

E.O. 12148 issued July 15, 1979  
Amended Several Times

Question of Current Validity  
in light of Homeland Security Act  
of 2002. Still cited by FEMA  
as of July 15, 2000.

TAB H  
Prepared  
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Contract

**EXPLANATION OF PROPOSED AMENDMENTS TO  
EXECUTIVE ORDER 12148,  
FEDERAL EMERGENCY MANAGEMENT**

Note to Readers -

This is the only comprehensive  
legal review ever conducted  
subsequent to issuance of  
E.O. 12148. Done by outside  
legal contractor for preparation,  
Training, Exercise Division and

never formally  
reviewed by  
OIG / FEMA

July 1998

Copy of E.O. 12148

Revised through

E.O. 12919 attached as TAB A

6 pp - Used to prepare

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TAB B DOD

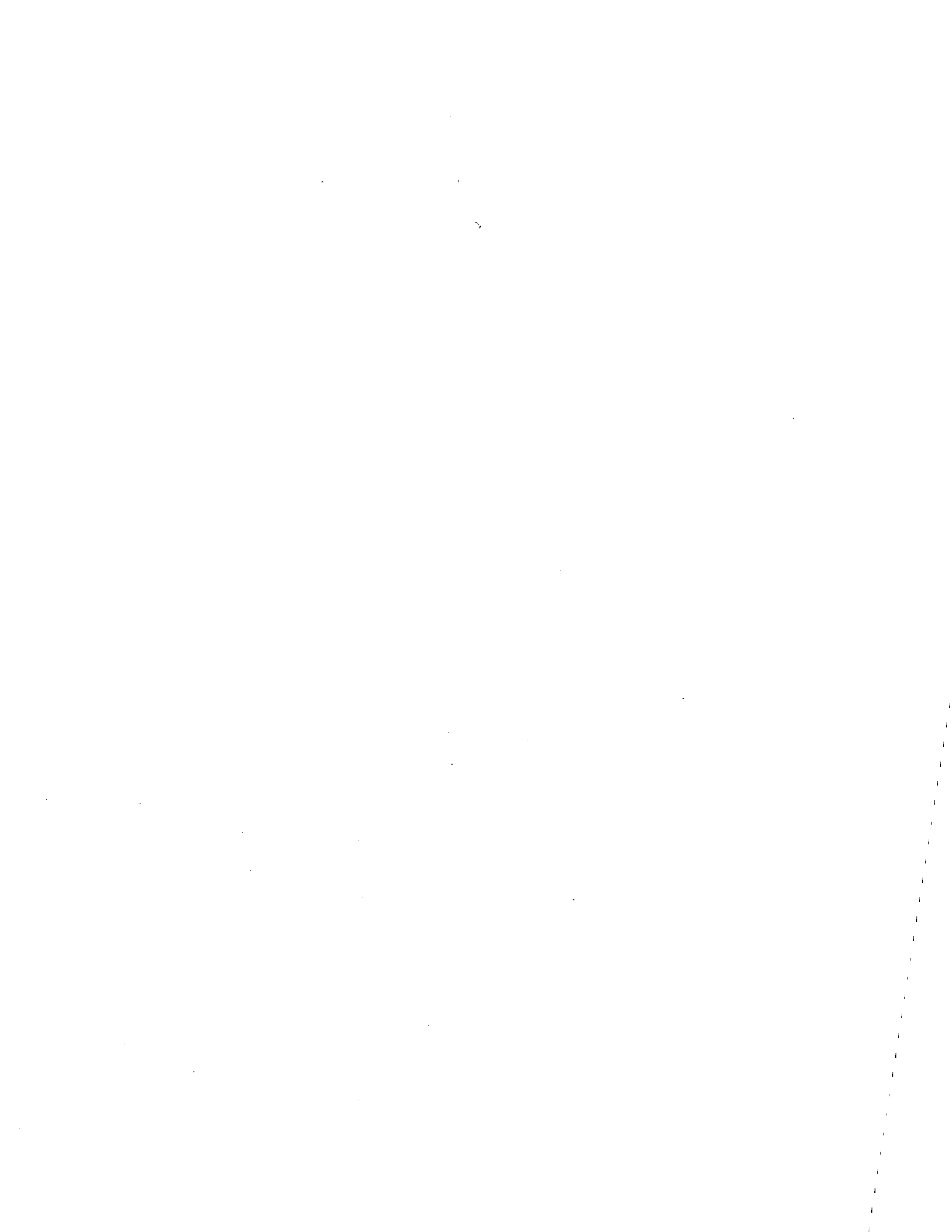
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## SUMMARY

The proposed amendments to Executive Order (EO) 12148, as amended, will accomplish the following:

1. **Update and Revise Certain Delegation Authorities in the Preamble Clause (Section 1)**
  - Delete the Federal Civil Defense Act (FCDA)
  - Delete the Disaster Relief Act of 1974
  - Add the Stafford Act, except for Title VI
  - Delete the Defense Production Act (DPA)
  - Delete the Strategic and Critical Materials Stock Piling Act
  - Update codification of Section 202 of the Budget and Accounting Procedures Act of 1950.
2. **Eliminate Provisions Based on the former Civil Defense Act and Reorganization Plan No. 1 of 1958 (Section 2)**
  - Revoke Delegation to the Director (4-103(a))
  - Revoke Exemption from Delegation to Director (4-103(b)).
3. **Eliminate Superseded, Obsolete Delegations to the Director (Section 3)**
  - Revoke delegations under Commodity Credit Corporation Charter Act (4-205)
  - Revoke delegations under the Federal Property and Administrative Services Act of 1949 (4-206)
  - Revoke delegations under former Section 502 of the Civil Defense Act (4-207).
4. **Modify the Director's Redelelegation Authority and the President's Undelegated Authorities (Section 4)**
  - a. **Redelelegation Authorities (4-104)**
    - Eliminate reference to a delegation (4-101) revoked by P.L. 100-180

- Eliminate reference to delegations (4-103) based on the former Civil Defense Act.
- b. Undelegated Authorities (4-203)
- Add reference to Section 611(c) of the Stafford Act (redelegation of Title VI authorities)
  - Add reference to Section 623(3) of the Stafford Act (duplicate or parallel activity).
5. **Limit Scope of Authority Transferred to the Director from the former Federal Preparedness Agency (1-103) to Continuity of Government (COG) Functions (Section 5)**
- Add new Section 4-3
    - Eliminates any actual or implied delegations to the Director under the Defense Production Act, the Buy American Act, and certain Stockpiling Acts
    - Eliminates certain conflicts with EOs 12919 and 12626.
6. **Modify "Civil Emergency" Responsibilities (Section 2) of the Director, the National Security Council, and the Secretary of Defense (Section 6)**
- Merge "civil defense" and "civil emergency" functions
  - Delete references to "civil defense"
  - Expand definition of "civil emergency" (2-203) to include any attack or threat of attack using weapons of mass destruction
  - Eliminate coordination assignments relating to dam safety and natural and nuclear disaster warning systems (2-103)
  - Eliminate oversight role of the Secretary of Defense with respect to the Director's attack-related "civil emergency" policies and programs (2-204)
  - Limit the oversight role of the National Security Council to only the attack-related "civil emergency" policies and programs of the Director (2-204)
  - Retain the assigned support role of the Secretary of Defense with respect to the Director's attack-related "civil emergency" programs (2-205)

- Eliminate existing, but no longer necessary transition provisions (2-3)
- Add a new saving provision (2-3) that protects the Director's own authorities under Title VI of the Stafford Act
- Add the term "Preparedness" to the heading of Section 2.

The proposed amendments described above are based primarily on the repeal of the Federal Civil Defense Act, the enactment of Title VI of the Stafford Act, and the issuance of EO 12919. Most of the changes are intended to facilitate the implementation of the Defense Production Act, EO 12919, and Title VI of the Stafford Act, especially as they relate to the development of FEMA policies and programs for resource preparedness in the post-Cold War environment.

NOTE: Only a selected, "national security" portion of the delegations and assignments in EO 12148 were assessed to determine the need for their deletion or revision. As a result, this assessment did not include the transfers and delegations contained in sections 1, 4-105, 4-106, 4-107, 4-201, 4-202 and 4-204.

A draft of a proposed, amending Executive order is attached as Exhibit I. A marked-up, annotated version of the current EO 12148, which shows the proposed deletions and additions, is attached as Exhibit II. A revised post-amendment version of EO 12148 is provided as Exhibit III.

Two additional exhibits provide further explanatory material. These are a "before and after" depiction of certain changes to the FEMA Director's responsibilities that will result from the proposed amendments (Exhibit IV), and a list of policy issues relating to the advisory role of the Director and additional responsibilities of the National Security Council that were not addressed in this assessment (Exhibit V).

## BACKGROUND

EO 12148 of July 20, 1979, Federal Emergency Management, in conjunction with Reorganization Plan #3 of 1978, assigns to and consolidates in the FEMA Director various advisory, planning, coordination and operational responsibilities concerning national security and domestic disasters that were previously allocated to the heads of other departments and agencies.

EO 12148 replaced or superseded several Executive orders concerning "civil defense" (EOs 10242, 10529, and 10952), national security preparedness (EOs 11051 and 11725), and domestic disaster relief (EOs 10634, 11749, and 11795). The functions previously delegated to FEMA's predecessor, the Federal Preparedness Agency, in EO 11725 were specifically reassigned to the FEMA Director in Section 1-103 of EO 12148. These functions included continuity of government (COG) planning and operations that had been originally given to the Office of Emergency Preparedness in EO 11051.

To further implement the consolidation of emergency preparedness functions in the FEMA Director, several other Executive orders were amended by EO 12148. They included EOs 10421 (physical security of defense facilities), 10480 (Defense Production Act), 10582 (Buy American Act), 10789 (national defense contracting authority under 50 USC 1431), 11179 (National Defense Executive Reserve), 11490 (national emergency preparedness) and 12046 (emergency telecommunications).

NOTE: Some of the Executive orders amended by EO 12148 have since been further amended or replaced. In 1984, EO 12046 was amended and revoked in part by EO 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions. In 1988, EOs 10421 and 11490 were revoked and replaced by EO 12656, Assignment of Emergency Preparedness Responsibilities. In 1994, EOs 10480 and 11179 were replaced by EO 12919, National Security Industrial Responsiveness. These newer EOs assign a diminished or more administrative and less directive role to the FEMA Director on national security matters than the EOs they replaced. EO 12148, however, has not kept pace with these changes and been amended to eliminate the inconsistencies and anomalies created by these superseding EOs.

Shortly after EO 12148 was issued in 1979, the FEMA Director was assigned certain responsibilities under the Strategic and Critical Materials Stock Piling Act (EO 12155), but these were revoked in 1987 by P.L. 100-180 and transferred in 1988 to the Secretary of Defense (EO 12626). In 1989, as a result of EO 12673, EO 12148 was further amended to replace delegations under the Disaster Relief Act of 1974 with its replacement the Stafford Act.

EO 12148 was last amended in 1994 by EO 12919. This eliminated Section 3, an obsolete, unused 1979 provision that had established the Federal Emergency Management Council. The remaining



delegations to the FEMA Director in EO 12148 are based on the President's authority under the Constitution and laws of the United States. Such laws specifically include the National Security Act of 1947, as amended; the Defense Production Act of 1950, as amended; the Federal Civil Defense Act of 1950, as amended; Reorganization Plan No. 1 of 1958; Reorganization Plan No. 1 of 1973; the Earthquake Hazards Reduction Act of 1977; and 3 USC 301.

In October 1994, as a result of Title XXXIV of the National Defense Authorization Act for Fiscal Year 1995 (P.L. 103-337), the Federal Civil Defense Act of 1950 was repealed (106 Stat. 3111) and replaced (106 Stat. 3100) with a new Title VI of the Stafford Act, which is codified at 42 U.S.C. 5195 et seq. A subsequently stated purpose of Title XXXIV of P.L. 103-337 was "to move all of FEMA's civil defense activities out of the National Defense budget function...into other domestic budget accounts."- See H. Rep. 104-131 on H.R. 1530, National Defense Authorization Act, FY 96, p. 255.

The authorities under the new Title VI of the Stafford Act, unlike those under the Federal Civil Defense Act, as modified by Reorganization Plan No. 1 of 1958, are vested directly in the FEMA Director. Title XXXIV of P.L. 103-337 also has the following consequences:

1. Implied revocation of the express delegations to the FEMA Director in Section 4-103(a) of EO 12148 of the President's authority under the Federal Civil Defense Act and Reorganization Plan No. 1 of 1958.
2. Implied revocation of the President's delegations in EOs 12656, 12657, and 12472 of the President's authority under the Federal Civil Defense Act and the 1958 Reorganization Plan.
3. Removal of the President's express authority under the former Federal Civil Defense Act to "direct and control" the "emergency preparedness" activities of the FEMA Director under the new Title VI of the Stafford Act.

The repeal of the Federal Civil Defense Act does not, however, have any effect on any express or implied Constitutional authority the President may have to defend the nation and its civilian population from attack, i.e., to establish attack-related emergency programs under his own independent authority, as was done during World War II and prior to the enactment of the Federal Civil Defense Act.

NOTE: EO 10186 of December 1, 1950, established the Federal Civil Defense Administration in the Office for Emergency Management (OEM) of the Executive Office of the President. The OEM was first established in 1940 by means of an "administrative order" pursuant to Part I of EO 8248 of September 8, 1939. EO 10186 relied only on the Constitution and unspecified "statutes of the United States" to establish the new administration in the OEM. EO 8757 of May 20, 1941, established the Office of Civilian Defense in the same OEM and also relied on

only the Constitution and unspecified "statutes of the United States." The Office of Civilian Defense was modified and enhanced during World War II by EOs 9134, 9165, and 9389. The Office of Civilian Defense was terminated in June 1945 by EO 9562. In 1948, an Office of Civil Defense Planning was established in the Department of Defense. In 1949 this office became the Civil Defense Liaison Office after the President assigned primary responsibility for civil defense planning to the National Security Resources Board.

The proposed amendments to Section 2 of EO 12148, by retaining and expanding on the concept and definition of "civil emergency," will acknowledge the historical and legal precedents for continuing attack-related assignments by the President. These proposed amendments assume, however, that the existing "civil defense" assignments in Section 2 of EO 12148 are not based solely on the repealed Federal Civil Defense Act and that the President, as Chief Executive Officer of the United States, under the Constitution, has independent authority to defend the nation against attack and take appropriate preparedness actions such as those taken by Presidents Roosevelt and Truman during and after World War II, without the benefit of specific statutory authority.

By including any attack with weapons of mass destruction as part of the "civil emergency" concept and definition, the proposed amendment to Section 2 will subsume or merge the term "civil defense" into the term "civil emergency." This merger will also acknowledge the effective demise, neglect, or cancellation of those traditional "civil defense" programs that were authorized and funded by Congress between 1950 and 1994 to protect the civilian population and property in the United States from the effects of a massive nuclear attack by the former Soviet Union.

Retaining and expanding the concept and definition of "civil emergency" will also be compatible with FEMA's existing and funded "all-hazards" programs under the Stafford Act. The revised assignments in Section 2 do not conflict with those given to the Director in Title VI and provide a level of overlapping and supplemental coverage for all kinds of current and potential threats to the United States and neighboring countries.

## SECTION 1

### Deletion of Certain Delegation Authorities

Proposed Amendment. The Preamble clause of Executive Order (EO) 12148 is amended by (a) deleting The Federal Civil Defense Act of 1950, as amended; The Defense Production Act (DPA), as amended; and The Strategic and Critical Materials Stock Piling Act, as amended; and (b) replacing certain outmoded statutory references with the most recent, codified versions. The proposed amendment reads as follows:

"Section 1. The Preamble (authorities) clause is amended to read as follows:

"By the authority vested in me as President by the Constitution and laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except for Title VI thereof (42 U.S.C. 5195 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), Section 4 of Public Law 92-385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285), the National Security Act of 1947, as amended, Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, Section 202 of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1531), and Section 301 of Title 3 of the United States Code, and in order to assign certain emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:""

#### Explanation.

##### a. Deletion of Certain Statutes.

(1) The deletion of the Federal Civil Defense Act is based on its repeal by Section 3412(a) of P.L. 103-337 (108 Stat. 3111.)

(2) The reference to the Defense Production Act is deleted to eliminate confusion and potential conflicts over the scope of the FEMA Director's delegated authorities. EO 12919, which replaced EO 10480 in 1994, contains more explicit and limited delegations to the FEMA Director than EO 12148 (see Section 1-103) and should be the controlling or exclusive source of the FEMA Director's authority under the DPA. See also Section 5 below (proposed new Section 4-3, which limits the scope of transferred functions in Section 1-103 to COG functions only).

(3) The deletion of the reference to the Stock Piling Act is based on EO 12626 (1988), which reassigned various Stock Piling Act functions to the Secretary of Defense (SecDef). The FEMA Director's authority for these functions was based on EO 12155 (1979), which was revoked in 1987 by P.L. 100-180 (101 Stat. 1247.)

b. Replacing Certain Statutory References.

(1) The new Stafford Act reference replaces two obsolete, superseded Disaster Relief Act references. It also completes an amendment process to EO 12148 that began with Sections 1 and 6 of EO 12673 (amending Section 4-203). The "exception" clause in the Preamble is intended to exclude Title VI of the Stafford Act from the preceding "vesting" clause. This exception clause is also intended to acknowledge and protect the FEMA Director's exclusive authority with respect to "emergency preparedness" activities included in that Title. This exclusion is not intended, however, to preclude the President's retention of his specified approval authority in Sections 611(c) and 623(3) of the Stafford Act, which will be retained in Section 4.b of the proposed Order (amending Section 4-203 of EO 12148).

NOTE: The Stafford Act was last amended in 1995 by Section 2071 of P.L. 104-66, which repealed Section 611(i)(3) (reports to Congress on property acquisitions) and renumbered subparagraphs (4) and (5).

(2) The most recent, codified reference to Section 202 of the Budgeting and Accounting Procedures Act is 31 U.S.C. 1531.

NOTE: The assessment of EO 12148 did not consider whether this authority is still needed.

## SECTION 2

### Revocation of Section 4-103

Proposed Amendment. Section 4 of EO 12148 is amended by revoking Section 4-103(a) (redelegation of former FCDA functions to the FEMA Director) and Section 4-103(b)(exclusion of delegation under former FCDA). The proposed amendment reads as follows:

"Section 2. In recognition of the repeal of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), by Section 3412 (a) of P.L. 103-337 (108 Stat. 3111), Section 4-103 is revoked."

Explanation. The President's authority to make the reassignment or delegation in Section 4-103(a) of EO 12148 to the FEMA Director was based on the 1958 Reorganization Plan. The retention of authority in Section 4-103(b) is based on the same plan. Section 4-103(b) excluded a delegation of certain personnel standards functions contained in Section 205(a)(4) of the Federal Civil Defense Act, which has been repealed. Its successor, in modified form, is the new Section 613(b)(4) of the Stafford Act, which omits the language included in Section 4-103(b) of EO 12148.

Since Title XXXIV of P.L. 103-337 implicitly repealed certain portions of the plan by substituting the FEMA Director for the President as the exclusive administrator of the new Title VI authorities, the President no longer has the authority to preserve the delegation or retention of the Civil Defense Act functions that are now contained in Section 4-103 of EO 12148.

## SECTION 3

### Revocation of Superseded or Obsolete Delegations

Proposed Amendments. Section 4 of EO 12148 is further amended by revoking Subsections 4-205, 4-206, and 4-207. The proposed amendment reads as follows:

"Section 4. To further acknowledge other legislative and Presidential actions, the following Subsections in Executive Order 12148 are revoked:

- a. Section 4-205
- b. Section 4-206
- c. Section 4-207."

Explanation.

a. Section 4-205 redelegated certain Commodity Credit Corporation functions. This section was superseded in 1988 by EO 12626, which reassigned this function to the SecDef.

b. Section 4-206 redelegated a Federal Property and Administrative Services Act function to the FEMA Director. This section was superseded in 1988 by EO 12626, which reassigned the function to the SecDef.

c. Section 4-207 delegated to the FEMA Director certain civil defense functions under Section 502 of the Federal Civil Defense Act which was repealed in 1993 by Section 3402(e)(1) of P.L. 103-160 (107 Stat. 1964).

## SECTION 4

### Clarifications and Technical Amendments

Proposed Amendments. Section 4 of EO 12148 is further amended by deleting certain obsolete references from Section 4-104 and adding certain section references from Title VI of the Stafford Act to the exclusion language of Section 4-203. The proposed amendment reads as follows:

"Section 4. To make other clarifying or technical changes:

a. Section 4-104 is amended to read as follows:

"The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C. App. 2271 note), any of the functions delegated by Section 4-102 of this Order."

b. Section 4-203 is amended to read as follows:

"The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except those functions vested in the President by Section 401 (relating to the declaration of emergencies and major disasters), Section 501 (relating to the declaration of emergencies), Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities), Section 412 (relating to food coupons and distribution), Section 611(c) (relating to the delegation of emergency preparedness responsibilities to other departments and agencies), and Section 623(3) (relating to duplicate or parallel activity of any other Federal department or agency), are hereby delegated to the Director of the Federal Emergency Management Agency.""

#### Explanation.

a. Section 4-104 authorized redelegations by the FEMA Director of functions delegated in Sections 4-101, 4-102, and 4-103 of EO 12148. The proposed amendment deletes references to Sections 4-101 and 4-103. Section 4-101 was revoked by P.L. 100-180. Section 4-103 has been implicitly revoked by Title XXXIV of P.L. 103-337. The remaining authorization in Section 4-104 properly allows the FEMA Director to redelegate functions assigned in Section 4-102 which involve certain functions under the National Security Act of 1947 (50 U.S.C 404-405). These functions include advising the President on such matters as continuity of government.

b. Section 4-203 both delegates and excludes delegations under the Stafford Act (42 U.S.C. 5121 et seq.), which now includes the new Title VI. The proposed amendment includes in the exception clause the only two provisions in the Title VI of the Stafford Act that assign functions to the President. They are Section 611(c) (relating to the delegation of emergency preparedness responsibilities to other Federal departments and agencies) and Section 623(3) (relating to duplicate or parallel activity of any other Federal department or agency). Both of these provisions require approval of the President before the FEMA Director can act.

The addition of sections 611(c) and 623(3) to the list of excluded delegations in Section 4-203 protects the President's limited authority to control redelegations by the FEMA Director of Title VI responsibilities to the heads of other departments/agencies, and also may prevent unnecessary duplication of activities by other departments and agencies.



## SECTION 5

### Clarification and Limitation of Delegations under Section 1-103

Proposed Amendment. Section 4 of EO 12148 is further amended by adding a new Subsection 4-3 that modifies and limits the scope of functions (originally transferred to the FEMA Director from its immediate predecessor, the Federal Preparedness Agency, in Section 1-103) to only "continuity of government" functions. The proposed amendment reads as follows:

"Section 5. To clarify and limit the scope of functions transferred to the Director, Federal Emergency Management Agency, from the former Federal Preparedness Agency, Section 4 is further amended by adding the following new Subsection 4-3:

"4-3. Revised Delegation of Functions in Section 1-103.

Those functions transferred or reassigned to the Director of the Federal Emergency Management Agency pursuant to Section 1-103 shall be limited to those functions concerning continuity of government."

Explanation. The new Section 4-3 clarifies and limits the scope of functions transferred to the FEMA Director from the former Federal Preparedness Agency (FPA). The amendment eliminates any transferred delegations based on the Defense Production Act, the specific Stock Piling Acts, and the Buy American Act which are now specifically delegated under other Executive Orders, such as EOs 12626 and 12919. The only delegated authority that remains is that related to continuity of government (COG) programs or functions, which are based on the National Security Act of 1947, as amended, and the President's authority as Chief Executive Officer of the United States. As indicated in the following discussion, the elimination of any implied transfers of Defense Production Act authorities to the Director will eliminate any actual or potential conflicts with the more controlling EO 12919.

Discussion. Section 1-103 [EO 12148] transferred or reassigned to the FEMA Director all functions vested in the President that were delegated or assigned to the Federal Preparedness Agency (FPA) of the General Services Administration (GSA). Such prior delegations to the FPA were made in 1973 by means of certain provisions in EO 11725. These included the transfer to GSA/FPA of authorities previously made to the Director, Office of Emergency Preparedness, in 1962 by EO 11051. Most of EO 11051 and 11725, as amended, remained in effect until their revocation by Sections 5-109 and 5-112 of EO 12148 in 1979.

Section 3 of EO 11725 specifically transferred to the Administrator of the GSA all authority vested in the Director, Office of Emergency Preparedness, as of June 30, 1973, with certain exceptions relating to disaster relief (Section 1) and import investigations (Section 2). Section 5 of EO 11725 also authorized the GSA Administrator to establish a subordinate agency which became the FPA. The FPA was FEMA's immediate predecessor agency.

The transfer of specific Defense Production Act (DPA) related functions in EO 11725 were those assigned in EOs 10421 (1952), 10480 (1953), 10494 (1953), 10634 (1955), 11051 (1962), 11179 (1964), and 11490 (1969). Of these DPA-related Executive Orders only EOs 10480 and 11179 remained in effect from June 30, 1973 to June 3, 1994, when they were revoked by EO 12919. EOs 10494, 10634, and 11051 were revoked in 1979 by EO 12148. EOs 10421 and 11490 were revoked in 1988 by EO 12656.

However, Section 3(12) of EO 11725 also transferred to the GSA Administrator those authorities under EO 11051 "relating to non-military emergency preparedness planning, particularly under the National Security Act of 1947, as amended, and related functions under the Defense Production Act of 1950, the Strategic and Critical Materials Stock Piling Act, the Supplemental Stockpile Act, and the Buy American Act." EO 12919 did not expressly supersede or revoke any of the resource preparedness functions included, directly or indirectly, in Section 3(12) [EO 11725] or derived from EO 11051, all of which were transferred to the FEMA Director in Section 1-103 of EO 12148. The ultimate purpose of section 5, amending section 4 of EO 12148, is to eliminate any actual or potential confusion or conflict concerning the source of the FEMA Director's delegated authorities under the DPA, while still preserving the sole source of his authority to perform operational COG functions.

## SECTION 6

### Modification of Civil Emergency Responsibilities under Section 2

#### Proposed Amendment.

a. Summary. The proposed amendments to Section 2 of EO 12148, while eliminating express references to "civil defense," will merge and continue to assign activities related to passive nuclear attack defense programs into an expanded concept and definition of "civil emergency." These changes recognize the loss of legislative and budgetary support for traditional "civil defense" programs which were based on the threat of a massive nuclear attack by the former Soviet Union; but they also acknowledge the continuing need for national programs that could protect the civilian population from any nuclear weapons attack regardless of its source. The expanded definition of "civil emergency" (2-203) recognizes this need, as well as others, by including "any... attack using any nuclear, chemical or biological device (weapon of mass destruction), or threat thereof...."

The proposed amendment reads as follows:

"Section 6. To modify civil emergency responsibilities of the Director, Federal Emergency Management Agency, the National Security Council and the Secretary of Defense, and for other purposes, Section 2 is amended to read as follows:

#### **"SECTION 2. MANAGEMENT OF EMERGENCY PLANNING, PREPAREDNESS AND ASSISTANCE**

##### **2-1. General.**

2-101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2-102. The Director shall periodically review and evaluate the civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The Director shall be responsible for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents as a part of the assigned civil emergency functions.

2-104. The Director shall represent the President in working with State and local governments and private sector to stimulate participation in civil emergency preparedness, mitigation, response, and recovery programs.

2-105. The Director shall provide reports to the President, as requested, on the civil emergency activities of the Federal Emergency Management Agency. Such reports shall assess the current overall state of effectiveness of Federal civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

## 2-2. Implementation.

2-201. In executing the functions under this Order, the Director shall develop policies which provide that all civil emergency functions, resources, and systems of Executive agencies are:

- (a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;
- (b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and
- (c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2-203. For purposes of this Order, 'civil emergency' means any accidental, natural, man-caused, or wartime emergency, or attack using any nuclear, chemical, or biological device (weapon of mass destruction), or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil emergency planning continues to be fully compatible with the Nation's national security policy and planning, the development of attack-related civil emergency policies and programs by the Director shall be subject to oversight by the National Security Council.

2-205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director with support for attack-related civil emergency programs in

the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2-206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

### 2-3. Retention of Existing Authority.

Nothing in this Order shall be deemed to derogate from any functions assigned to the Director by law."

#### Explanation.

a. Expanding the "civil emergency" concept. The expanded "civil emergency" concept, in combination with the Director's own "emergency preparedness" authorities under Title VI of the Stafford Act, is intended to provide a comprehensive, multiple basis for a complete "all hazards" emergency management program at the Federal level. This dual approach to Federal emergency management, despite some redundancy and overlap, can nevertheless help to create a seamless coverage for all actual or potential threats to the United States and neighboring countries.

Note: The 1993 amendments to the Federal Civil Defense Act (Title XXXIV of P.L. 103-160) substituted the term "attack-related disaster" for "attack" and included the new term in the definition of another new term, "hazard." The replacement definition for "hazard" in the new Title VI of the Stafford Act omits the reference to "attack-related disaster," and its definition is also dropped. Instead, the term "hazard" only includes a reference to "an accidental or man-caused event," which is not defined. The effect of these changes on the intended or actual scope of Title VI has not been determined.

Additional modifications to Section 2 accomplish the following:

- remove the oversight roles (2-204) of the Secretary of Defense and the National Security Council with respect to development of FEMA's nuclear attack-related "civil defense" policies and programs.
- retain a support role (2-205) of the Secretary of Defense for FEMA's attack-related "civil emergency" programs.
- assign to the National Security Council an oversight role with respect to the development of FEMA's attack-related "civil emergency" policies and programs.

Note: These revisions to Section 2 of EO 12148 assume that the President, as Chief Executive Officer of the United States under the Constitution, has independent authority to defend the Nation against attack and to take appropriate preparedness actions. As previously indicated in the Background section, Presidents Roosevelt and Truman took such actions without the existence of any "civil defense" statutes, both during and after World War II.

b. Removing SecDef Oversight with Respect to FEMA's "Civil Emergency" Functions. Section 2-204 currently provides for both NSC and SecDef oversight with respect to the development of FEMA's nuclear attack "civil defense" policies and programs to ensure they conform to overall strategic policy. The repeal of the Federal Civil Defense Act and the enactment of the new Title VI of the Stafford Act has eliminated, as intended by Congress, any Department of Defense funding for FEMA's "civil defense" or domestic "emergency preparedness" programs. Thus, the elimination of any SecDef oversight role, though not mandated or required by the repeal of the Act, is still an appropriate acknowledgment of DoD's diminished authority and funding of "civil defense" as it has evolved over the years into an "all-hazards" activity. In any case, the continuation of NSC oversight over the development of FEMA's attack-related policies and programs should be sufficient, and the NSC can always solicit comments from DoD and other departments and agencies, as appropriate, if additional advise or assistance is needed to perform its oversight function.

c. Deleting Certain Delegations Covered by Title VI of the Stafford Act. A modified Section 2-103 of EO 12148 eliminates the assignments relating to dam safety and warning systems. According to President Carter's letter to Congress transmitting Reorganization Plan No. 3 of 1978, which created FEMA, the three coordination responsibilities (dam safety, consequences of terrorism, and warning systems) subsequently assigned to the FEMA Director in this section were apparently not based on the Federal Civil Defense Act but were separate, independent activities assigned (dam safety and warning systems), or not clearly assigned, (terrorism consequences) by the President to one or more organizations within the Executive branch. President Carter's letter expressed his intention to consolidate these three responsibilities within FEMA. However, prior to its recent repeal, the Federal Civil Defense Act was expanded in 1993 by Section 3402 of P.L. 103-160 (107 Stat. 1962) into an "all-hazards" authority, and this expanded authority was preserved and carried over into the new Title VI of the Stafford Act. Accordingly, the delegations concerning dam safety and warning systems were treated in this assessment as covered by Title VI and therefore were removed from EO 12148. However, the "terrorism" assignment has been preserved in EO 12148 as part of the Director's retained, but modified "civil emergency" functions, due to the increased importance of the domestic terrorism threat in the post-Cold War environment.

NOTE: The deletion of the "dam safety" delegation can also be justified by the direct statutory authority given to the Director in 1997 by Section 215 of P.L. 104-303, the "National Dam Safety Program Act" (33 U.S.C. 467).

d. Insertion of Title VI "Savings" Clause. The proposed amendment to Section 2 will also include language that will preclude the President from using assignments in Section 2 to override the Director's independent statutory authority under Title

VI of the Stafford Act. The new Subsection 2-3 of EO 12148, without identifying any specific "law," effectively excludes the "emergency preparedness" responsibilities assigned to the FEMA Director by the new Title VI of the Stafford Act from the scope of the President's delegations and assignments in EO 12148, especially those in Section 2. This new subsection is based on Section 209 of EO 12656. This provision is intended to subordinate the provisions of EO 12148 to those in Title VI of the Stafford Act in case of conflict between them.

NOTE: A similar "savings" clause has been included in the proposed amendments to EO 12919 as submitted in December 1996 to the National Security Advisor by the FEMA Director.

A comparison of Section 2 of EO 12148, and Title VI indicates, however, that no such conflict is likely to take place. Indeed, the provisions of Section 2 supplement, parallel, complement, and provide broader coverage than those in Title VI and appear to include authorities not specifically covered by Title VI. For example, under Section 2, the Director is authorized to represent the President in working with the "private sector" to stimulate participation in civil emergency preparedness, mitigation, response and recovery programs (2-104). Title VI, in contrast, provides no specific authority for working with the "private sector" and is limited in scope to only "emergency preparedness" activities.

NOTE: The definition for "civil emergency," both before and after the amendment to Section 2-203, can be considered as more comprehensive and inclusive than the "hazard" definition in Title VI in that the former specifically includes "war time" emergencies. In effect, the amended Section 2 of EO 12148 is intended to provide a greater, supplemental, and more comprehensive range of authorities to the Director than does Title VI. In any event, there is little likelihood that Section 2 will derogate from or otherwise undermine or negate the Director's assigned responsibilities under Title VI.

e. Changing the Heading for Section 2. The current title is modified to acknowledge the Director's assigned "preparedness" responsibilities in Section 2-104 and the independent authorities under Title VI of the Stafford Act, which are exempted from the scope of EO 12148 by the addition of a new Section 2-3.

# EXHIBIT I

## Proposed Amending Order

Executive Order \_\_\_\_\_

### Revision of Emergency Management Assignments in and other Conforming Amendments to Executive Order 12148

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America and in order to acknowledge and implement changes in certain statutes and Executive Orders concerning emergency management, and for other reasons, Executive Order 12148 of July 20, 1979, as amended, is hereby further amended as follows:

Section 1. The Preamble (authorities) clause is amended to read as follows:

"By the authority vested in me as President by the Constitution and laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except for Title VI thereof (42 U.S.C. 5195 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), Section 4 of Public Law 92-385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285), the National Security Act of 1947, as amended, Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, Section 202 of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1531), and Section 301 of Title 3 of the United States Code, and in order to assign certain emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:"

Section 2. In recognition of the repeal of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), by Section 3412 (a) of P.L. 103-337 (108 Stat. 3111), Subsection 4-103 is revoked.

Section 3. To further acknowledge other legislative and Presidential actions, the following subsections are revoked:

- a. 4-205
- b. 4-206
- c. 4-207.



Section 4. To make other clarifying or technical changes:

a. Section 4-104 is amended to read as follows:

"The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C. App. 2271 note), any of the functions delegated by Section 4-102 of this Order."

b. Section 4-203 is amended to read as follows:

"The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except those functions vested in the President by Section 401 (relating to the declaration of emergencies and major disasters), Section 501 (relating to the declaration of emergencies), Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities), Section 412 (relating to food coupons and distribution), Section 611(c) (relating to the delegation of emergency preparedness responsibilities to other departments and agencies), and Section 623(3) (relating to duplicate or parallel activity of any other Federal department or agency), are hereby delegated to the Director of the Federal Emergency Management Agency."

Section 5. To clarify and limit the scope of functions transferred to the Director, Federal Emergency Management Agency, from the former Federal Preparedness Agency, Section 4 is further amended by adding the following new Subsection 4-3:

"4-3. Revised Delegation of Functions in Section 1-103.

Those functions transferred or reassigned to the Director of the Federal Emergency Management Agency pursuant to Section 1-103 shall be limited to those functions concerning continuity of government."

Section 6. To modify civil emergency responsibilities of the Director, Federal Emergency Management Agency, the National Security Council and the Secretary of Defense, and for other purposes, Section 2 is amended to read as follows:

**"SECTION 2. MANAGEMENT OF EMERGENCY PLANNING, PREPAREDNESS AND ASSISTANCE**

**2-1. General.**

2-101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all

civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2-102. The Director shall periodically review and evaluate the civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The Director shall be responsible for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents as a part of the assigned civil emergency functions.

2-104. The Director shall represent the President in working with State and local governments and private sector to stimulate participation in civil emergency preparedness, mitigation, response, and recovery programs.

2-105. The Director shall provide reports to the President, as requested, on the civil emergency activities of the Federal Emergency Management Agency. Such reports shall assess the current overall state of effectiveness of Federal civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

## 2-2. Implementation.

2-201. In executing the functions under this Order, the Director shall develop policies which provide that all civil emergency functions, resources, and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2-203. For purposes of this Order, 'civil emergency' means any accidental, natural, man-caused, or wartime emergency, or attack using any nuclear, chemical, or biological device (weapon of mass destruction), or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil emergency planning continues to be fully compatible with the Nation's national security policy and planning, the development of attack-related civil emergency policies and programs by the Director shall be subject to oversight by the National Security Council.

2-205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director with support for attack-related civil emergency programs in the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2-206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

### 2-3. Retention of Existing Authority.

Nothing in this Order shall be deemed to derogate from any functions assigned to the Director by law."

## EXHIBIT II

### Executive Order 12148 with Line-in/Line-out Changes

#### EXECUTIVE ORDER 12148--FEDERAL EMERGENCY MANAGEMENT

By the authority vested in me as President by the Constitution and laws of the United States of America, including ~~the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), the Disaster Relief Act of 1974, as amended (88 Stat. 143, 42 U.S.C. 5121 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except for Title VI thereof (42 U.S.C. 5195 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), Section 4 of Public Law 92-385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), Section 202 of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 581e 1531), and Section 301 of Title 3 of the United States Code, and in order to ~~transfer assign certain~~ emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:~~

#### SECTION 1. TRANSFERS OR REASSIGNMENTS

##### 1-1. Transfer or Reassignment of Existing Functions.

1-101. All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-102. All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, are transferred or reassigned to the Director of the Federal Emergency Management Agency, including any of those functions redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

1-103. All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), including those functions performed by the Office of Science and Technology Policy, are delegated, transferred, or reassigned to the Director of the Federal Emergency Management Agency.

1-2. Transfer or Reassignment of Resources.

1-201. The records, property, personnel and positions, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or redelegated by this Order are hereby transferred to the Director of the Federal Emergency Management Agency.

1-202. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

**SECTION 2. MANAGEMENT OF EMERGENCY PLANNING, ~~PREPAREDNESS~~ AND ASSISTANCE**

2-1. General.

2-101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all ~~civil defense and~~ civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2-102. The Director shall periodically review and evaluate the ~~civil defense and~~ civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The Director shall be responsible for ~~the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the~~ coordination of preparedness and planning to reduce the consequences of major terrorist incidents ~~as a part of the assigned civil emergency functions.~~

2-104. The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response, and recovery programs.

2-105. The Director shall provide ~~an annual reports~~ to the President, ~~as requested, for subsequent transmittal to the Congress~~ on the functions ~~civil emergency activities~~ of the Federal

Emergency Management Agency. ~~The report~~ ~~Such reports~~ shall assess the current overall state of effectiveness of Federal ~~civil-defense~~ and civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

## 2-2. Implementation.

2-201. In executing the functions under this Order, the Director shall develop policies which provide that all ~~civil defense-and~~ civil emergency functions, resources, and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2-203. For purposes of this Order, 'civil emergency' means any accidental, natural, man-caused, or wartime emergency, ~~or attack using any nuclear, chemical, or biological device (weapon of mass destruction)~~, or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil defense ~~emergency~~ planning continues to be fully compatible with the Nation's overall ~~strategic national security policy and planning, and-in-order-to maintain-an-effective-link-between-strategic-nuclear-planning-and nuclear-attack-preparedness-planning,~~ the development of ~~attack-related~~ civil defense ~~emergency~~ policies and programs by the Director ~~of-the-Federal-Emergency-Management-Agency~~ shall be subject to oversight by the Secretary ~~of-Defense-and-the~~ National Security Council.

2-205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director ~~of the-Federal-Emergency-Management-Agency~~ with support for ~~attack-related~~ civil defense ~~emergency~~ programs in the areas of program development and administration, technical support, research,

communications, transportation, intelligence, and emergency operations.

2-206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

~~2-3. Transition Provisions- Retention of Existing Authority.~~

~~2-301.-The functions which have been transferred, reassigned, or redelegated by Section 1 of this Order are recodified and revised as set forth in this Order at Section 4, and as provided by the amendments made at Section 5 to the provisions of other Orders.~~

~~2-302.-Notwithstanding the revocations, revisions, codifications, and amendments made by this Order, the Director may continue to perform the functions transferred to him by Section 1 of this Order, except where they may otherwise be inconsistent with the provisions of this Order. Nothing in this Order shall be deemed to derogate from any functions assigned to the Director by law.~~

SECTION 3. FEDERAL EMERGENCY MANAGEMENT COUNCIL

(Section 3 revoked by E.O. 12919 of June 3, 1994, 59 FR 29525)

SECTION 4. DELEGATIONS

4-1. Delegation of Functions Transferred to the President.

(Sec. 4-101 added by E.O. 12155 of Sept. 10, 1979, 3 CFR Comp., p. 426, and revoked by P.L. 100-180, 101 Stat. 1247)

4-102. The functions vested in the Director of the Office of Defense Mobilization by Sections 103 and 303 of the National Security Act of 1947, as amended by Sections 8 and 50 of the Act of September 3, 1954 (Public Law 779; 68 Stat. 1228 and 1244) (50 U.S.C. 404 and 405), were transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

~~(4-103 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199 , )~~

~~4-103.--(a) The functions vested in the Federal Civil Defense Administration or its Administrator by the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), were transferred to the President by Reorganization Plan No. 1 of 1958, and they are hereby delegated to the Director of the Federal Emergency Management Agency.~~

~~(b) Excluded from the delegation in subsection (a) is the function under Section 205(a)(4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286(a)(4)), relating to the establishment and maintenance of personnel standards on the merit basis that was delegated to the Director of the Office of Personnel Management by Section 1(b) of Executive Order No. 11589, as amended (Section 2-101(b) of Executive Order No. 12107).~~

4-104. The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C. App. 2271 note), any of the functions delegated by Sections ~~4-101, 4-102, and 4-103~~ of this Order.

4-105. The functions vested in the Administrator of the Federal Civil Defense Administration by Section 43 of the Act of August 10, 1956 (70A Stat. 636) were transferred to the President by Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), were subsequently revested in the Director of the Office of Civil and Defense Mobilization by Section 512 of Public Law 86-500 (50 U.S.C. App. 2285) [the office was changed to Office of Emergency Planning by Public Law 87-296 (75 Stat. 630) and then to the Office of Emergency Preparedness by Section 402 of Public Law 90-608 (82 Stat. 1194)], were again transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-106. The functions vested in the Director of the Office of Emergency Preparedness by Section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241-1), were transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-107. That function vested in the Director of the Office of Emergency Preparedness by Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, and as further amended (20 U.S.C. 1132d-1(a)), to the extent transferred to the President by Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), is hereby delegated to the Director of the Federal Emergency Management Agency.

#### 4-2. Delegation of Functions Vested in the President.

4-201. The functions vested in the President by the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), are hereby delegated to the Director of the Federal Emergency Management Agency.



4-202. The functions (related to grants for damages resulting from hurricane and tropical storm Agnes) vested in the President by Section 4 of Public Law 92-385 (86 Stat. 556) are hereby delegated to the Director of the Federal Emergency Management Agency.

4-203. The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except those functions vested in the President by Section 401 (relating to the declaration of emergencies and major disasters), Section 501 (relating to the declaration of emergencies), Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities), and Section 412 (relating to food coupons and distribution), Section 611(c) (relating to the delegation of emergency preparedness responsibilities to other departments and agencies), and Section 623(3) (relating to duplicate or parallel activity of any other Federal department or agency), are hereby delegated to the Director of the Federal Emergency Management Agency.

4-204. The functions vested in the President by the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. 7701 et seq., are hereby delegated to the Director of the Federal Emergency Management Agency.

~~{4-205 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199\_\_}~~

~~4-205.-Effective July 30, 1979, the functions vested in the President by Section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), are hereby delegated to the Director of the Federal Emergency Management Agency.~~

~~{4-206 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199\_\_}~~

~~4-206.-Effective July 30, 1979, the functions vested in the President by Section 204(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)), are hereby delegated to the Director of the Federal Emergency Management Agency.~~

~~{4-207 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199\_\_}~~

~~4-207.-The functions vested in the President by section 502 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2302), are delegated to the Director of the Federal Emergency Management Agency.~~

~~4-4 Revised Delegation of Functions in Section 1-103.~~

~~Those functions transferred or reassigned to the Director of the Federal Emergency Management Agency pursuant to Section 1-103 shall be limited to those functions concerning continuity of government.~~

## SECTION 5. OTHER EXECUTIVE ORDERS

### 5-1. Revocations.

5-101. Executive Order No. 10242, as amended, entitled 'Prescribing Regulations Governing the Exercise by the Federal Civil Defense Administrator of Certain Administrative Authority Granted by the Federal Civil Defense Act of 1950', is revoked.

5-102. Sections 1 and 2 of Executive Order No. 10296, as amended, entitled 'Providing for the Performance of Certain Defense Housing and Community Facilities and Service Functions', are revoked.

5-103. Executive Order No. 10494, as amended, relating to the disposition of remaining functions, is revoked.

5-104. Executive Order No. 10529, as amended, relating to federal employee participation in State and local civil defense programs, is revoked.

5-105. Section 3 of Executive Order No. 10601, as amended, which concerns the Commodity Set Aside, is revoked.

5-106. Executive Order No. 10634, as amended, relating to loans for facilities destroyed or damaged by a major disaster, is revoked.

5-107. Section 4(d)(2) of Executive Order No. 10900, as amended, which concerns foreign currencies made available to make purchases for the supplemental stockpile, is revoked.

5-108. Executive Order No. 10952, as amended, entitled 'Assigning Civil Defense Responsibilities to the Secretary of Defense and Others', is revoked.

5-109. Executive Order No. 11051, as amended, relating to responsibilities of the Office of Emergency Preparedness, is revoked.

5-110. Executive Order No. 11415, as amended, relating to the Health Resources Advisory Committee, is revoked.

5-111. Executive Order No. 11795, as amended, entitled 'Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974', is revoked, except for Section 3 thereof.

5-112. Executive Order No. 11725, as amended, entitled 'Transfer of Certain Functions of the Office of Emergency Preparedness', is revoked.

5-113. Executive Order No. 11749, as amended, entitled 'Consolidating Disaster Relief Functions Assigned to the Secretary of Housing and Urban Development' is revoked.

## 5-2. Amendments.

5-201. Executive Order No. 10421, as amended, relating to physical security of defense facilities is further amended by (a) substituting the 'Director of the Federal Emergency Management Agency' for 'Director of the Office of Emergency Planning' in Sections 1(a), 1(c), and 6(b); and, (b) substituting 'Federal Emergency Management Agency' for 'Office of Emergency Planning' in Sections 6(b) and 7(b).

5-202. Executive Order No. 10480, as amended, is further amended by (a) substituting 'Director of the Federal Emergency Management Agency' for 'Director of the Office of Emergency Planning' in Sections 101(a), 101(b), 201(a), 201(b), 301, 304, 307, 308, 310(b), 311(b), 312, 313, 401(b), 401(e), and 605; and, (b) substituting 'Director of the Federal Emergency Management Agency' for 'Administrator of General Services' in Section 610.

5-203. Section 3(d) of Executive Order No. 10582, as amended, which relates to determinations under the Buy American Act is amended by deleting 'Director of the Office of Emergency Planning' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-204. Paragraph 21 of Executive Order No. 10789, as amended, is further amended by adding 'The Federal Emergency Management Agency' after 'Government Printing Office'.

5-205. Executive Order No. 11179, as amended, concerning the National Defense Executive Reserve, is further amended by deleting 'Director of the Office of Emergency Planning' in Section 2 and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-206. Section 7 of Executive Order No. 11912, as amended, concerning energy policy and conservation, is further amended by deleting 'Administrator of General Services' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-207. Section 2(d) of Executive Order No. 11988 entitled 'Floodplain Management' is amended by deleting 'Federal Insurance Administration' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-208. Section 5-3 of Executive Order No. 12046 of March 29, 1978, is amended by deleting 'General Services Administration' and substituting therefor 'Federal Emergency Management Agency' and by

deleting 'Administrator of General Services' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-209. Section 1-201 of Executive Order No. 12065 is amended by adding 'The Director of the Federal Emergency Management Agency' after 'The Administrator, National Aeronautics and Space Administration' and by deleting 'Director, Federal Preparedness Agency and to the' from the parentheses after 'The Administrator of General Services'.

5-210. Section 1-102 of Executive Order No. 12075 of August 16, 1978, is amended by adding in alphabetical order '(p) Federal Emergency Management Agency'.

5-211. Section 1-102 of Executive Order No. 12083 of September 27, 1978 is amended by adding in alphabetical order '(x) the Director of the Federal Emergency Management Agency'.

5-212. Section 9.11(b) of Civil Service Rule IX (5 CFR Part 9) is amended by deleting 'the Defense Civil Preparedness Agency and'.

5-213. Section 3(2) of each of the following described Executive orders is amended by adding 'Federal Emergency Management Agency' immediately after 'Department of Transportation'.

(a) Executive Order No. 11331 establishing the Pacific Northwest River Basins Commission.

(b) Executive Order No. 11345, as amended, establishing the Great Lakes Basin Commission.

(c) Executive Order No. 11371, as amended, establishing the New England River Basins Commission.

(d) Executive Order No. 11578, as amended, establishing the Ohio River Basin Commission.

(e) Executive Order No. 11658, as amended, establishing the Missouri River Basin Commission.

(f) Executive Order No. 11659, as amended, establishing the Upper Mississippi River Basin Commission.

5-214. Executive Order No. 11490, as amended, is further amended as follows:

(a) Delete the last sentence of Section 102(a) and substitute therefor the following: 'The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance with guidance provided by, and subject to, evaluation by the Director of the Federal Emergency Management Agency.'.

(b) Delete Section 103 entitled 'Presidential Assistance' and substitute the following new Section 103: 'Sec. 103 General Coordination. The Director of the Federal Emergency Management Agency (FEMA) shall determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs.'

(c) Delete the portion of the first sentence of Section 401 prior to the colon and insert the following: 'The Secretary of Defense shall perform the following emergency preparedness functions'.

(d) Delete 'Director of the Federal Preparedness Agency (GSA)' or 'the Federal Preparedness Agency (GSA)' and substitute therefor 'Director, FEMA', in Sections 401(3), 401(4), 401(5), 401(9), 401(10), 401(14), 401(15), 401(16), 401(19), 401(21), 401(22), 501(8), 601(2), 904(2), 1102(2), 1204(2), 1401(a), 1701, 1702, 2003, 2004, 2801(5), 3001, 3002(2), 3004, 3005, 3006, 3008, 3010, and 3013.

(e) The number assigned to this Order shall be substituted for '11051 of September 27, 1962' in Section 3001, and for '11051' in Sections 1802, 2002(3), 3002 and 3008(1).

(f) The number assigned to this Order shall be substituted for '10952' in Sections 1103, 1104, 1205, and 3002.

(g) Delete 'Department of Defense' in Sections 502, 601(1), 804, 905, 1103, 1104, 1106(4), 1205, 2002(8), the first sentence of Section 3002, and Sections 3008(1) and 3010 and substitute therefor 'Director of the Federal Emergency Management Agency.'

**SECTION 6.** This Order is effective July 15, 1979.

## EXHIBIT III

### Post-Amendment Version of Executive Order 12148

#### EXECUTIVE ORDER 12148--FEDERAL EMERGENCY MANAGEMENT

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except for Title VI thereof (42 U.S.C. 5195 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), Section 4 of Public Law 92-385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285), the National Security Act of 1947, as amended, Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, Section 202 of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1531), and Section 301 of Title 3 of the United States Code, and in order to assign certain emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:

#### SECTION 1. TRANSFERS OR REASSIGNMENTS

##### 1-1. Transfer or Reassignment of Existing Functions.

1-101. All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-102. All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, are transferred or reassigned to the Director of the Federal Emergency Management Agency, including any of those functions redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

1-103. All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), including those functions performed by the Office of Science and Technology

Policy, are delegated, transferred, or reassigned to the Director of the Federal Emergency Management Agency.

**1-2. Transfer or Reassignment of Resources.**

1-201. The records, property, personnel and positions, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or redelegated by this Order are hereby transferred to the Director of the Federal Emergency Management Agency.

1-202. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

**SECTION 2. MANAGEMENT OF EMERGENCY PLANNING, PREPAREDNESS AND ASSISTANCE**

**2-1. General.**

2-101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all defense and civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2-102. The Director shall periodically review and evaluate the civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The Director shall be responsible for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents as a part of the assigned civil emergency functions.

2-104. The Director shall represent the President in working with State and local governments and private sector to stimulate participation in civil emergency preparedness, mitigation, response, and recovery programs.

2-105. The Director shall provide reports to the President, as requested, on the civil emergency activities of the Federal Emergency Management Agency. Such reports shall assess the current overall state of effectiveness of Federal civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

## 2-2. Implementation.

2-201. In executing the functions under this Order, the Director shall develop policies which provide that all civil emergency functions, resources, and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2-203. For purposes of this Order, 'civil emergency' means any accidental, natural, man-caused, or wartime emergency, or attack using any nuclear, chemical, or biological device (weapon of mass destruction), or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil emergency planning continues to be fully compatible with the Nation's national security policy and planning, the development of attack-related civil emergency policies and programs by the Director shall be subject to oversight by the National Security Council.

2-205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director with support for attack-related civil emergency programs in the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2-206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

## 2-3. Retention of Existing Authority.

Nothing in this Order shall be deemed to derogate from any functions assigned to the Director by law.



### SECTION 3. FEDERAL EMERGENCY MANAGEMENT COUNCIL

(Section 3 revoked by E.O. 12919 of June 3, 1994, 59 FR 29525)

### SECTION 4. DELEGATIONS

#### 4-1. Delegation of Functions Transferred to the President.

(Sec. 4-101 added by E.O. 12155 of Sept. 10, 1979, 3 CFR Comp., p. 426, and revoked by P.L. 100-180, 101 Stat. 1247)

4-102. The functions vested in the Director of the Office of Defense Mobilization by Sections 103 and 303 of the National Security Act of 1947, as amended by Sections 8 and 50 of the Act of September 3, 1954 (Public Law 779; 68 Stat. 1228 and 1244) (50 U.S.C. 404 and 405), were transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

(4-103 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199\_, )

4-104. The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C. App. 2271 note), any of the functions delegated by Section 4-102 of this Order.

4-105. The functions vested in the Administrator of the Federal Civil Defense Administration by Section 43 of the Act of August 10, 1956 (70A Stat. 636) were transferred to the President by Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), were subsequently revested in the Director of the Office of Civil and Defense Mobilization by Section 512 of Public Law 86-500 (50 U.S.C. App. 2285) [the office was changed to Office of Emergency Planning by Public Law 87-296 (75 Stat. 630) and then to the Office of Emergency Preparedness by Section 402 of Public Law 90-608 (82 Stat. 1194)], were again transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-106. The functions vested in the Director of the Office of Emergency Preparedness by Section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241-1), were transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-107. That function vested in the Director of the Office of Emergency Preparedness by Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, and as further amended (20 U.S.C. 1132d-1(a)), to the extent transferred to the President by Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), is hereby delegated to the Director of the Federal Emergency Management Agency.

#### 4-2. Delegation of Functions Vested in the President.

4-201. The functions vested in the President by the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), are hereby delegated to the Director of the Federal Emergency Management Agency.

4-202. The functions (related to grants for damages resulting from hurricane and tropical storm Agnes) vested in the President by Section 4 of Public Law 92-385 (86 Stat. 556) are hereby delegated to the Director of the Federal Emergency Management Agency.

4-203. The functions vested in the President by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.), except those functions vested in the President by Section 401 (relating to the declaration of emergencies and major disasters), Section 501 (relating to the declaration of emergencies), Section 405 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities), Section 412 (relating to food coupons and distribution), Section 611(c) (relating to the delegation of emergency preparedness responsibilities to other departments and agencies), and Section 623(3) (relating to duplicate or parallel activity of any other Federal department or agency), are hereby delegated to the Director of the Federal Emergency Management Agency

4-204. The functions vested in the President by the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. 7701 et seq., are hereby delegated to the Director of the Federal Emergency Management Agency.

(4-205 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199\_, )

(4-206 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199\_, )

(4-207 revoked by E.O. \_\_\_\_\_ of \_\_\_\_\_, 199\_, )

#### 4-3 Revised Delegation of Functions in Section 1-103.

Those functions transferred or reassigned to the Director of the Federal Emergency Management Agency pursuant to Section 1-103 shall be limited to those functions concerning continuity of government.

## SECTION 5. OTHER EXECUTIVE ORDERS

### 5-1. Revocations.

5-101. Executive Order No. 10242, as amended, entitled 'Prescribing Regulations Governing the Exercise by the Federal Civil Defense Administrator of Certain Administrative Authority Granted by the Federal Civil Defense Act of 1950', is revoked.

5-102. Sections 1 and 2 of Executive Order No. 10296, as amended, entitled 'Providing for the Performance of Certain Defense Housing and Community Facilities and Service Functions', are revoked.

5-103. Executive Order No. 10494, as amended, relating to the disposition of remaining functions, is revoked.

5-104. Executive Order No. 10529, as amended, relating to federal employee participation in State and local civil defense programs, is revoked.

5-105. Section 3 of Executive Order No. 10601, as amended, which concerns the Commodity Set Aside, is revoked.

5-106. Executive Order No. 10634, as amended, relating to loans for facilities destroyed or damaged by a major disaster, is revoked.

5-107. Section 4(d)(2) of Executive Order No. 10900, as amended, which concerns foreign currencies made available to make purchases for the supplemental stockpile, is revoked.

5-108. Executive Order No. 10952, as amended, entitled 'Assigning Civil Defense Responsibilities to the Secretary of Defense and Others', is revoked.

5-109. Executive Order No. 11051, as amended, relating to responsibilities of the Office of Emergency Preparedness, is revoked.

5-110. Executive Order No. 11415, as amended, relating to the Health Resources Advisory Committee, is revoked.

5-111. Executive Order No. 11795, as amended, entitled 'Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974', is revoked, except for Section 3 thereof.

5-112. Executive Order No. 11725, as amended, entitled 'Transfer of Certain Functions of the Office of Emergency Preparedness', is revoked.

5-113. Executive Order No. 11749, as amended, entitled 'Consolidating Disaster Relief Functions Assigned to the Secretary of Housing and Urban Development' is revoked.

## 5-2. Amendments.

5-201. Executive Order No. 10421, as amended, relating to physical security of defense facilities is further amended by (a) substituting the 'Director of the Federal Emergency Management Agency' for 'Director of the Office of Emergency Planning' in Sections 1(a), 1(c), and 6(b); and, (b) substituting 'Federal Emergency Management Agency' for 'Office of Emergency Planning' in Sections 6(b) and 7(b).

5-202. Executive Order No. 10480, as amended, is further amended by (a) substituting 'Director of the Federal Emergency Management Agency' for 'Director of the Office of Emergency Planning' in Sections 101(a), 101(b), 201(a), 201(b), 301, 304, 307, 308, 310(b), 311(b), 312, 313, 401(b), 401(e), and 605; and, (b) substituting 'Director of the Federal Emergency Management Agency' for 'Administrator of General Services' in Section 610.

5-203. Section 3(d) of Executive Order No. 10582, as amended, which relates to determinations under the Buy American Act is amended by deleting 'Director of the Office of Emergency Planning' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-204. Paragraph 21 of Executive Order No. 10789, as amended, is further amended by adding 'The Federal Emergency Management Agency' after 'Government Printing Office'.

5-205. Executive Order No. 11179, as amended, concerning the National Defense Executive Reserve, is further amended by deleting 'Director of the Office of Emergency Planning' in Section 2 and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-206. Section 7 of Executive Order No. 11912, as amended, concerning energy policy and conservation, is further amended by deleting 'Administrator of General Services' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-207. Section 2(d) of Executive Order No. 11988 entitled 'Floodplain Management' is amended by deleting 'Federal Insurance Administration' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-208. Section 5-3 of Executive Order No. 12046 of March 29, 1978, is amended by deleting 'General Services Administration' and substituting therefor 'Federal Emergency Management Agency' and by

deleting 'Administrator of General Services' and substituting therefor 'Director of the Federal Emergency Management Agency'.

5-209. Section 1-201 of Executive Order No. 12065 is amended by adding 'The Director of the Federal Emergency Management Agency' after 'The Administrator, National Aeronautics and Space Administration' and by deleting 'Director, Federal Preparedness Agency and to the' from the parentheses after 'The Administrator of General Services'.

5-210. Section 1-102 of Executive Order No. 12075 of August 16, 1978, is amended by adding in alphabetical order '(p) Federal Emergency Management Agency'.

5-211. Section 1-102 of Executive Order No. 12083 of September 27, 1978 is amended by adding in alphabetical order '(x) the Director of the Federal Emergency Management Agency'.

5-212. Section 9.11(b) of Civil Service Rule IX (5 CFR Part 9) is amended by deleting 'the Defense Civil Preparedness Agency and'.

5-213. Section 3(2) of each of the following described Executive orders is amended by adding 'Federal Emergency Management Agency' immediately after 'Department of Transportation'.

(a) Executive Order No. 11331 establishing the Pacific Northwest River Basins Commission.

(b) Executive Order No. 11345, as amended, establishing the Great Lakes Basin Commission.

(c) Executive Order No. 11371, as amended, establishing the New England River Basins Commission.

(d) Executive Order No. 11578, as amended, establishing the Ohio River Basin Commission.

(e) Executive Order No. 11658, as amended, establishing the Missouri River Basin Commission.

(f) Executive Order No. 11659, as amended, establishing the Upper Mississippi River Basin Commission.

5-214. Executive Order No. 11490, as amended, is further amended as follows:

(a) Delete the last sentence of Section 102(a) and substitute therefor the following: 'The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance with guidance provided by, and subject to, evaluation by the Director of the Federal Emergency Management Agency.'

(b) Delete Section 103 entitled 'Presidential Assistance' and substitute the following new Section 103: 'Sec. 103 General Coordination. The Director of the Federal Emergency Management Agency (FEMA) shall determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs.'

(c) Delete the portion of the first sentence of Section 401 prior to the colon and insert the following: 'The Secretary of Defense shall perform the following emergency preparedness functions'.

(d) Delete 'Director of the Federal Preparedness Agency (GSA)' or 'the Federal Preparedness Agency (GSA)' and substitute therefor 'Director, FEMA', in Sections 401(3), 401(4), 401(5), 401(9), 401(10), 401(14), 401(15), 401(16), 401(19), 401(21), 401(22), 501(8), 601(2), 904(2), 1102(2), 1204(2), 1401(a), 1701, 1702, 2003, 2004, 2801(5), 3001, 3002(2), 3004, 3005, 3006, 3008, 3010, and 3013.

(e) The number assigned to this Order shall be substituted for '11051 of September 27, 1962' in Section 3001, and for '11051' in Sections 1802, 2002(3), 3002 and 3008(1).

(f) The number assigned to this Order shall be substituted for '10952' in Sections 1103, 1104, 1205, and 3002.

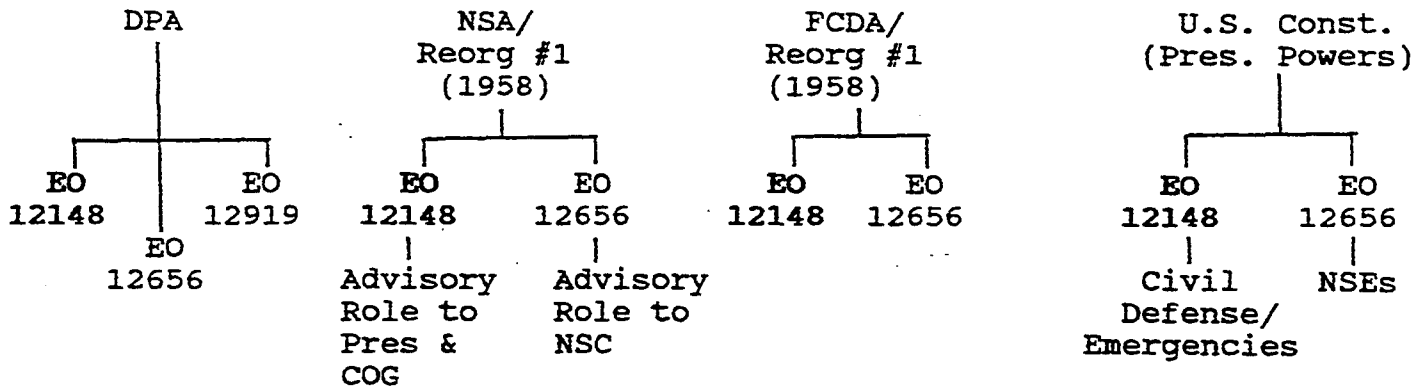
(g) Delete 'Department of Defense' in Sections 502, 601(1), 804, 905, 1103, 1104, 1106(4), 1205, 2002(8), the first sentence of Section 3002, and Sections 3008(1) and 3010 and substitute therefor 'Director of the Federal Emergency Management Agency.'

**SECTION 6.** This Order is effective July 15, 1979.

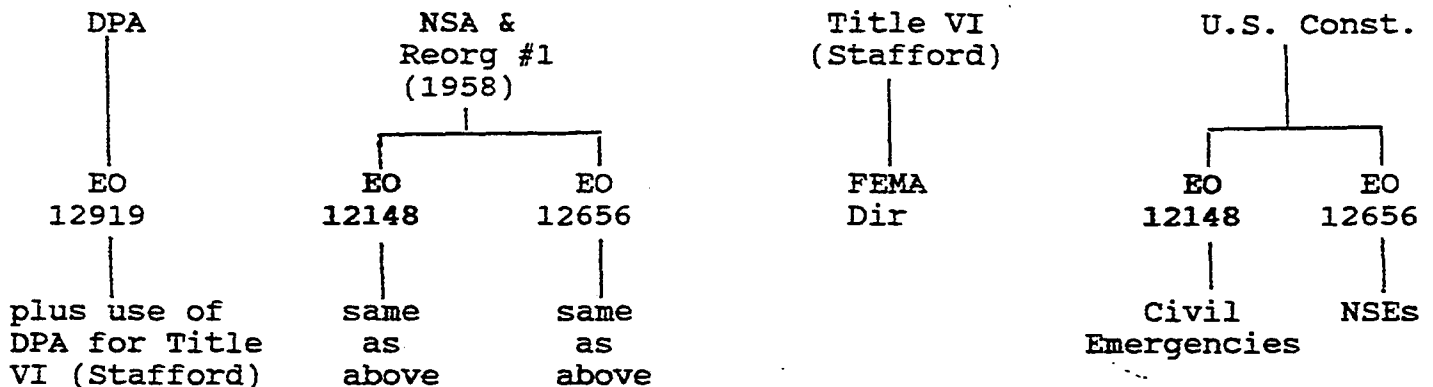
EXHIBIT IV

FEMA Director's Assigned Responsibilities with respect to  
Certain Emergency Management Executive Orders

BEFORE (Existing Assignments)



AFTER (Revised Assignments)



Note to Exhibit IV: As a result of the above proposed revisions, the FEMA Director's authority for DPA matters will be based on both EO 12919 and Title VI of the Stafford Act. (It is assumed that the Defense Production Act delegation authority will also be removed in a separate amendment to EO 12656.) The Director's advisory functions under the National Security Act (NSA) and the Reorganization Plan #1 will be retained in EOs 12148 and 12656. The Director's authority under Title VI (Stafford Act) will be expressly exempted from the scope of EOs 12148 and 12656. Authority for any actions related to any attack or threatened attack on the United States will be governed by EOs 12148 ("civil emergencies") and 12656 ("national security emergencies" (NSEs)). This simplification of lines of authority and command will eliminate some of the existing conflicts, duplications and inconsistencies among the emergency management Executive orders. EO 12742, *National Security Industrial Responsiveness*, while an alternative to EO 12919, is omitted because it only delegates certain military-related permanent authorities and only gives a limited adjudication role to the FEMA Director, unlike the depicted Executive Orders.

## EXHIBIT V

### List of Unaddressed EO 12148 Policy Issues

The proposed amendments do not address the following issues that may warrant further study by an interagency group and the National Security Council:

- Are the Director's advisory and consultative responsibilities under the National Security Act, as delegated in Section 4-102 of EO 12148, consistent with the Director's comparable responsibilities under EOs 12656 and 12919?

- Are the Director's advisory and consultative responsibilities regarding the activities transferred from the former Federal Preparedness Agency to the Director by Section 1-103 of EO 12148, with or without the modifications proposed by Section 5 (COG limitation), consistent with the Director's comparable responsibilities under EOs 12656 and 12919?

- Should the intermediary and adjudicative roles of the National Security Council regarding the Director's responsibilities under Sections 1-101, 2-102, 2-105 and 4-102 of EO 12148 be modified to conform to comparable assignments in EOs 12656 and 12919?

- Is it appropriate or necessary to task the National Security Council with an oversight responsibility concerning conformity of the administration of Title VI of the Stafford Act with national security policy?