

**Session No. 2**

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**Course Title: Breaking the Disaster Cycle: Future Directions in Natural Hazard Mitigation**

**Session Title: Developing New Federal Hazard Mitigation Policy; The Disaster Mitigation Act of 2000**

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**Time: 150 minutes + 15 minute break**

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**Objectives:**

- 2.1 Understand the issues that motivated the search for a new federal hazard mitigation policy.
  - 2.2 Review the efforts by Congress and FEMA to create a pre-disaster hazard mitigation model, policy, and program.
  - 2.3 Critique the various mitigation proposals in terms of impacts on stakeholders in the intergovernmental hazard mitigation policy system.
  - 2.4 Discuss the impact of major natural disasters on efforts to reshape federal mitigation policy.
  - 2.5 Understand the pre-disaster mitigation concepts underlying the Disaster Mitigation Act of 2000.
  - 2.6 Review the Act's provisions.
  - 2.7 Examine the FEMA regulations implementing the new disaster act.
  - 2.8 Discuss the new requirements and incentives for state and local mitigation planning.
  - 2.9 Evaluate the potential impacts of the new act and regulations on reducing vulnerability to various types of natural hazards.
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**Scope:**

The first part of this session is a lecture on the issues, studies, and other factors that led to a new federal hazard mitigation policy to remedy some of the defects discovered during implementation of the Stafford Act. The lecture identifies the issues, reviews the work of the various studies and committees, critiques the recommended proposals, and looks at the impact of major disasters on the policy process. It discusses the provisions and concepts of the Disaster Mitigation Act (DMA) of 2000, the product of the different policy analyses that took place during the 1990s.

The second part of this session is devoted to a class discussion of the implementation of the DMA, including the proposed FEMA implementation regulations, their impacts on state and local mitigation planning, and their potential impacts on reducing vulnerability to various types of hazards. Seminar participants are asked to play the roles of state hazard mitigation officers testifying before a Congressional committee on how to evaluate the effectiveness of the Act and implementing regulations on reducing hazards in their states.

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### **Reading:**

*Instructor and student reading:*

Godschalk, David R., et al., 1999. Ch. 2. Evolving Mitigation Policy Directions, pp. 27-87. *Natural Hazard Mitigation: Recasting Disaster Policy and Planning*.

Platt, Rutherford H. 1999. Ch. 3. Stemming the Losses: The Quest for Hazard Mitigation, pp. 69-107. *Disasters and Democracy: The Politics of Extreme Natural Events*. Platt. 1999.

*Disaster Mitigation Act of 2000*. Amendments to the Stafford Act. Public Law 106-290.

Hazard Mitigation Planning and Hazard Mitigation Grant Program: Interim Final Rule. 44 CFR Parts 201 and 206. *Federal Register*, February 26, 2002, Volume 67, Number 38.

*Additional instructor reading:*

Burby et al. 1995. "Unleashing the Power of Planning to Create Disaster-Resistant Communities," *Journal of the American Planning Association* 65 Summer, pp. 247-258.

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### **Handouts:**

2.1 Congressional Hearing Exercise Instructions

### **Overheads:**

- 2.1 Major Disaster Studies
  - 2.2 Mitigation Issues and Problems
  - 2.3 Stafford Act Implementation Initiatives
  - 2.4 Policy Responses to Disasters
  - 2.5 FEMA Rule Implementing the Disaster Mitigation Act of 2000
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### **General Requirements:**

The instructor presents a lecture during the first part of the session. In the second part, the instructor engages the class in a discussion of the implementation approach and conducts a role playing exercise that simulates a Congressional hearing.

**Remarks:**

The instructions for the role playing exercise should be distributed during the previous class, so that students have an opportunity to prepare for the in-class hearing exercise.

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**2.1 Understand the issues that motivated the search for a new federal hazard mitigation policy.**

A number of unresolved issues, along with evidence of problems with mitigation policy as conceived in the Stafford Act, motivated several studies during the 1990s (*Figure 2.1. Major Disaster Studies*). The number of studies and the institutional importance of the study authors illustrate the seriousness of the perceived problems with the U.S. hazard mitigation system.

These studies included: the 1992 report of the Federal Interagency Floodplain Management Task Force: *Floodplain Management in the United States*, the 1993 National Academy of Public Administration report: *Coping with Catastrophe*, the 1993 *National Performance Review*, a 1994 study by the House of Representatives Bipartisan Task Force on Disasters, the 1994 FEMA Inspector General's report, the 1994 report of the Interagency Floodplain Management Review (Galloway) Committee: *Sharing the Challenge*, a 1995 report by the Senate Task Force on Funding Disaster Relief, and others.

Among these issues and problems identified were (*Figure 2.2. Mitigation Issues and Problems*) (Godschalk et al. 1999):

- *Emergency management system gaps*: lack of a well-organized, effective national emergency management system.
- *Shared responsibility versus expensive federal bailouts*:: tendency of state and local governments, private sector organizations, and individuals to assume that the federal government (taxpayer) is responsible for paying disaster costs--the "victim mentality"
- *Pre- versus post-disaster funding*: lack of pre-disaster financial incentives for state and local mitigation
- *Expansion of hazard insurance*: need for federally subsidized hazard insurance to cover earthquakes or possibly "all hazards"
- *Repetitive damage cycle*: need to break the cycle of damage-rebuild-damage
- *Weak state mitigation plans*: post disaster state mitigation plans prepared primarily to establish eligibility for hazard mitigation grants.
- *Inadequate state and local mitigation capability*: weaknesses in state and local disaster management capability
- *Unsustainable communities*: need to stop building communities that are not sustainable, resistant, and resilient in the face of hazards

**2.2 Review the efforts by Congress and FEMA to create a pre-disaster hazard**

## **mitigation model, policy, and program.**

Following enactment of the 1988 Stafford Act and in response to perceived continuing problems and issues, Congress and FEMA took several initiatives. (See *Figure 2.3. Stafford Act Implementation Initiatives* and the Rubin and Tanali 2001 *Disaster Time Line* (<http://www.disaster-timeline.com>.) These included:

- *Creation of the FEMA Mitigation Directorate in 1993*, which acknowledged that the mitigation function should have equal status with preparation, response and recovery functions
- *Adoption of the Hazard Mitigation and Relocation Assistance Act of 1993*, which raised the federal share of the cost of mitigation measures from 50% to 75% and the funds for mitigation projects from 10% to 15% of federal disaster assistance; and gave FEMA authority to acquire flood-damaged property and relocate residents outside the floodplain.
- *Adoption of the NFIP Reform Act of 1994*, which strengthened lender compliance with required flood insurance for federally insured loans, established the Flood Mitigation Assistance Program, and authorized the Community Rating System (CRS) allowing flood insurance rates to be reduced in communities that make extra efforts to manage their floodplains.
- *Preparation of the 1995 FEMA National Mitigation Strategy*, which declared mitigation to be the cornerstone of emergency management, with the goals of increasing public awareness and reducing loss of life and injuries.
- *Creation of the Project Impact program*, which promoted disaster resistant communities through partnerships among federal, state, local, and private stakeholders to implement hazard mitigation at the community level.

### **2.3 Critique the various mitigation proposals in terms of impacts on stakeholders in the intergovernmental hazard mitigation policy system.**

In terms of FEMA itself, the total impacts of the new initiatives were considerable. For the first time in U.S. history, mitigation assumed a major role within the organization and its programs. Creation of the Mitigation Directorate put new staff resources to work on developing mitigation strategies, plans, and programs. This new energy resulted in several important products, including the first strategic plan: *Partnership for a Safer Future*, the first National Mitigation Strategy, and the Project Impact program, as well as influence on the content of the Hazard Mitigation and Relocation Assistance Act and the NFIP Reform Act.

In terms of state emergency management agencies, the impacts of the new initiatives also were significant. The National Mitigation Strategy emphasized the role of partnerships as the most effective means of implementing hazard mitigation measures. A new system of Performance Partnership Agreements, started in 1996, provided states with greater flexibility in using emergency management funds and imposed greater accountability on them to ensure performance from the use of the funds. However, the initiatives did not reform the state hazard mitigation planning and project grant processes. These remained largely post disaster efforts.

Local emergency management agencies also were affected by the new initiatives. Project Impact specifically focused on funding communities to undertake pre-disaster actions to reduce

hazard vulnerability. In addition, a private sector program was undertaken by the Institute for Business and Home Safety (IBHS). Called Showcase Communities, this insurance industry program's goal was also to encourage disaster-prone communities to adopt mitigation strategies. However, the new initiatives did not provide major new regulations or financial incentives for local mitigation planning and implementation

#### **2.4 Discuss the impact of major natural disasters on efforts to reshape federal mitigation policy.**

As in previous decades, federal mitigation policy learned from, and responded to, a series of major disasters (*Figure 2.4. Policy Responses to Disasters*). These included: Hurricane Hugo and the Loma Prieta earthquake in 1989; the Oakland firestorm in 1991; Hurricane Andrew in 1992; the Mississippi-Missouri valley floods in 1993; the Northridge earthquake in 1994; Hurricanes Fran and Bertha in 1996; the Ohio River and Red River floods in 1997; Hurricane Georges in 1998; and Hurricanes Floyd and Dennis in 1999.

The major losses from the Loma Prieta earthquake and Hurricanes Hugo and Andrew were widely cited in the National Performance Review and in NAPA's *Coping with Catastrophe* report, which led to the formation of the FEMA Mitigation Directorate. Losses from the Midwest Floods in 1993 were influential in the preparation of the 1993 Hazard Mitigation and Relocation Assistance Act and the 1994 National Flood Insurance Reform Act, as well as the Galloway report. The Galloway Report, along with the 1994 Northridge earthquake, influenced the work of the House and Senate disaster policy task forces, and the 1995 FEMA National Mitigation Strategy.

#### **2.5 Understand the pre-disaster mitigation concepts underlying the Disaster Mitigation Act of 2000.**

The Disaster Mitigation Act (DMA) of 2000 was another step forward for resolving the problems of mitigation created by the post disaster approach of the 1988 Stafford Act. The largest conceptual change was to move from a *post-disaster* to a *pre-disaster* focus. This required moving the funding opportunities up front, rather than tying them solely to the post disaster context.

#### **2.6 Review the Act's provisions.**

As we discussed earlier, the primary provisions of the DMA, which amends the 1988 Stafford Act, are to:

- *Establish a predisaster hazard mitigation program.* "The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments." Section 203(b).

- *Provide for incentive funding for predisaster mitigation.* "If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural hazard mitigation partnerships, the President, using amounts in the National Predisaster Mitigation Fund ...may provide technical and financial assistance to the State or local government..." Section 203(c). Up to 7 percent of the available HMGP funds may be used to develop plans. Federal assistance may contribute up to 75% of the total cost of mitigation activities.
- *Require state and local mitigation plans.* "As a condition of receipt of an increased Federal Share of hazard mitigation measures..., a State, local, or tribal government shall develop and submit for approval to the President a mitigation plan that outlines processes for identifying the natural hazards, risks, and vulnerabilities of the area under the jurisdiction of the government." Section 322(a) If, at the time of the declaration of a major disaster, a State has in effect an approved enhanced mitigation plan..., the President may increase [the Federal contribution] to 20 percent...[from the 15 percent of total eligible Federal assistance previously allowed].

## **2.7 Examine the FEMA regulations implementing the new disaster act**

To carry out the DMA, FEMA has proposed implementation regulations: *Hazard Mitigation Planning and Hazard Mitigation Grant Programs; Interim Final Rule* (44 CFR Parts 201 and 206). The rule addresses State mitigation planning, identifies new local mitigation planning requirements, authorizes the use of Hazard Mitigation Grant Program (HMGP) funds for planning activities, and increases the amount of HMGP funds available to States that develop a comprehensive, enhanced mitigation plan. The rule also allows FEMA to require safe land use and construction practices as a condition of receiving disaster assistance under the Stafford Act.

FEMA's goal is for State and local governments to develop comprehensive and integrated plans that are coordinated through appropriate State, local, and regional agencies, as well as non-governmental interest groups. They would also like to consolidate the planning requirements for different FEMA mitigation programs, so that one local plan meets the minimum requirements for the:

- Flood Mitigation Assistance Program
- Community Rating System
- Pre-Disaster Mitigation Program
- Hazard Mitigation Grant Program.

Finally, they would like for the mitigation plans to integrate documents and plans produced under other emergency management programs, and for State plans to incorporate local risk assessments and mitigation projects.

FEMA's implementation strategy requires states to have an approved hazard mitigation plan in order to receive Stafford Act assistance. Their regulations provide criteria for the new two-tiered State Mitigation Plans (*Figure 2.5. FEMA Rule Implementing the Disaster Mitigation Act of 2000*):

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- **Standard State Mitigation Plans**, which allow a State to receive HMGP funding based on 15 percent of the total estimated Stafford Act disaster assistance for the declared disaster, and
- **Enhanced State Mitigation Plans**, which allow for funding based on 20 percent of total disaster assistance for the declared disaster. These plans must show that the State has developed a comprehensive mitigation program, that it effectively uses mitigation funding, and that it is capable of managing the increased funding. They must be approved before a disaster declaration to be eligible for the increased funding.

## **2.8 Discuss the new requirements and incentives for state and local mitigation planning**

The package of requirements and incentives adopted under the DMA and proposed to be carried out by FEMA mark a sea change in the Federal approach to mitigation planning. For the first time in our nation's history:

- Pre-disaster mitigation planning and actions are not only encouraged, but also are funded
- States are provided with significant additional funds if their mitigation plans meet new standards for integration with other relevant state and regional plans, and demonstrate a strong management capability.
- Attention is paid to mitigation planning, as the basis for state technical assistance and mitigation project priority setting.

## **2.9 Evaluate the potential impacts of the new act and regulations on reducing vulnerability to various types of natural hazards**

In order to evaluate the potential impacts of the new act and regulations, the class will take part in a simulated role play exercise during the second part of the session. Class members will be assigned to state teams representing the hazard mitigation office in their state, as noted in the exercise instructions. The instructor serves as the chair of the Congressional Committee. The chair runs the meeting, questions witnesses, and manages the flow of the hearing.

Exercise instructions are based on two states--North Carolina and California, with different hazards and institutional structures. The instructor should feel free to vary the states, as necessary to accord with the class setting.

The exercise situation is that Congress has convened a joint hearing on the prospects for reducing vulnerability from natural hazards under the Disaster Mitigation Act of 2000. Each team is asked to respond to the following questions:

As a representative of a state exposed to recurring natural hazards, such as floods, earthquakes, hurricanes, and/or wildfires, how would you advise Congress to evaluate the effectiveness of the new policy and implementing regulations in reducing hazard vulnerability in your state?

Specifically, Congress would like to know:

- 1) Is your state likely to take advantage of the incentives provided under the Enhanced State Mitigation Plans program? If so, how is this likely to affect emergency management in your state? If not, why not?
- 2) How will your state carry out the requirement to strengthen and enhance local mitigation planning? What problems do you expect to encounter in building local hazard mitigation capacity and commitment? How will you overcome these problems?
- 3) How much time will it take to see measurable results from implementation of the DMA requirements and incentives in your state? When should FEMA conduct an assessment of the impacts of the DMA? Three years from now? Five years from now? Following the next declared disaster? Other?
- 4) Do you recommend any amendments to the DMA or implementing rules? Are there major needs that are not met? How would you change the Act or rules in order to meet these needs?

The chair of the hearing should probe the teams and seek to bring out issues germane to the implementation of the new regulations. For example, the chair might ask:

- 1) Given the fiscal situation in your state, what level of financial support would be required for you to prepare an Enhanced Mitigation Plan?
- 2) What type of technical assistance will you need to provide to local governments in order to encourage them to prepare effective local hazard mitigation plans?
- 3) If your hazard mitigation staff will need to be expanded, how long will it take to recruit and train new mitigation personnel? To revise your hazard mitigation plans and procedures?
- 4) Should the implementing rules prescribe standards for state and local mitigation plans? If not, on what basis can we expect objective and equitable review procedures by FEMA regional offices?

## **Congressional Hearing Exercise Instructions (Handout)**

### **General Situation**

The exercise situation is that Congress has convened a joint hearing on the prospects for reducing vulnerability from natural hazards under the Disaster Mitigation Act of 2000. Each team is asked to respond to the following questions:

As a representative of a state exposed to recurring natural hazards, such as floods, earthquakes, hurricanes, and/or wildfires, how would you advise Congress to evaluate the effectiveness of the new policy and implementing regulations in reducing hazard vulnerability in your state?

Specifically, Congress would like to know:

- 1) Is your state likely to take advantage of the incentives provided under the Enhanced State Mitigation Plans program? If so, how is this likely to affect emergency management in your state? If not, why not?
- 2) How will your state carry out the requirement to strengthen and enhance local mitigation planning? What problems do you expect to encounter in building local hazard mitigation capacity and commitment? How will you overcome these problems?
- 3) How much time will it take to see measurable results from implementation of the DMA requirements and incentives in your state? When should FEMA conduct an assessment of the impacts of the DMA? Three years from now? Five years from now? Following the next declared disaster? Other?
- 4) Do you recommend any amendments to the DMA or implementing rules? Are there major needs that are not met? How would you change the Act or rules in order to meet these needs?

Each team will have ten minutes to present a prepared statement in response to the questions. The hearing chair may question the teams further after presentation of their statements.

Team members should study the content and requirements of the Disaster Mitigation Act of 2000 and the implementing rule (Hazard Mitigation Planning and Hazard Mitigation Grant Program: Interim Final Rule. 44 CFR Parts 201 and 206. *Federal Register*, February 26, 2002, Volume 67, Number 38). They should imagine how this new policy will affect hazard mitigation planning and action in their assigned state. They may wish to consult the web site for their assigned state's hazard mitigation office. They should then prepare their statements for the hearing.

### **State Representatives**

#### **North Carolina**

Major hazards faced:

Hurricanes, floods

Recent major disaster:

Hurricane Floyd in 1999 devastated eastern part of state

Hazard mitigation resources:

Personnel decreasing as funding from Hurricane Floyd runs out; one permanent mitigation staff position funded by state

Fiscal situation:

Major revenue shortfall resulting in cutbacks of all state agencies; statewide fiscal crisis resulting from declines in manufacturing and agriculture

State/local context:

Historically rural state with many small local governments who value their independence; three major metropolitan areas; no comprehensive planning mandate except in 20 coastal counties; conservative state legislature; medium high growth rate

## **California**

Major hazards faced:

Earthquakes, floods, wildfires

Recent major disaster:

Northridge earthquake in 1994 hit Los Angeles region hard

Hazard mitigation resources:

Large permanent earthquake hazard mitigation staff, supplemented with expanded personnel for each disaster

Fiscal situation:

Major revenue shortfall resulting in cutbacks of all state agencies; statewide fiscal crisis; cap on local property tax from past referendum

State/local context:

Population concentrated in highly urbanized coastal area underlain by earthquake fault lines; local governments required to prepare comprehensive plans containing hazard elements; progressive state legislature; high growth rate

## Figure 2.1. Major Disaster Studies and Plans

Source: Godschalk et al. 1999; Platt 1999

- 1992      -*Floodplain Management in the United States: An Assessment Report*. Federal Interagency Floodplain Management Task Force.
- 1993      -*Coping with Catastrophe: Building an Emergency Management System to Meet People's Needs in Natural and Manmade Disasters*. National Academy of Public Administration (NAPA).  
-*Federal Emergency Management Agency*. National Performance Review.
- 1994      -Study by House Bipartisan Task Force on Disasters.  
-*Sharing the Challenge: Floodplain Management into the 21<sup>st</sup> century* (Galloway report)  
-*Unified National Program for Floodplain Management*. Federal Interagency Floodplain Management Task Force.  
-*Audit of FEMA's Mitigation Programs*. FEMA Inspector General.
- 1995      -*National Mitigation Strategy*. FEMA.  
-Report by Senate Task Force on Funding Disaster Relief.
- 1996      -*Natural Disaster Reduction: A Plan for the Nation*. National Science and Technology Council.

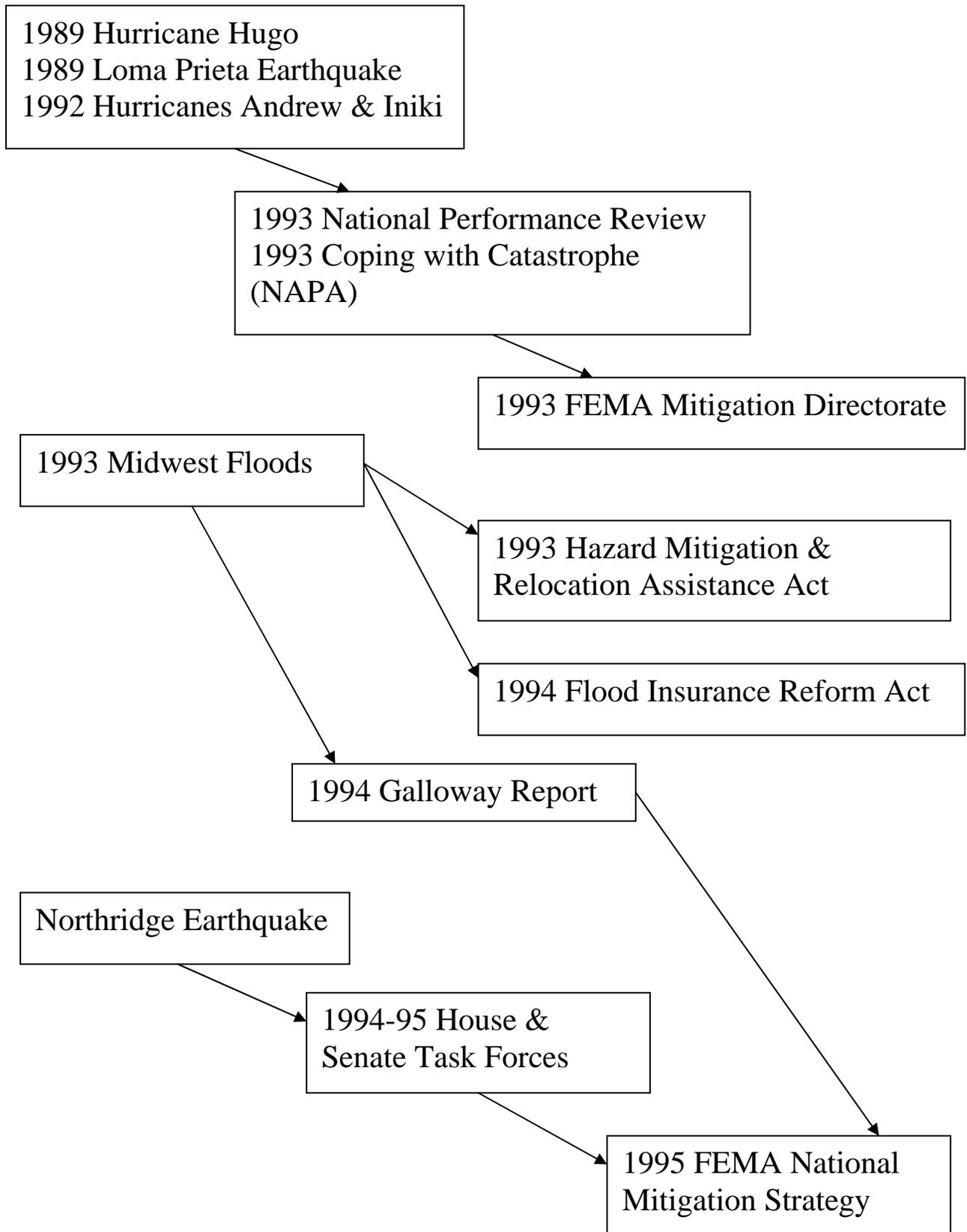
## **Figure 2.2 Mitigation Issues and Problems**

- Emergency management system gaps
- Shared responsibility vs expensive federal bailouts
- Pre- vs post-disaster funding
- Expansion of hazard insurance
- Repetitive damage cycle
- Weak state mitigation plans
- Inadequate state & local mitigation capability
- Unsustainable communities

## Figure 2.3 Stafford Act Implementation Initiatives

- 1993 FEMA Mitigation Directorate established  
Hazard Mitigation and Relocation Assistance Act
- 1994 NFIP Reform Act
- 1995 FEMA National Mitigation Strategy: *Partnerships for Building Safer Communities*
- 1997 FEMA Project Impact program  
FEMA Strategic Plan: *Partnerships for a Safer Future*
- 1998 FEMA *National Pre-Disaster Mitigation Plan*

**Figure 2.4. Policy Responses to Disasters.** Source: Platt 1999



## **Figure 2.5. FEMA Rule Implementing the Disaster Mitigation Act of 2000**

Defines **two tiered approach** to mitigation planning:

- **Standard State Mitigation Plans**
  - HMGP funding based on 15% of total disaster assistance
  
- **Enhanced State Mitigation Plans**
  - HMGP funding based on 20% of total disaster assistance
  - Must show that State:
    - has comprehensive mitigation program
    - effectively uses mitigation funding
    - is capable of managing increased funding
  - Plans must be approved before disaster declaration to be eligible for increased funding