FEMA
DISASTER ASSISTANCE POLICY

I. TITLE: Seismic Safety – New Construction

II. DATE:

III. PURPOSE:

This policy provides guidance for determining the seismic requirements established in the Earthquake Hazards Reduction Act of 1977, the Stafford Act and E.O. 12699 that affect Public Assistance Program funding eligibility for new building construction.

IV. SCOPE AND AUDIENCE:

The policy is applicable to all major disasters declared on or after the date of publication of this policy. It is intended for personnel involved in the administration of the Public Assistance Program.

V. AUTHORITY:

Earthquake Hazards Reduction Act of 1977, P.L. 95-124, as amended, 42 U.S.C. §§7701-7709; Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, (Stafford Act), 42 U.S.C. §5172; Executive Order 12699, as amended; 44 CFR §206.226(d).

VI. BACKGROUND:

A. Seismic hazards pose a serious threat throughout much of the United States. The Earthquake Hazards Reduction Act of 1977 and the National Earthquake Hazards Reduction Program (NEHRP) recognize this threat and require federal preparedness and mitigation efforts. In furtherance of NEHRP, on January 5, 1990, the President signed Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, 55 FR 835. Executive Order 12699 specifically states that "Nothing in this order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 402, 403, 502, and 503 of the [Stafford Act], or for temporary housing assistance programs and individual and family grants performed pursuant to Sections 408 and 411 of the Stafford Act. . . . However, this order shall apply to other provisions of the Stafford Act after a presidentially declared major disaster or emergency when assistance actions involve new construction or total replacement of a building." Executive Order 12699, §3(d). Building repairs are excluded from the requirements of this Executive Order, which applies only to new buildings.

B. Pursuant to section 4(a) of Executive Order 12699, the Interagency Committee on Seismic Safety in Construction (ICSSC), through consensus procedures, is responsible to FEMA

for recommending seismic design and construction standards and practices appropriate for implementation by federal agencies. ICSSC recommends as appropriate for implementing the Executive Order those standards and practices that are substantially equivalent to or exceed the newest or next most recent edition of the *NEHRP Recommended Provisions for Seismic Regulations for New Buildings and Other Structures*. The ICSSC has recommended that the following current model codes and standards are substantially equivalent to the *2000 NEHRP Recommended Provisions* and *2003 NEHRP Recommended Provisions*:

1. International Code Council (ICC), *International Building Code and International Residential Code*, 2003 and 2006 editions.

2. National Fire Protection Association (NFPA), *NFPA 5000*, 2003 and 2006 editions.

3. American Society of Civil Engineers, (ASCE), *Minimum Design Loads for Buildings and Other Structures, ASCE 7-03* and *ASCE 7-05*.

VII. POLICY:

A. Pursuant to the authorities listed in section V of this policy, all construction of new buildings eligible under the Public Assistance Program must use appropriate seismic design and construction standards and practices. This includes the construction of new buildings for:

1. The replacement of seriously damaged or destroyed buildings, and

2. Alternate or improved projects.

B. Appropriate seismic standards and practices vary by location based on the probability of a seismic event occurring in a given area.

C. The cause of the declared disaster does not affect the application of seismic requirements, under Executive Order 12699, to all new federally funded or assisted building construction.

D. If FEMA funds new construction to replace a seriously damaged or destroyed building to its pre-disaster design, meeting required and reasonable seismic codes are eligible costs.

E. If the applicant requests and approval is granted for an improved or alternate project, eligible costs are limited to the approved project costs for replacing the facility to its pre-disaster design, which includes seismic upgrades to the originally designed facility. Additional costs to satisfy seismic requirements for the improved or alternate project are not eligible.

F. If a community uses a code other than those reviewed and judged equivalent by the ICSSC, FEMA will verify its equivalency based on written justification from the community.

VIII. ORIGINATING OFFICE: Disaster Assistance Directorate (Public Assistance Division).

IX. SUPERSESSION: This policy supersedes Response and Recovery Directorate Policy 9527.1 Seismic Safety – New Construction, published on January 13, 2000, and all other previous guidance on this subject.

X. REVIEW DATE: This policy does not automatically expire, but will be reviewed 3 years from the date of publication.

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