

# CRS Report for Congress

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## Disaster Evacuation and Displacement Policy: Issues for Congress

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### Summary

The devastation caused by Hurricane Katrina reaches beyond the borders of the states directly affected by the wind, rain, and floods. Before the storm reached the coast, thousands of residents of Louisiana and Mississippi evacuated to other states, including Texas and Oklahoma. Many people, for a variety of reasons, chose to disregard the mandatory evacuation orders issued by state and local officials. In general, evacuation policy is set and enforced by state and local officials. Federal policy provides for various aspects of civilian evacuation. As Members of Congress explore the challenges and losses in the states affected directly or indirectly by Hurricane Katrina, they may be called upon to consider federal policy options to more fully integrate federal and state authorities.

Using the authority set out in state laws and local ordinances, state and local officials may suggest or require the evacuation of residents from homes and communities before certain catastrophes occur.<sup>1</sup> Threats of pending natural disasters such as hurricanes or floods, warnings of the movement of airborne hazardous material due to transportation accidents, or the recognition of unstable conditions at nuclear power plants may provide officials a short window of opportunity to save thousands of lives.

To a limited extent, federal statutes authorize agency heads to use federal resources to assist in the evacuation of civilians. Among those authorities, and arguably pertinent to the situation in New Orleans even before Hurricane Katrina made landfall, is the provision in the Robert T. Stafford Disaster Relief and Emergency Assistance Act for the President to direct the Secretary of Defense to use resources to perform “emergency work

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<sup>1</sup> State laws generally authorize the Governor to order and enforce the evacuation of residents under emergency situations. See CRS Report RL32287, *Emergency Management and Homeland Security Statutory Authorities in the States, District of Columbia, and Insular Areas: a Summary*, by Keith Bea, Government and Finance Division, CRS, and L. Cheryl Runyon and Kae M. Warnock, consultants, p. 4.

which is made necessary by such incident and which is essential for the preservation of life and property.”<sup>2</sup>

The complications and suffering associated with Hurricane Katrina demonstrate that the evacuation and the relocation of tens of thousands of residents pose enormous challenges for public officials after catastrophes occur. Due to limitations involving medical, income, or transportation needs, or for other reasons, many did not or could not heed the warnings. The flooding of New Orleans and the widespread destruction of infrastructure in Mississippi and Louisiana caused by Hurricane Katrina may result in tens of thousands of persons remaining homeless for many months, and possibly in the relocation of entire communities. The issue is whether federal policy regarding the evacuation of civilians and their resettlement, or the implementation of that policy, is appropriate, and whether the policy might be better integrated with state authorities.

## Evacuation Policy

In general, federal policy defers to the states to enact laws pertinent to evacuation, and local officials generally work with state officials to enforce those laws. For example, the *National Response Plan* (NRP), administered by the Federal Emergency Management Agency (FEMA) in the Department of Homeland Security (DHS), sets forth the roles and responsibilities of federal and certain non-federal entities after catastrophes overwhelm state or local governments. The NRP includes the following in a list of responsibilities of local chief executive officers:

Dependent upon state and local law, [the local executive] has extraordinary powers to suspend local laws and ordinances, such as to establish a curfew, direct evacuations, and, in coordination with the local health authority, to order a quarantine.<sup>3</sup>

Federal officials facilitate evacuation procedures when the NRP is invoked, take the lead on coordinating necessary decisions, support search and rescue efforts, and provide technical assistance.<sup>4</sup> In the event of the most catastrophic incidents (such as after Hurricane Katrina devastated the Gulf Coast on August 29, 2005), “the federal

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<sup>2</sup> 42 U.S.C. 5170b(c).

<sup>3</sup> U.S. Department of Homeland Security, *The National Response Plan* (Washington: 2004), p. 8. Hereafter cited as NRP. Similar text is used to describe the role of tribal chief executive officers. See also p. 53 of the NRP (initial actions taken by first responders and local government authorities including evacuations) and p. 54 (response actions that may involve federal assistance include law enforcement and evacuations).

<sup>4</sup> For example, the Department of Transportation (DOT) Regional Emergency Transportation Coordinator (RETCO) coordinates with state and local authorities on “issues such as movement restrictions, critical facilities closures, and evacuations;” establishes resource priorities, and provides technical assistance. *Ibid.*, p. ESF#1-3, 4. The Department of Defense coordinates with DOT to evacuate patients, at the request of the Department of Health and Human Services. *Ibid.*, p. ESF#8-4. See also 44 CFR 352.26, which provides that federal agencies “may be called upon” to provide reception centers or shelters for evacuees.

government or other national entities” are expected to provide public health, medical, and mental health support at casualty evacuation points and refugee shelters.”<sup>5</sup>

Federal law contains provisions related to the evacuation of civilians and planning requirements within the United States, under specified circumstances. General authority is also given to federal agencies for emergency preparedness activities that include evacuation planning. These authorities are cited in **Table 1**.

**Table 1. Federal Statutory Provisions on Evacuation Policy**

<b>Summary</b>	<b>Citation</b>
Federal employees and their dependents may receive assistance if they must be evacuated.	5 U.S.C. 5709, 5725, 5922, 5923
The role of FEMA includes evacuating disaster victims.	6 U.S.C. 317
National Construction Safety Teams must evaluate technical aspects of evacuation procedures and recommend research.	15 U.S.C. 7301, 7307-7308
Chief of Engineers may use funds to evacuate persons in a flood wall project area if the cost of the project can be substantially reduced.	33 U.S.C. 701i
Emergency preparedness activities include non-military civilian evacuation and evacuation of personnel during hazards.	42 U.S.C. 5195a
Computer models for evacuation must be periodically evaluated and improved.	42 U.S.C. 7403(f)(2)(C)
Temporary housing and evacuation of threatened persons are to be included in the scope of hazardous substance removal.	42 U.S.C. 9601(23)
Emergency plans completed by local emergency planning committees (LEPCs) must include evacuation plans.	42 U.S.C. 11003
Owners of facilities where a hazardous chemical release occurs must provide information on precautions to be taken, including evacuation.	42 U.S.C. 11004(b)(2)
Secretary of Transportation must establish incident response plans for facilities and vessels that include evacuation procedures.	46 U.S.C. 70104(b)
Congressional finding made that private and public sector emergency preparedness activities should include an evacuation plan.	P.L. 108-458, §7305, 118 Stat. 3848

<sup>5</sup> NRP, p. CAT-2.

Summary	Citation
Evacuation routes may be included as components of the National Highway System under the high priority corridor designations.	H.R. 3 (109 <sup>th</sup> Congress) Sec. 1304 (a) Signed by President George W. Bush on August 10, 2005
The Secretary of the Department of Transportation (DOT) and the Secretary of Homeland Security in coordination with the Gulf Coast States and contiguous states, must review and assess federal and state evacuation plans for catastrophic hurricanes impacting the Gulf Coast Region and report, by October 1, 2006, findings and recommendations to Congress.	H.R. 3 (109 <sup>th</sup> Congress) Sec. 10204
The National Science Foundation is to produce a public transportation security study of public systems' ability to accommodate the emergency evacuation, egress, or ingress from urban areas with populations over one million.	H.R. 3 (109 <sup>th</sup> Congress) Sec. 3046
Emergency evacuation studies are a required DOT activity under the deployment of the transportation model known as the "Transportation Analysis Simulation System."	H.R. 3 (109 <sup>th</sup> Congress) Sec. 5512(b) (4)

**Source:** CRS compilation based on database searches conducted by Thomas P. Carr of the Government and Finance Division and contributions by Robert Kirk of the Resources, Science, and Industry Division, both of CRS.

**Note:** **Table 1** excludes statutory provisions related to military personnel, criminal offenses, foreign nations and international relations, liability, and payment of costs,

## Displacement and Sheltering

One facet of evacuation is the removal of persons from a stricken or threatened area. Another is the resettlement of the victims, or potential victims, and the provision of shelter and resources in the areas to which those residents are moved, known as the host areas. The NRP vests responsibility for the coordination of mass care for disaster victims in FEMA and the American Red Cross. With the support of other federal agencies, charitable organizations, the private sector, and individuals, victims of catastrophes may find shelter outside the stricken area for a temporary period of time.<sup>6</sup>

The individual assistance and temporary housing provisions of the Stafford Act authorize federal agencies to provide alternative housing for disaster victims.<sup>7</sup> FEMA administers this program that provides financial assistance for alternative accommodations, or direct assistance through modular housing moved to a temporary housing site. In order to make use of this authority, vacant alternative housing units (apartments, motels or hotels, recreational vehicles, modular units) must be found, or sites must be developed for the mobile homes brought on-site by FEMA.

<sup>6</sup> "Emergency shelter includes the use of pre-identified shelter sites in existing structures...and use of similar facilities outside the incident area, should evacuation be necessary." *Ibid.*, p. ESF#6-2.

<sup>7</sup> 42 U.S.C. 5174.

## Issues for Congressional Consideration

- The President, at the request of the Governor of a state, is authorized to direct the Secretary of Defense to use resources for emergency work to save lives. The Governors of the states are authorized to direct the evacuation of civilians under the emergency statutory authorities. In the wake of Hurricane Katrina Congress may assess how effectively federal authority pertinent to evacuations is implemented by Administration officials.
- Many catastrophes, natural and human-caused, cannot be anticipated; nor can threats or warnings be provided. Congress may review statutory means to expedite the delivery of federal resources and personnel to disaster stricken areas in order to evacuate civilians and provide necessary medical treatment.
- The Catastrophic Incident Annex of the NRP includes the assumption that large-scale evacuations, whether spontaneous or directed pursuant to authorities, may be more likely to occur after attacks than natural disasters, and that the maintenance of public health will “aggravate attempts to implement a coordinated evacuation management strategy.”<sup>8</sup> In light of concerns raised by some that the NRP, and the focus of DHS, is skewed toward concerns about terrorist attacks, Congress may review whether this assumption adequately addresses the complications evident in the evacuation of New Orleans before and after Hurricane Katrina struck.
- Persons in the affected population who struggle with disabilities, be they mental or health, need particular attention in evacuations. The National Organization on Disability has developed a guide for the consideration of the needs of disabled persons, particularly the evacuation of those individuals from their communities.<sup>9</sup> Congress could consider whether standing state authorities adequately address the needs of the disabled in evacuation circumstances.
- The Stafford Act stipulates that relief and assistance be provided “without discrimination on the grounds of...economic status.”<sup>10</sup> Through authorities cited in **Table 1** of this report, FEMA has responsibility to provide for the evacuation of disaster victims,<sup>11</sup> and provide for

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<sup>8</sup> Ibid., p. CAT-3.

<sup>9</sup> National Organization on Disability, *Emergency Preparedness Initiative: Guide on the Special Needs of People with Disabilities for Emergency Managers, Planners & Responders*, available at [<http://nod.org/index.cfm?fuseaction=Page.viewPage&pageId=11>], visited Aug. 31, 2005.

<sup>10</sup> 42 U.S.C. 5151(b).

<sup>11</sup> 6 U.S.C. 317.

evacuation as part of federal emergency preparedness efforts.<sup>12</sup> Congress may assess whether existing evacuation plans and procedures comport with the requirements of the Stafford Act.

- Temporary housing is authorized to be provided generally for 18 months after a disaster. The detonation of a nuclear device in a metropolitan area, or a major incident at a nuclear power plant, could result in long-term consequences that might render areas uninhabitable for years. The destruction associated with Hurricane Katrina may force thousands of families to seek alternative shelter for many months, if not years. Congress may review existing statutory authorities given this longer term issue.
- Federal law does not authorize assistance for states indirectly affected by catastrophes. States that house tens of thousands of disaster victims for many months will face unexpected service delivery burdens. Congress might examine federal policy options to provide assistance to host states.

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<sup>12</sup> 42 U.S.C. 5195a.