA] to [FEMA]", Revised January 29, 2003, page 6

<sup>3</sup> Comprehensive contact list included on Page 10.

# **Model Intrastate Mutual Aid Legislation**

## **Article I Preamble**

The purpose of this legislation/agreement is to create a system of intrastate mutual aid between participating political subdivisions in the state. Each participant of this system recognizes that emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential for the protection of lives and property and for best use of available assets both public and private. The system shall provide for mutual assistance among the participating political subdivisions in the prevention of, response to, and recovery from, any disaster that results in a formal state of emergency in a participating political subdivision, subject to that participating political subdivisions criteria for declaration. The system shall provide for mutual cooperation among the participating subdivisions in conducting disaster related exercises, testing or other training activities outside actual declared emergency periods. This legislation provides no immunity, rights or privileges for any individual responding to a state of emergency that is not requested and/or authorized to respond by a participating political subdivision. Participating political subdivisions will be ensured, to the fullest extent possible, eligibility for state and federal disaster funding.

Also created in this legislation/agreement is the committee known as the State or Statewide Intrastate Mutual Aid Committee. This committee shall be multidisciplinary and representative of emergency management and response disciplines as well as local government. It shall be the committee's responsibility to hold, at a minimum, annual meetings to review the progress and status of statewide mutual aid, assist in developing methods to track and evaluate activation of the system and to examine issues facing participating political subdivisions regarding the implementation of this legislation. The committee may be chaired by the State Emergency Management Agency. The committee may prepare an annual report on the condition and effectiveness of mutual aid in the state, make recommendations for correcting any deficiencies and submit that report to the appropriate legislative committee or other governing body. Members of the committee shall serve a maximum two year term, with recommendation for appointment coming from each respective association.

All political subdivisions within the state are, upon enactment of this legislation or the execution of an agreement, are automatically a part of the statewide mutual aid system. A political subdivision within the state may elect not to participate or to later withdraw from the system upon enacting an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system; and providing a copy of the resolution to the State Emergency Management Agency. This legislation does not preclude participating political subdivisions from entering into supplementary agreements with another political subdivision and does not affect any other agreement to which a political subdivision may currently be a party to, or decide to be a party to.

## **Article II Emergency Responders Defined**

An emergency responder is defined as anyone with special skills, qualifications, training, knowledge and experience in the public or private sectors that would be beneficial to a participating political subdivision in response to a locally declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and who is requested and/or authorized to respond. Under this definition, an emergency responder may or may not be required to possess a license, certificate, permit or other official recognition for their expertise in a particular field or area of knowledge. An emergency responder could include, but is in no way limited to, the following: law enforcement officers, fire fighters, emergency medical services personnel, physicians, nurses, other public health personnel, emergency management personnel, public works personnel, those persons with specialized equipment operations skills or training or any other skills needed to provide aid in a declared emergency.

## **Article III Participating Political Subdivisions Responsibilities**

It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for emergency management within that certain subdivision to do the following:

- i. Identify potential hazards that could affect the participant using an identification system common to all participating jurisdictions.
- ii. Conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions, and conduct joint training at least biennially.
- iii. Identify and inventory the current services, equipment, supplies, personnel and other resources related to planning, prevention, mitigation, response and recovery activities of the participating political subdivision.
- iv. Adopt and put into practice the standardized incident management system approved by the State Emergency Management Agency.

## **Article IV Implementation**

A participating political subdivision may request assistance of other participating political subdivisions in preventing, mitigating, responding to and recovering from disasters that result in locally-declared emergencies or in concert with authorized drills or exercises as allowed under this legislation/agreement. Requests for assistance shall be made through the chief executive officer of a participating political subdivision or his designee. Requests may either be verbal or in writing and are not required to go directly to the State Emergency Management Agency but in all cases will be reported to the agency as soon as is practical. Verbal requests will be followed up with a written request as soon as is practical or such number of days as the state in its discretion may dictate.

## **Article V Limitations**

A participating political subdivision's obligation to provide assistance in the prevention of, response to and recovery from a locally-declared emergency or in authorized drills or exercises is subject to the following conditions:

- i. A participating political subdivision requesting assistance must have either declared a state of emergency in the manner outlined in Article I or authorized drills and exercises.
- ii. A responding participating political subdivision may withhold resources to the extent necessary to provide reasonable protection and services for its own jurisdiction.
- iii. Emergency response personnel of a responding participating political subdivision shall continue under the command and control of their responding jurisdiction to include medical protocols, standard operating procedures and other protocols, but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving the assistance.
- iv. Assets and equipment of a responding participating political subdivision shall continue under the control of their responding jurisdiction, but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving the assistance.

## **Article VI License, Certificate and Permit Portability**

If a person or entity holds a license, certificate or other permit issued by a participating political subdivision or the state evidencing qualification in a professional, mechanical or other skill and the assistance of that person or entity is requested by a participating political subdivision, the person or entity shall be deemed to be licensed, certified or permitted in the political subdivision requesting assistance for the duration of the declared emergency or authorized drills or exercises and subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance may prescribe by executive order or otherwise.

## **Article VII Reimbursement, Disputes Regarding Reimbursement**

Any requesting political subdivision shall reimburse the participating political subdivision rendering aid under this system. A participating political subdivision providing assistance may determine to donate assets of any kind to a receiving participating political subdivision. Such requests for reimbursement shall be in accordance with procedures developed by the State Intrastate Mutual Aid Committee.

Should a dispute arise between parties to the system regarding reimbursement, involved parties will make every effort to resolve the dispute within 30 days of written notice of the dispute by the party asserting noncompliance. In the event that the dispute is not resolved within 90 days of the notice of the claim, either party may request the dispute be solved through arbitration. Any arbitration under this provision shall be conducted under the commercial arbitration rules of the American Arbitration Association.

## **Article VIII Development of Guidelines and Procedures**

The State Intrastate Mutual Aid Committee shall develop comprehensive guidelines and procedures that address, including but not limited to, the following: projected or anticipated costs, checklists for requesting and providing assistance, record keeping for all participating political subdivisions, reimbursement procedures and other necessary implementation elements along with the necessary forms for requests and other records documenting deployment and return of assets.

## **Article IX Workers' Compensation**

Personnel of a participating political subdivision responding to or rendering assistance for a request who sustain injury or death in the course of, and arising out of, their employment are entitled to all applicable benefits normally available to personnel while performing their duties for their employer. Responders shall receive any additional state and federal benefits that may be available to them for line of duty deaths.

## **Article X Immunity**

All activities performed under this agreement are deemed hereby to be governmental functions. For the purposes of liability, all persons responding under the operational control of the requesting political subdivision are deemed to be employees of the requesting participating political subdivision. Neither the participating political subdivisions nor their employees, except in cases of willful misconduct, gross negligence or bad faith shall be liable for the death of or injury to persons, or for damage to property when complying or attempting to comply with the statewide mutual aid system.

## **Article XI Severability**

Should a court of competent jurisdiction rule any portion, section or subsection of this legislation invalid or nullified, that fact shall not affect or invalidate any other portion, section or subsection; and all remaining portions, sections or subsections shall remain in full force and effect.

## Checklist of Best Practices

- ▶ Closely tie legislation/agreement to EMAC member states' legislation and SOP's for seamless escalation of disaster response and execution of mutual aid.
- ▶ Encourage participation by a broad range of emergency responders. Include other definitions as appropriate. Consider global perspective, e.g., public works, private entities, medical personnel, public transportation and others.
- ▶ Make legislation opt-out. Most states have several hundred municipalities and other jurisdictions within their borders. To attempt to get everyone on board on an opt-in agreement could take years and never achieve a plurality of participation. By making legislation opt-out, everyone is a part of the system the day it becomes law.
- ▶ To the extent permitted by applicable law, include automatic renewal language if agreement instead of legislation.
- ▶ Agreements/legislation should mandate joint planning, training and exercise with liability immunity as if it were an actual emergency.
- ▶ Develop forms to facilitate requests for aid, record-keeping regarding movement of equipment and personnel and reimbursement.
- ▶ Require use of a standardized incident command/management system consistent with that used by the state.
- ▶ In addition to not affecting any existing agreements, should also allow for supplemental agreements between participants.
- ▶ Have a liability/immunity article.
- ▶ Consider arbitration of disputes concerning reimbursement.
- ▶ Be as concise as possible. Guidelines and procedures should be developed separately, but become part of the legislations/agreement when adopted.
- ▶ Establishment of a committee representative of all emergency preparedness and response disciplines and other stakeholders to examine continual changes in emergency preparedness and insure legislation/agreements meet the needs of disciplines/stakeholders. Committee may have standing and authority to refer needs to legislature for rectification. Consider existing committees representative of all stakeholders to determine if they may perform this function.
- ▶ A reimbursement provision. This provision may include an off-set for any insurance proceeds applicable to the costs claimed by the responding political subdivision. The insurance claims process should not delay reimbursement. Reimbursement shall not duplicate any state or federal assistance available for the costs.

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# COMPONENT I: PREPAREDNESS

NIMS provides the mechanisms for emergency management/response personnel<sup>3</sup> and their affiliated organizations to work collectively by offering the tools to enhance preparedness. Preparedness is achieved and maintained through a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action. Ongoing preparedness efforts among all those involved in emergency management and incident response activities ensure coordination during times of crisis. Moreover, preparedness facilitates efficient and effective emergency management and incident response activities.

This component describes specific measures and capabilities that emergency management/response personnel and their affiliated organizations should develop and incorporate into their overall preparedness programs to enhance the operational preparedness necessary for all-hazards emergency management and incident response activities. In developing, refining, and expanding preparedness programs and activities within their jurisdictions and/or organizations, emergency management/response personnel should leverage existing preparedness efforts and collaborative relationships to the greatest extent possible. Personal preparedness, while an important element of homeland security, is distinct from the operational preparedness of our Nation's emergency management and incident response capabilities and is beyond the scope of NIMS.

## A. CONCEPTS AND PRINCIPLES

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Within NIMS, preparedness focuses on the following elements: planning; procedures and protocols; training and exercises; personnel qualifications, licensure, and certification; and equipment certification. Effective adoption, implementation, and training of all NIMS components in advance of an incident or planned event will facilitate collaborative emergency management and incident response activities. Preparedness is a foundational step in emergency management and incident response; therefore, the concepts and principles that form the basis for preparedness are an integration of the concepts and principles of all NIMS components.

### 1. UNIFIED APPROACH

Preparedness requires a unified approach to emergency management and incident response activities. To achieve this, components of NIMS should be integrated within a jurisdiction's or organization's emergency management and incident response structure. Specifically, preparedness should be integrated into communications and information management, resource management, and command and management to form an effective system. Additionally, the unified-approach concept is at the core of the Command and Management component, as it is based on chain of command, unity of command, unity of effort, and when implemented, Unified Command. These characteristics allow organizations with

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<sup>3</sup> Emergency management/response personnel include Federal, State, territorial, tribal, substate regional, and local governments, nongovernmental organizations, private-sector organizations, critical infrastructure owners and operators, and all other organizations and individuals who assume an emergency management role.

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different jurisdictional, geographical, or functional responsibilities, authorities, and resources to coordinate, plan, and interact effectively in support of a commonly recognized objective.

### 2. LEVELS OF CAPABILITY

Preparedness involves actions to establish and sustain necessary capabilities to execute a full range of emergency management and incident response activities. For NIMS to function effectively, jurisdictions and organizations should set expectations about the capabilities and resources that will be provided before, during, and after an incident. The inventorying and categorizing of resources available for an incident or planned event is a critical element of preparedness, as it helps to establish and verify the level of capability needed. Additionally, the concept of identifying this level of capability is woven throughout the components of NIMS, including the credentialing system.

## B. ACHIEVING PREPAREDNESS

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Individual jurisdictions should prepare in advance of an incident, in coordination with and supported by Federal and State partners, nongovernmental organizations (NGOs), and the private sector, as appropriate. In order for successful emergency management and incident response to occur, emergency management/response personnel and their affiliated organizations must have a clear understanding of their roles and responsibilities. This clarity is essential not only for emergency management/response personnel, but also for those acting in a policy, coordination, or support role.

- **Policy Role:** Development, revision, signing, and/or formalization of policies, procedures, mutual aid agreements, and assistance agreements and/or plans relating to emergency management and incident response programs and activities.
- **Coordination Role:** Resource management or any other necessary coordination efforts required for emergency management and incident response programs and activities.
- **Support Role:** Provision of assistance for emergency management and incident response programs and activities.

### 1. RELATIONSHIP BETWEEN NIMS AND OTHER PREPAREDNESS EFFORTS

To achieve national preparedness and coordinated response, emergency management and incident response activities should be coordinated at all levels of government and should include NGOs and the private sector, where appropriate. Homeland Security Presidential Directive 5 (HSPD-5) established a single, comprehensive approach to incident management, with the objective of ensuring that all levels of government across the Nation have the capability to work together efficiently and effectively. Several other Homeland Security Presidential Directives are inextricably linked with HSPD-5, as they deal directly with national preparedness and the protection of critical infrastructure. These directives are discussed more fully below.

#### a. Homeland Security Presidential Directive 7, "Critical Infrastructure Identification, Prioritization, and Protection"

HSPD-7 directed the Department of Homeland Security (DHS) to establish a national policy for Federal departments and agencies to identify and prioritize critical infrastructure and key

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resources (CIKR) in order to prevent, deter, and mitigate the effects of deliberate efforts to destroy, incapacitate, or exploit them. Federal departments and agencies are to work with State, tribal, and local governments, NGOs, and the private sector to accomplish this objective. This effort includes the development, implementation, and ongoing management and maintenance of the *National Infrastructure Protection Plan* (NIPP). The NIPP and its complementary Sector-Specific Plans provide the unifying structure for integrating existing and future CIKR protection activities.

### **b. Homeland Security Presidential Directive 8, "National Preparedness"**

HSPD-8 directed DHS to lead a national initiative to develop a National Preparedness System—a common, unified approach to "strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies." The requirements of HSPD-8 led to the National Preparedness Guidelines, which were developed to provide the means for the Nation to answer three fundamental questions:

- How prepared do we need to be?
- How prepared are we?
- How do we prioritize efforts to close the gap?

HSPD-8 also required DHS to develop mechanisms for the improved delivery of Federal preparedness assistance to State, tribal, and local governments and to strengthen the Nation's preparedness capabilities. Annex I to HSPD-8, titled "National Planning," establishes a comprehensive approach to national planning and provides guidance for conducting planning in accordance with the *National Strategy for Homeland Security*. Annex I calls for the development and updating of an Integrated Planning System (IPS). Fifteen National Planning Scenarios were developed to illustrate the range, scope, magnitude, and complexity of incidents for which the Nation should prepare. Using this wide range of possible scenarios, including terrorism, natural disasters, and health emergencies, helps reduce uncertainty in planning.

After identifying the most important performance needs across the scenarios, DHS then developed the Target Capabilities List (TCL), designed to guide efforts to build a national network of capabilities that will be available when and where they are needed. The TCL outlines an all-hazards approach to development of capabilities that will be needed for natural or manmade disasters or other major incidents, and defines the primary roles that all levels of government, NGOs, the private sector, and individuals have in national preparedness. The capabilities provide the means to accomplish a mission and achieve desired outcomes by performing critical tasks, under specified conditions, to target levels of performance. Capabilities are delivered by appropriate combinations of properly planned, organized, equipped, trained, and exercised personnel.

## **2. NIMS AND ITS RELATIONSHIP TO THE NATIONAL RESPONSE FRAMEWORK**

NIMS provides the template for the management of incidents, regardless of cause, size, location, or complexity. This template establishes the structure, concepts, principles, processes, and language for the effective employment of capabilities nationally, whether those capabilities reside with Federal, State, tribal, or local jurisdictions or with the private sector or NGOs.

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The *National Response Framework* (NRF), which superseded the National Response Plan, is an all-hazards framework that builds upon NIMS and describes additional specific Federal roles and structures for incidents in which Federal resources are involved.

**The NRF is a guide to how the Nation conducts all-hazards response.**

The NRF provides the structure and mechanisms for national-level policy and operational direction for incident management to ensure timely and effective Federal support to State, tribal, and local related activities. The NRF is applicable to all Federal departments and agencies that participate in operations requiring a coordinated Federal response.

NIMS and the NRF are designed to improve the Nation's incident management capabilities and overall efficiency. During incidents requiring coordinated Federal support, the NRF provides the guidelines and procedures to integrate capabilities and resources into a cohesive, coordinated, and seamless national framework for incident management.

**NIMS and the NRF are designed to ensure that local jurisdictions retain command, control, and authority over response activities for their jurisdictional areas.**

A basic premise of both NIMS and the NRF is that incidents typically be managed at the local level first. In the vast majority of incidents, local resources and local mutual aid agreements and assistance agreements will provide the first line of emergency management and incident response. If additional or specialized resources or capabilities are needed, Governors may request Federal assistance; however, NIMS is based on the concept that local jurisdictions retain command, control, and authority over response activities for their jurisdictional areas. Adhering to NIMS allows local agencies to better utilize incoming resources.

The fundamental role of preparedness in emergency management and incident response is a universal concept incorporated in both NIMS and the NRF. Though the specific elements of preparedness described within each document may vary slightly, the concepts remain complementary. The key elements found within the Preparedness component of NIMS and the NRF are described and organized in a fashion to best assist stakeholders in the development of efficient, effective emergency management and incident response capabilities.

### 3. PREPAREDNESS ROLES

Preparedness activities should be coordinated among all appropriate agencies and organizations within the jurisdiction, as well as across jurisdictions. NGOs and the private sector should be involved in these efforts, as they often provide incident-related services, and are the owners and operators of critical infrastructure and key resources that may be involved in emergency management and incident response. Though not integrated directly into NIMS, individuals play a critical role in preparedness and are expected to prepare themselves and their families for all types of potential incidents. Jurisdictions should have outreach programs to promote and support individual and community preparedness (e.g., public education, training sessions, demonstrations), including preparedness of those with special needs.

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### a. Preparedness Organizations

Preparedness organizations provide coordination for emergency management and incident response activities before an incident or planned event. These organizations range from groups of individuals to small committees to large standing organizations that represent a wide variety of committees, planning groups, or other organizations (e.g., Citizen Corps, Community Emergency Response Teams, Local Emergency Planning Committees, Critical Infrastructure Sector Coordinating Councils). Preparedness organizations should meet regularly and coordinate with one another to ensure an appropriate focus on helping jurisdictions and groups of jurisdictions to meet their preparedness needs.

The needs of the jurisdictions involved will dictate how frequently such organizations should conduct their business, as well as how they are structured. When preparedness activities routinely need to be accomplished across jurisdictions, preparedness organizations should be multijurisdictional and/or multiagency and include critical infrastructure owners and operators, NGOs, and the private sector, when relevant. Memorandums or agreements should be established between necessary parties so that each will be aware of the capabilities, expectations, and roles of the others.

Preparedness organizations may take the following actions, among others:

- Establish and coordinate emergency operations plans, protocols, and procedures, including public communications and awareness.
- Integrate and coordinate the activities and functions within their purview.
- Establish the standards, guidelines, and protocols necessary to promote interoperability and consideration for responder safety.
- Adopt standards, guidelines, and procedures for requesting and providing resources.
- Identify resources and other requirements and set priorities for their use.
- Encourage training, exercises, evaluation, and corrective action programs.
- Ensure the establishment and maintenance of necessary mutual aid agreements and assistance agreements and outreach to NGOs and the private sector.
- Use Multiagency Coordination Systems, as needed and where appropriate, for planned events (such as parades or sporting events) or for specific types of incidents (such as pandemic influenza or hurricanes).<sup>4</sup>
- Plan for operational scientific support, which can be done at each level of government, and contribute ideas to ongoing research and development of new technologies.<sup>5</sup>
- Conduct after-action reviews to strengthen future preparedness.

### b. Elected and Appointed Officials

Elected and appointed officials should have a clear understanding of their roles and responsibilities for successful emergency management and incident response. These officials include administrative and political personnel, as well as department/agency administrators who have leadership roles in a jurisdiction, including legislators and chief executives, whether elected (e.g., Governors, mayors, sheriffs, tribal leaders, and county executives) or appointed (e.g., county administrators and city managers). Although their roles may require providing direction and guidance to constituents during an incident, their

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<sup>4</sup> See page 64, Component IV: Command and Management, Multiagency Coordination Systems.

<sup>5</sup> See page 79, Component V: Ongoing Management and Maintenance, Supporting Technologies.

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day-to-day activities do not necessarily focus on emergency management and incident response.

To better serve their constituents, elected and appointed officials should do the following:

- Understand, commit to, and receive training on NIMS and participate in exercises.
- Maintain an understanding of basic emergency management, continuity of operations and continuity of government plans, jurisdictional response capabilities, and initiation of disaster declarations.
- Lead and encourage preparedness efforts within the community, agencies of the jurisdiction, NGOs, and the private sector, as appropriate.
- Help to establish relationships (including mutual aid agreements and assistance agreements) with other jurisdictions and, as appropriate, NGOs and the private sector.
- Support and encourage participation in mitigation efforts within the jurisdiction and, as appropriate, with NGOs and the private sector.
- Provide guidance to their jurisdictions, departments, and/or agencies, with clearly stated policies for NIMS implementation.
- Understand laws and regulations in their jurisdictions that pertain to emergency management and incident response.
- Maintain awareness of CIKR within their jurisdictions, potential incident impacts, and restoration priorities.

Elected and appointed officials may also be called upon to help shape and revise laws, policies, and budgets to aid in preparedness efforts and to improve emergency management and incident response activities.

An incident may have a mix of political, economic, social, environmental, public safety, public health, and financial implications with potentially serious long-term effects. Frequently, incidents require a coordinated response (across agencies, jurisdictions, and/or including NGOs and the private sector), during which elected and appointed officials must make difficult decisions under crisis conditions. Elected and appointed officials should be aware of how NIMS can work to ensure cooperative response efforts, thereby minimizing the potential implications of an incident.

### ***(1) Elected and Appointed Officials During an Incident***

Generally, elected and appointed officials are not at the scene of the incident, but should have the ability to communicate and meet with the Incident Commander (IC)/Unified Command (UC), as necessary. Depending on the nature of the incident or level of the overall emergency, elected and appointed officials could function from the following locations:

- The agency or jurisdictional offices.
- An Emergency Operations Center.
- A location housing multiagency coordination.

#### **Major Responsibilities of Elected and Appointed Officials**

- **Clearly state agency/jurisdiction policy**
- **Evaluate effectiveness and correct deficiencies**
- **Support a multiagency approach**

Elected and appointed officials should provide input on policy, direction, and authority to the IC/UC. Proper coordination between elected and appointed officials and the IC/UC can be crucial to the successful management of an incident. Elected and appointed officials should

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clearly communicate views to the IC/UC. As time and agency policy dictate, the following considerations should be clearly communicated, documented, and provided to the IC/UC:

- Safety considerations.
- Environmental issues.
- Legal and policy limitations.
- Issues relating to critical infrastructure services or restoration.
- Economic, political, and social concerns.
- Cost considerations.

In some circumstances, if information is not delineated in policies or laws, it should be defined through a formal delegation of authority or letter of expectation.

### **c. Nongovernmental Organizations**

NGOs, such as community-based, faith-based, or national organizations (e.g., the Salvation Army, National Voluntary Organizations Active in Disaster, American Red Cross), play vital roles in emergency management and incident response activities. NGOs that have the capacity and desire to be involved should be fully integrated into a jurisdiction's preparedness efforts, especially in planning, training, and exercises. Furthermore, memorandums of agreement should be established with NGOs prior to an incident so that each organization is aware of the capabilities, expectations, and roles of others.

It is recommended that key executives and administrators of NGOs use NIMS for planned events or incidents, because its use improves the organizations' ability to integrate into incident management. While compliance with NIMS is not mandated for NGOs, adhering to NIMS procedures and terminology, and requiring staff with disaster-related missions to take appropriate training, will support the continued integration of the NGOs into a jurisdiction's preparedness efforts.

### **d. Private Sector**

The private sector plays a vital role in emergency management and incident response and should be incorporated into all aspects of NIMS. Utilities, industries, corporations, businesses, and professional and trade associations typically are involved in critical aspects of emergency response and incident management. These organizations should prepare for all-hazards incidents that may affect their ability to deliver goods and services. It is essential that private-sector organizations directly involved in emergency management and incident response, or identified as a component of critical infrastructure (e.g., hospitals, public and private utility companies, schools), be included, as appropriate, in a jurisdiction's preparedness efforts. Although private-sector entities cannot be required to be NIMS compliant, it is strongly encouraged that those private-sector organizations that are directly involved in response operations have their response personnel receive NIMS training and that the response elements of their organization be NIMS compliant.

Governments at all levels should work with the private sector to establish a common set of expectations consistent with Federal, State, tribal, and local roles, responsibilities, and methods of operations. These expectations should be widely disseminated and the necessary training and practical exercises conducted so that they are thoroughly understood in advance of an actual incident. These expectations are particularly important with respect to private-sector organizations involved in CIKR areas. In addition, private-sector organizations may wish to consider entering into assistance agreements with governments or other private-sector organizations to clarify the respective capabilities, roles, and

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expectations of the parties involved in preparing for and responding to an incident. Finally, the private sector may be a source for best practices in emergency management and incident response.

Academia also plays a significant role in NIMS. Many academic institutions assist in providing NIMS training to responders and community leaders. Additionally, many courses of study include NIMS training and concepts in their curricula. The academic community is also a primary vehicle for the development of new concepts and principles.

### 4. PREPAREDNESS ELEMENTS

Preparedness efforts should validate and maintain plans, policies, and procedures, describing how they will prioritize, coordinate, manage, and support information and resources. The elements described below build the foundation necessary for efficient and effective response and recovery. Ongoing support is provided by the National Integration Center (NIC) in the following areas: training and exercises; personnel qualifications, licensure, and certification; and equipment certification.<sup>6</sup>

#### a. Preparedness Planning

Plans should be realistic, scalable, and applicable to all types of incidents, from daily occurrences to incidents requiring the activation of interstate mutual aid to those requiring a coordinated Federal response. Plans should form the basis of training and be exercised periodically to ensure that all individuals involved in response are able to execute their assigned tasks. It is essential that plans address training and exercising and allow for the incorporation of after-action reviews, lessons learned, and corrective actions, with responsibility agreements following any major incident or exercise. Plans should be updated periodically to reflect changes in the emergency management and incident response environment, as well as any institutional or organizational changes.

Plans should describe how personnel, equipment, and other governmental and nongovernmental resources will be used to support emergency management and incident response requirements. Plans are the operational core of preparedness and provide mechanisms for setting priorities, integrating multiple jurisdictions/organizations and functions, establishing collaborative relationships, and ensuring that communications and other systems effectively support the full spectrum of emergency management and incident response activities. Plans should also incorporate strategies for maintaining continuity of government and continuity of operations during and after incidents, provide mechanisms to ensure resiliency of critical infrastructure and economic stability of communities, and incorporate the advance planning associated with responder protection, resource management, and communications and information management.

Plans should integrate all relevant departments, agencies, and organizations (including NGOs and the private sector, where appropriate) to facilitate coordinated emergency management and incident response activities. Where appropriate, plans should incorporate a clearly defined process for seeking and requesting assistance from necessary departments, agencies, or organizations. While it is recognized that jurisdictions and organizations will develop multiple types of plans, such as response, mitigation, and recovery plans, it is essential that these plans be coordinated and complement one another. State, tribal, and local governments are encouraged to comply with the Integrated Planning

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<sup>6</sup> See page 75, Component V: Ongoing Management and Maintenance, National Integration Center.

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System (IPS) by using Comprehensive Preparedness Guide (CPG) 101, "Producing Operations Plans for State, Territorial, Tribal, and Local Governments." CPG 101 meets the Annex I requirement that IPS include a "guide for all-hazards planning . . . that can be used at Federal, State, local, and tribal levels to assist the planning process." IPS is flexible enough to accommodate the many planning formats, styles, and processes used by State, tribal, and local governments. Over time, the use of IPS is expected to facilitate standardization of plans across the United States at all levels of government and enhance preparedness. Together IPS and CPG 101 support national vertical integration by clearly articulating Federal planning procedures to State, tribal, and local governments and by establishing a consistent planning process across all levels of government.

Each jurisdiction, in coordination with appropriate agencies and organizations, should develop plans that define the scope of necessary activities for preparedness, emergency management, and incident response for that jurisdiction. As appropriate, jurisdictions should also develop scenario-specific plans or annexes derived from their threat assessment. These plans should describe organizational structures, roles and responsibilities, policies, and protocols for providing support; should be flexible enough for use in all incidents; and should be comprehensive enough to meet the wide variety of public needs that may arise. While preparedness of the public is generally beyond the scope of NIMS, plans should also include public awareness, education, and communications plans and protocols.

### ***(1) Continuity Capability***

Recent natural and manmade disasters have demonstrated the need for a robust continuity capability at the Federal, State, territorial, tribal, and local levels, as well as within the private sector, in order to ensure the preservation of our form of government under the Constitution and the continuation of essential functions under all conditions. Ensuring that the right leadership, support staff, communications, facilities, infrastructure, and other resources with the right continuity planning and program management are available to support a jurisdiction is critical to the success of emergency management and incident response operations.

The goal of a robust continuity capability is to have the resiliency to confront any challenge, threat, or vulnerability. Continuity planning should be instituted within all organizations—to include all levels of government and the private sector—and especially within those organizations that support the National Essential Functions found in National Security Presidential Directive 51/Homeland Security Presidential Directive 20 (NSPD-51/HSPD-20), "National Continuity Policy," dated May 4, 2007. NSPD-51/HSPD-20 and Federal Continuity Directive 1, dated February 4, 2007, outline the continuity requirements for all Federal departments and agencies (with guidance for non-Federal organizations). These requirements include such things as essential functions, orders of succession, delegations of authority, continuity facilities, continuity communications, vital records management, and human capital.

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### (2) *Mutual Aid Agreements and Assistance Agreements*

Mutual aid agreements and assistance agreements are agreements between agencies, organizations, and jurisdictions that provide a mechanism to quickly obtain emergency assistance in the form of personnel, equipment, materials, and other associated services. The primary objective is to facilitate rapid, short-term deployment of emergency support prior to, during, and after an incident. A signed agreement does not obligate the provision or receipt of aid, but rather provides a tool for use should the incident dictate a need. There are several types of these kinds of agreements, including but not limited to the following:

- **Automatic Mutual Aid:** Agreements that permit the automatic dispatch and response of requested resources without incident-specific approvals. These agreements are usually basic contracts; some may be informal accords.
- **Local Mutual Aid:** Agreements between neighboring jurisdictions or organizations that involve a formal request for assistance and generally cover a larger geographic area than automatic mutual aid.
- **Regional Mutual Aid:** Substate regional mutual aid agreements between multiple jurisdictions that are often sponsored by a council of governments or a similar regional body.
- **Statewide/Intrastate Mutual Aid:** Agreements, often coordinated through the State, that incorporate both State and local governmental and nongovernmental resources in an attempt to increase preparedness statewide.
- **Interstate Agreements:** Out-of-State assistance through the Emergency Management Assistance Compact (EMAC) or other formal State-to-State agreements that support the response effort.
- **International Agreements:** Agreements between the United States and other nations for the exchange of Federal assets in an emergency.
- **Other Agreements:** Any agreement, whether formal or informal, used to request or provide assistance and/or resources among jurisdictions at any level of government (including foreign), NGOs, or the private sector.

Agreements, preferably written, should include the following elements or provisions:

- Definitions of key terms used in the agreement
- Roles and responsibilities of individual parties
- Procedures for requesting and providing assistance
- Procedures, authorities, and rules for payment, reimbursement, and allocation of costs
- Notification procedures
- Protocols for interoperable communications
- Relationships with other agreements among jurisdictions
- Workers' compensation
- Treatment of liability and immunity
- Recognition of qualifications, licensure, and certifications
- Sharing agreements, as required
- Termination clause

Jurisdictions should be party to agreements with the appropriate jurisdictions and/or organizations (including NGOs and the private sector, where appropriate) from which they expect to receive, or to which they expect to provide, assistance. States should participate in interstate compacts and look to establish intrastate agreements that encompass all local jurisdictions. Authorized officials from each of the participating jurisdictions and/or organizations should collectively approve all mutual aid agreements and assistance agreements.

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Memorandums of understanding and memorandums of agreement are needed with the private sector and NGOs, including community-based, faith-based, and national organizations such as the American Red Cross and the Salvation Army, to facilitate the timely delivery of assistance during incidents.

### b. Procedures and Protocols

Procedures and protocols should detail the specific actions to implement a plan or system. All emergency management/response personnel and their affiliated organizations should develop procedures and protocols that translate into specific, action-oriented checklists for use during incident response operations.

Procedures are documented and implemented with checklists; resource listings; maps, charts, and other pertinent data; mechanisms for notifying staff; processes for obtaining and using equipment, supplies, and vehicles; methods of obtaining mutual aid agreements and assistance agreements; mechanisms for reporting information to Department Operations Centers and Emergency Operations Centers; and communications operating instructions, including connectivity among governments, NGOs, and the private sector.

There are four standard levels of procedural documents:

- **Standard Operating Procedure or Operations Manual:** Complete reference document that provides the purpose, authorities, duration, and details for the preferred method of performing a single function or a number of interrelated functions in a uniform manner.
- **Field Operations Guide or Incident Management Handbook:** Durable pocket or desk guide that contains essential information required to perform specific assignments or functions.
- **Mobilization Guide:** Reference document used by agencies/organizations outlining agreements, processes, and procedures used by all participating organizations for activating, assembling, and transporting resources.
- **Job Aid:** Checklist or other visual aid intended to ensure that specific steps for completing a task or assignment are accomplished. Job aids serve as training aids to teach individuals how to complete specific job tasks.

Protocols are sets of established guidelines for actions (which may be designated by individuals, teams, functions, or capabilities) under various specified conditions. Establishing protocols provides for the standing orders, authorizations, and delegations necessary to permit the rapid execution of a task, function, or a number of interrelated functions without having to seek permission. Protocols permit specific personnel—based on training and delegation of authority—to assess a situation, take immediate steps to intervene, and escalate their efforts to a specific level before further guidance or authorizations are required.

### c. Training and Exercises

Personnel with roles in emergency management and incident response at all levels of government—including persons with leadership positions, such as elected and appointed officials—should be appropriately trained to improve all-hazards capabilities nationwide. Additionally, NGOs and private-sector entities with direct roles in response operations should be strongly encouraged to participate in NIMS training and exercises. Standardized NIMS training courses focused on the structure and operational coordination processes and

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systems, together with courses focused on discipline-specific and agency-specific expertise, help to ensure that emergency management/response personnel can function together effectively during an incident. Training and exercises should be specifically tailored to the responsibilities of the personnel involved in incident management. Mentoring or shadowing opportunities, to allow less experienced personnel to observe those with more experience during an actual incident, should be incorporated to enhance training and exercising. Additionally, exercises should be designed to allow personnel to simulate multiple command, supervisory, or leadership roles whenever possible.

NIMS training levels are dependent on the individual's, jurisdiction's, or organization's level of involvement in emergency management and incident response activities.

Training should allow practitioners to:

- Use the concepts and principles of NIMS in exercises, planned events, and actual incidents.
- Become more comfortable using NIMS, including the Incident Command System.

To improve NIMS performance, emergency management/response personnel should also participate in realistic exercises—including multidisciplinary, multijurisdictional incidents, and NGO and private-sector interaction—to improve coordination and interoperability. Thorough exercising of NIMS components may be done using a single exercise or a series of exercises, each of which evaluates specific aspects of NIMS and its components.

**Exercises should contain a mechanism for incorporating corrective actions into the planning process.**

Exercises should be conducted with parties identified in strategic and operational plans (e.g., the emergency operations plan), including departments, agencies, partners in mutual aid agreements and assistance agreements, NGOs, and the private sector. Exercises should contain a mechanism for incorporating corrective actions and lessons learned from incidents into the planning process. For guidance on exercise design, methodology, and evaluation, refer to the Homeland Security Exercise and Evaluation Program or other exercise development tools. Exercises should also cover the following:

- All aspects of a plan, particularly the processes and procedures for activating local, intrastate, and/or interstate mutual aid agreements and assistance agreements.
- Knowledge needed to activate those agreements.

### d. Personnel Qualifications and Certification

A critical element of NIMS preparedness is the use of national standards that allow for common or compatible structures for the qualification, licensure, and certification of emergency management/response personnel.<sup>7</sup> Standards will help ensure that these personnel possess the minimum knowledge, skills, and experience necessary to execute incident management and emergency response activities safely and effectively. Standards typically include training, experience, credentialing, validation, and physical and medical fitness. Federal, State, tribal, and local certifying agencies, and professional and private organizations with personnel involved in emergency management and incident response, are encouraged to credential those individuals in their respective disciplines or jurisdictions.

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<sup>7</sup> See page 40, Component III: Resource Management, Credentialing.

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The baseline criteria for this voluntary credentialing will be established by the NIC after consultation with appropriate experts, partners, and/or recognized authoritative bodies, which will detail the standards associated with the minimum thresholds for specific emergency management positions, allowing those credentialed personnel to participate, as needed, in national-level incidents.

### e. Equipment Certification

Emergency management/response personnel and their affiliated organizations rely on various types and kinds of equipment to perform essential tasks.<sup>8</sup> A critical component of preparedness is the acquisition of equipment that will perform to certain standards (as designated by organizations such as the National Fire Protection Association or National Institute of Standards and Technology), including the capability to be interoperable with equipment used by other jurisdictions or participating organizations.<sup>9</sup> Associated with this is the need to have a common understanding of the abilities of distinct types of equipment, to allow for better planning before an incident and rapid scaling and flexibility in meeting the needs of an incident.

## 5. MITIGATION

Mitigation is an important element of emergency management and incident response. It provides a critical foundation in the effort to reduce the loss of life and property and to minimize damage to the environment from natural or manmade disasters by avoiding or lessening the impact of a disaster. Mitigation provides value to the public by creating safer communities and impeding the cycle of disaster damage, reconstruction, and repeated damage. Mitigative actions should effectively be coordinated between the IC/UC and the operator of the CIKR facilities. These activities or actions, in most cases, will have a long-term sustained effect. Risk management—the process for measuring or assessing risk and developing strategies to manage it—is an essential aspect of mitigation. Risk management strategies may include avoiding the risk (e.g., removing structures in floodplains), reducing the negative effect of the risk (e.g., hardening buildings by placing barriers around them), or accepting some or all of the consequences of a particular risk.

Examples of mitigation activities include the following:

- Ongoing public education and outreach activities designed to reduce loss of life and destruction of property.
- Complying with or exceeding floodplain management and land-use regulations.
- Enforcing stringent building codes, seismic design standards, and wind-bracing requirements for new construction, or repairing or retrofitting existing buildings.
- Supporting measures to ensure the protection and resilience of CIKR designed to ensure business continuity and the economic stability of communities.
- Acquiring damaged homes or businesses in flood-prone areas, relocating the structures, and returning the property to open space, wetlands, or recreational uses.
- Identifying, utilizing, and refurbishing shelters and safe rooms to help protect people in their homes, public buildings, and schools in hurricane- and tornado-prone areas.
- Implementing a vital records program at all levels of government to prevent loss of crucial documents and records.

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<sup>8</sup> See page 31, Component III: Resource Management for more information on equipment certification.

<sup>9</sup> See page 75, Component V: Ongoing Management and Maintenance, National Integration Center.

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- Intelligence sharing and linkage leading to other law enforcement activities, such as infiltration of a terrorist cell to prevent an attack.
- Periodic remapping of hazard or potential hazard zones, using geospatial techniques.
- Management of data regarding historical incidents to support strategic planning and analysis.
- Development of hazard-specific evacuation routes.