

Chapter 2: *Legislation, Regulations and Programs*

SECTION 2.1: FEDERAL PRE-DISASTER MITIGATION PROGRAM

The Pre-Disaster Mitigation (PDM) Program was authorized by §203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 USC, as amended by §102 of the Disaster Mitigation Act of 2000. Funding for the program is provided through the National Pre-Disaster Mitigation Fund to assist States and local governments (to include Indian Tribal governments) in implementing cost-effective hazard mitigation activities that complement a comprehensive mitigation program. All applicants must be participating in the National Flood Insurance Program (NFIP) if they have been identified through the NFIP as having a Special Flood Hazard Area (a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) has been issued). In addition, the municipality must not be suspended or on probation from the NFIP.

44 CFR Part 201, Hazard Mitigation Planning, establishes criteria for State and local hazard mitigation planning authorized by §322 of the Stafford Act, as amended by §104 of the DMA. After November 1, 2003, local governments and Indian Tribal governments applying for PDM funds through the States will need to have an approved local mitigation plan prior to the approval of local mitigation project grants. States will also be required to have an approved Standard State mitigation plan in order to receive PDM funds for State or local mitigation projects after November 1, 2004. Therefore, the development of State and local multi-hazard mitigation plans is critical in maintaining eligibility for future PDM funding.

SECTION 2.2: NEW YORK STATE HAZARD MITIGATION GRANT PROGRAM

The Hazard Mitigation Grant Program (HMGP) is a Post Disaster Program designed with the intent to reduce future disaster damages, public expenditure, private losses and a community's vulnerability to natural hazards. The Hazard Mitigation Grant Program was established by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (The Stafford Act), Public Law 93-288, as amended. Authorized under Section 404 of the Stafford Act, regulations implementing the program are found in the Code of Federal Regulations (CFR) at 44 CFR Part 206, Subpart N – ATTACHMENT A. In conjunction with other hazard mitigation plans and programs, the 404 HMGP provides an opportunity for a community to develop a comprehensive hazard mitigation program, which can be its best insurance against the impacts and costs of future disasters.

Subsection 2.2.A: New York State Responsibilities

State Government Program Administration: Under the 404 HMGP, the state, as grantee, is responsible for processing subgrants to eligible applicants. The Governor's Authorized Representative (GAR) serves as the grant administrator for all authorized HMGP funds. On behalf of the GAR, the Mitigation and Disaster Administration Branches in the New York State Emergency Management Office (SEMO) handles the day to day activities of the 404 HMGP. Among other things, the Hazard Mitigation Branch provides technical advice and assistance to eligible subgrantees, informs them of the availability of the program, and assists in the preparation and review of project applications. The financial management component of the program such as disbursements and financial reports to FEMA are administered by the Disaster Administration Branch.

It is the state's responsibility to identify and select hazard mitigation projects and forward them to the Federal Emergency Management Agency (FEMA) for review and approval. The state is responsible for

establishing procedures and priorities for selecting mitigation measures. In addition to the consideration of the minimum program criteria outlined above, project selection will consider the following:

- measures which best fit the overall plan for development and/or hazard mitigation in the community, disaster area, or state;
- measures that, if not taken will have a severe detrimental impact on the applicant, such as the potential for loss of life, loss of essential services, damage to critical facilities, or economic hardship on the community;
- measures that have the greatest potential impact on reducing future disaster losses;
- measures that are designed to accomplish multiple objectives such as damage reduction, environmental enhancement and economic recovery.

The Hazard Mitigation Policy Committee, of the State Disaster Preparedness Commission, and its subcommittees provide specialized assistance to the mitigation Branch, where necessary, for the purposes of administering the HMGP. An example of such assistance is in the formation of a Project Review Board to review and prioritize projects.

A Project Review Board will be convened in order to select and/or prioritize the projects, which will be forwarded to FEMA for funding approval. If available funding is sufficient to fund all of the projects for which funding is requested, all completed project applications received will be ranked and forwarded to FEMA for funding. If there are insufficient funds, SEMO will transmit to FEMA prioritized list of projects whose funding equals the amount available. This prioritized project listing will be developed with the assistance of the Project Review Board. All additional projects will be prioritized and submitted to FEMA as alternatives to the first group of prioritized projects.

If during the review and ranking process additional information is required for a project, such supplementary information will be requested by the Mitigation Branch of SEMO. Based upon the list of selected projects submitted by the Review Board, the GAR will notify all subgrantees of the decision regarding their application. SEMO will transmit to FEMA the application package containing all required documentation.

Subsection 2.2.B: Local Government Responsibilities

Local governments and other eligible local entities will assist the state in identifying appropriate mitigation measures. The Chief Elected Official (CEO) of each jurisdiction or non-profit organization applying for 404 HMGP funding assistance is ultimately responsible for the satisfaction of all local requirements under Sections 404 and 409, P.L. 93-288.

SEMO strongly recommends that the CEO of each County that is applying for 404 HMGP funding, or that contains jurisdictions or non-profit organizations which are applying, appoint a Local Hazard Mitigation Officer (LHMO) who will serve as the point of contact with the State Hazard Mitigation Section. This appointee will also assist in the coordination of all local hazard mitigation activities taking place in all jurisdictions in the county. The Chief Executive, or his designee, from each eligible entity that applies for 404 HMGP funding must sign the Project Application Form, the State-local Disaster Assistance Agreement, and all required attachments to the application. Each applicant for 404 funding must designate a point of contact for each project.

Subsection 2.2.C: Federal Government Responsibilities

The Federal Emergency Management Agency (FEMA) reviews the prioritized list of state submitted applications and decides which to approve or reject based on program guidelines. FEMA has final approval authority for funding all projects. Upon approval of a project application, the FEMA Region II

Director will notify the Governor's Authorized Representative (GAR). FEMA will also notify the GAR when funding for approved projects is available for disbursement to subgrantees.

SECTION 2.3: COUNTY LEGISLATION AND REGULATIONS

Orleans County is authorized to perform pre-disaster planning under the: Disaster Relief Act of 1974 (Public Law 93-288), Federal Civil Defense Act of 1950, and Presidential Executive Order 11490. The county is given legal authority through the Superfund Amendments & Reauthorization Act of 1986 (Public Law 99-499), Title III – Emergency Planning & Community Right to Know Act of 1986, NYS Defense Emergency Act (as amended) and County Executive Order #1 (as amended).

SECTION 2.4: REVIEW OF PLANS, REPORTS AND STUDIES

The following plans, reports and studies have been reviewed as part of the hazard mitigation planning process:

- Orleans County Comprehensive Emergency Management Plan and Appendices (Adopted December 2003, Updated September 2005).
 - Appendix 1: NIMS Incident Command System Position Descriptions
 - Appendix 2: Standard Operating Guide for the Orleans County Emergency Operations Center (EOC)
 - Appendix 3: Instructions for Declaring a State of Emergency and Issuing Emergency Orders
 - Appendix 4: Orleans County Emergency Alert System (EAS)
 - Appendix 5: NY State Highway Emergency Task Force Policy and Procedures
 - Appendix 6: Orleans County Mass Evacuation Annex
 - Appendix 7: Orleans County CEMP Sheltering Annex
 - Appendix 8: Orleans County HAZMAT Plan
- Orleans County Mass Fatality Plan (April 2004).
- Orleans County Health Department Terrorism Response and Preparedness Plan (August 2004).
- Western New York Public Health Emergency Preparedness and Response Plan (Draft – April 2006).
- Orleans County Comprehensive Community Health Assessment 2005 – 2010: Report for the Community (June, 2005).
- American Red Cross (Orleans County Chapter) Emergency Response Plan.
- Eastern Great Lakes Area Contingency Plan – Volume 3: A Geographic Response Plan for Oil Spills and Hazardous Substance Releases in Lake Ontario for the Counties of Niagara, Orleans, Monroe, Wayne, Cayuga, and Oswego.
- Road Surface Management System (RSMS) Report (August 2005).
- Oak Orchard Watershed: State of the Basin Report (December 2005).

The above plans, reports and studies were reviewed during the mitigation planning process by the Genesee/Finger Lakes Regional Planning Council staff. This review was carried out for five main reasons:

1. The review assisted G/FLRPC staff and the Planning Committee with the process of identifying Critical Facilities and Community Assets.
2. The review helped G/FLRPC staff better understand the roles and responsibilities of various County and Non/Municipal agencies in disaster planning, response, and recovery activities. This knowledge was critical during the Mitigation Strategy development phase as it allowed G/FLRPC staff to assist county and non/municipal officials with conceptualizing and developing specific mitigation measures.
3. The review assisted G/FLRPC staff and the Planning Committee with analyzing the potential impacts of hazard events. Overall, these plans and studies provided a valuable source for information about hazard events in the county. While some of the documents did not contain much information about hazards, many others, including the Red Cross Emergency Operations Plan and the County HAZMAT plan, contained critical information on potential hazards that was incorporated into the Risk Assessment, especially the hazard analysis in Chapter 5 and the hazard profiles in Chapter 6.
4. The review process ensured the recommendations within the Mitigation Strategy did not conflict with any existing plans.
5. The review process helped identify any gaps that exist in county disaster planning efforts that could be plugged by specific mitigation measures within the Mitigation Strategy.

The results of this assessment are incorporated into both the Risk Assessment and the Mitigation Strategy sections of the plan. Specifically, several mitigation measures within the Mitigation Strategy are aimed at addressing county and non/municipal pre-disaster planning initiatives.

Lastly, a thorough review of municipal (town and village) land use laws was also completed for the all-hazard mitigation plan. The results of this review can be found in Appendix A, *Local Law Assessment*. The municipal land use law review was carried out for essentially the same reasons listed above, but especially to identify gaps in local land use laws that need to be plugged as part of the hazard mitigation planning process. Over the next five years municipal officials will work to revise and update their local laws and ordinances based on the assessment included within this report.