




Office of the Attorney General  
Washington, D. C. 20530

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13 December 1985

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The Honorable James C. Miller III  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Miller:

The Office of Management and Budget recently sought the views of the Department of Justice regarding a Federal Emergency Management Agency (FEMA) draft bill entitled "Disaster Relief Act Amendments of 1985." That draft bill proposed amendments to the Disaster Relief Act of 1974, 42 U.S.C. §5122 et seq. A thorough analysis of the version of the draft bill referred to us by your office and subsequent versions provided directly to the Department by a FEMA representative is enclosed for your reference. I concur with that analysis and recommend against the submission of that proposed legislation and its accompanying transmittal documents to the Congress.

11/18/88  
E.O. 12656  
Supervised  
EO 11490

A series of FEMA initiatives, including the draft Executive Order to revise Executive Order 11490 and the instant draft bill, raise the fundamental issue of whether alternative Executive Branch management structures and resources should be established for emergency preparedness planning and operations. It is my view that the existing Executive Branch structure, which includes such policy-making entities as the Domestic Policy Council and the National Security Council, is well equipped to handle emergency planning and operations utilizing the organizations, resources, systems, missions, and authorities of the "several" federal agencies. Accordingly, FEMA should be authorized to perform those special emergency preparedness and recovery functions not assigned to other federal agencies and to support the "several" agencies' implementation of policies established through existing Executive Branch decision-making mechanisms.

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Former Attorney General Smith, in an August 2, 1984, letter to Robert C. McFarlane, Assistant to the President for National Security Affairs, proposed a "re-evaluation of the Administration's desired approach to emergency preparedness and continuity of government programs" to establish an Executive Branch policy which "clarifies the emergency preparedness responsibility of each federal department and agency and articulates the desirable limitations upon the operational and

oversight roles of the Federal Emergency Management Agency." As you are aware, the President recently approved an interagency approach recommended by the National Security Council staff to accomplish such a review of FEMA responsibilities and authorities. I support that procedure for the review of national security issues and have recommended a complementary review of related domestic policy issues by the Domestic Policy Council. It is envisioned that those review processes will result in the revision of emergency preparedness authorities to assure consistency amongst the authorities and consistency with the Administration's approach to this vital program area. Pending the completion of that effort, I recommend that in the absence of exigent circumstances action be delayed on any draft legislation or other authorities which address Federal Emergency Management Agency or other domestic emergency preparedness responsibilities.

Sincerely,



EDWIN MEESE III  
Attorney General

Enclosure

cc: Vice Admiral John M. Poindexter  
Deputy Assistant to the President  
for National Security Affairs  
The White House  
Washington, D.C. 20500

The Honorable Julius W. Becton, Jr.  
Director  
Federal Emergency Management Agency  
Washington, D.C. 20472