

§ 206.35

44 CFR Ch. I (10–1–99 Edition)

needs of sufficient severity and magnitude, not addressed by other assistance, which could appropriately be addressed under this section of the Stafford Act, the involvement of other Federal agencies would not preclude the authorization of DOD assistance by the Associate Director.

(f) *Federal share.* The Federal share of assistance under this section shall be not less than 75 percent of the cost of eligible work.

(g) *Project management.* DOD shall ensure that the work is completed in accordance with the approved scope of work, costs, and time limitations in the mission assignment. DOD shall also keep the Regional Director and the State advised of work progress and other project developments. It is the responsibility of DOD to ensure compliance with applicable Federal, State and local legal requirements. A final report will be submitted to the Regional Director upon termination of all direct Federal assistance work. Final reports shall be signed by a representative of DOD and the State. Once the final eligible cost is determined, DOD will request reimbursement from FEMA and FEMA will submit a bill to the State for the non-Federal share of the mission assignment.

(h) *Reimbursement of DOD.* Reimbursement will be made in accordance with § 206.8 of these regulations.

**§ 206.35 Requests for emergency declarations.**

(a) When an incident occurs or threatens to occur in a State, which would not qualify under the definition of a major disaster, the Governor of a State, or the Acting Governor in his/her absence, may request that the President declare an emergency. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. The request must be submitted within 5 days after the need for assistance under title V becomes apparent, but no longer than 30 days after the occurrence of the incident, in order to be considered. The period may be extended by the Associate Director provided that a written request for such extension is made by the Governor, or Acting Governor, dur-

ing the 30-day period immediately following the incident. The extension request must stipulate the reason for the delay.

(b) The basis for the Governor's request must be the finding that the situation:

(1) Is of such severity and magnitude that effective response is beyond the capability of the State and the affected local government(s); and

(2) Requires supplementary Federal emergency assistance to save lives and to protect property, public health and safety, or to lessen or avert the threat of a disaster.

(c) In addition to the above findings, the complete request shall include:

(1) Confirmation that the Governor has taken appropriate action under State law and directed the execution of the State emergency plan;

(2) Information describing the State and local efforts and resources which have been or will be used to alleviate the emergency;

(3) Information describing other Federal agency efforts and resources which have been or will be used in responding to this incident; and

(4) Identification of the type and extent of additional Federal aid required.

(d) *Modified declaration for Federal emergencies.* The requirement for a Governor's request under paragraph (a) of this section can be waived when an emergency exists for which the primary responsibility rests in the Federal government because the emergency involves a subject area for which, under the Constitution or laws of the United States, the Federal government exercises exclusive or pre-eminent responsibility and authority. Any party may bring the existence of such a situation to the attention of the FEMA Regional Director. Any recommendation for a Presidential declaration of emergency in the absence of a Governor's request must be initiated by the Regional Director or transmitted through the Regional Director by another Federal agency. In determining that such an emergency exists, the Associate Director or Regional Director shall consult the Governor of the affected State, if practicable.

(e) *Other authorities.* It is not intended for an emergency declaration to

## Federal Emergency Management Agency

## § 206.37

preempt other Federal agency authorities and/or established plans and response mechanisms in place prior to the enactment of the Stafford Act.

### § 206.36 Requests for major disaster declarations.

(a) When a catastrophe occurs in a State, the Governor of a State, or the Acting Governor in his/her absence, may request a major disaster declaration. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. The request must be submitted within 30 days of the occurrence of the incident in order to be considered. The 30-day period may be extended by the Associate Director, provided that a written request for an extension is submitted by the Governor, or Acting Governor, during this 30-day period. The extension request will stipulate reasons for the delay.

(b) The basis for the request shall be a finding that:

(1) The situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments; and

(2) Federal assistance under the Act is necessary to supplement the efforts and available resources of the State, local governments, disaster relief organizations, and compensation by insurers for disaster-related losses.

(c) In addition to the above findings, the complete request shall include:

(1) Confirmation that the Governor has taken appropriate action under State law and directed the execution of the State emergency plan;

(2) An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public and private sector;

(3) Information describing the nature and amount of State and local resources which have been or will be committed to alleviate the results of the disaster;

(4) Preliminary estimates of the types and amount of supplementary Federal disaster assistance needed under the Stafford Act; and

(5) Certification by the Governor that State and local government obligations and expenditures for the current dis-

aster will comply with all applicable cost sharing requirements of the Stafford Act.

(d) For those catastrophes of unusual severity and magnitude when field damage assessments are not necessary to determine the requirement for supplemental Federal assistance, the Governor or Acting Governor may send an abbreviated written request through the Regional Director for a declaration of a major disaster. This may be transmitted in the most expeditious manner available. In the event the FEMA Regional Office is severely impacted by the catastrophe, the request may be addressed to the Director of FEMA. The request must indicate a finding in accordance with § 206.36(b), and must include as a minimum the information requested by § 206.36 (c)(1), (c)(3), and (c)(5). Upon receipt of the request, FEMA shall expedite the processing of reports and recommendations to the President. Notification to the Governor of the Presidential declaration shall be in accordance with 44 CFR 206.39. The Associate Director shall assure that documentation of the declaration is later assembled to comply fully with these regulations.

### § 206.37 Processing requests for declarations of a major disaster or emergency.

(a) *Acknowledgment.* The Regional Director shall provide written acknowledgment of the Governor's request.

(b) *Regional summary.* Based on information obtained by FEMA/State preliminary damage assessments of the affected area(s) and consultations with appropriate State and Federal officials and other interested parties, the Regional Director shall promptly prepare a summary of the PDA findings. The data will be analyzed and submitted with a recommendation to the Associate Director. The Regional Analysis shall include a discussion of State and local resources and capabilities, and other assistance available to meet the major disaster or emergency-related needs.

(c) *FEMA recommendation.* Based on all available information, the Director shall formulate a recommendation which shall be forwarded to the President with the Governor's request.