

Customs and Border Protection or the General Services Administration pursuant to this section or a prior pilot program prior to such termination date” for “carrying out the terms of an agreement under this subsection if such agreement is entered into before such termination date”.

Subsec. (c)(6)(B). Pub. L. 117–81, § 6410(3), substituted cls. (i) and (ii) for “the donation will not be used for the construction of a detention facility or a border fence or wall.”

Subsec. (d). Pub. L. 117–81, § 6401(4), substituted “biennial” for “annual” in introductory provisions.

Subsec. (e). Pub. L. 117–81, § 6410(d), substituted “Administrator of General Services” for “Administrator of the General Services Administration”.

2020—Subsec. (b)(4)(A). Pub. L. 116–260, which directed substitution of “December 16, 2021” for “4 years after December 16, 2016”, was executed by making the substitution for original text reading “4 years after the date of the enactment of this section”, which had been translated as “4 years after December 16, 2016”, to reflect the probable intent of Congress.

§ 301b. Current and proposed agreements

Nothing in this part or in section 4 of the Cross-Border Trade Enhancement Act of 2016 may be construed as affecting—

(1) any agreement entered into pursuant to section 560 of division D of the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113–6) or section 559 of title V of division F of the Consolidated Appropriations Act, 2014 (6 U.S.C. 211 note; Public Law 113–76), as in existence on the day before December 16, 2016, and any such agreement shall continue to have full force and effect on and after such date; or

(2) a proposal accepted for consideration by U.S. Customs and Border Protection pursuant to such section 559, as in existence on the day before December 16, 2016.

(Pub. L. 107–296, title IV, § 483, as added Pub. L. 114–279, § 2(a), Dec. 16, 2016, 130 Stat. 1421.)

Editorial Notes

REFERENCES IN TEXT

Section 4 of the Cross-Border Trade Enhancement Act of 2016, referred to in text, is section 4 of Pub. L. 114–279, Dec. 16, 2016, 130 Stat. 1422, which repealed section 560 of division D of Pub. L. 113–6 and section 559 of title V of division F of Pub. L. 113–76. Section 560 of Pub. L. 113–6, was not classified to the Code. Section 559 of Pub. L. 113–76 was classified as a note under section 211 of this title.

§ 301c. Definitions

In this part:

(1) Donor

The term “donor” means any entity that is proposing to make a donation under this chapter.

(2) Entity

The term “entity” means any—

(A) person;

(B) partnership, corporation, trust, estate, cooperative, association, or any other organized group of persons;

(C) Federal, State or local government (including any subdivision, agency or instrumentality thereof); or

(D) any other private or governmental entity.

(Pub. L. 107–296, title IV, § 484, as added Pub. L. 114–279, § 2(a), Dec. 16, 2016, 130 Stat. 1421.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original “this Act”, meaning Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

SUBCHAPTER V—NATIONAL EMERGENCY MANAGEMENT

Editorial Notes

CODIFICATION

Pub. L. 109–295, title VI, § 611(1), Oct. 4, 2006, 120 Stat. 1395, substituted “NATIONAL EMERGENCY MANAGEMENT” for “EMERGENCY PREPAREDNESS AND RESPONSE” in subchapter heading.

§ 311. Definitions

In this subchapter—

(1) the term “Administrator” means the Administrator of the Agency;

(2) the term “Agency” means the Federal Emergency Management Agency;

(3) the term “catastrophic incident” means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(4) the terms “credentialed” and “credentialing” mean having provided, or providing, respectively, documentation that identifies personnel and authenticates and verifies the qualifications of such personnel by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for a particular position in accordance with standards created under section 320 of this title;

(5) the term “Federal coordinating officer” means a Federal coordinating officer as described in section 5143 of title 42;

(6) the term “interoperable” has the meaning given the term “interoperable communications” under section 194(g)(1) of this title;

(7) the term “National Incident Management System” means a system to enable effective, efficient, and collaborative incident management;

(8) the term “National Response Plan” means the National Response Plan or any successor plan prepared under section 314(a)(6)¹ of this title;

(9) the term “Regional Administrator” means a Regional Administrator appointed under section 317 of this title;

(10) the term “Regional Office” means a Regional Office established under section 317 of this title;

¹ See References in Text note below.

(11) the term “resources” means personnel and major items of equipment, supplies, and facilities available or potentially available for responding to a natural disaster, act of terrorism, or other man-made disaster;

(12) the term “surge capacity” means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident;

(13) the term “tribal government” means the government of any entity described in section 101(13)(B) of this title; and

(14) the terms “typed” and “typing” mean having evaluated, or evaluating, respectively, a resource in accordance with standards created under section 320 of this title.

(Pub. L. 107-296, title V, § 501, as added Pub. L. 109-295, title VI, § 611(10), Oct. 4, 2006, 120 Stat. 1395; amended Pub. L. 110-53, title IV, § 401(a), title V, § 502(c)(1), Aug. 3, 2007, 121 Stat. 301, 311; Pub. L. 114-328, div. A, title XIX, § 1913(b)(2), Dec. 23, 2016, 130 Stat. 2687.)

Editorial Notes

REFERENCES IN TEXT

Section 314(a)(6) of this title, referred to in par. (8), was in the original “section 502(a)(6)” and was translated as meaning section 502 of Pub. L. 107-296 prior to its redesignation as section 504 by Pub. L. 109-295, § 611(8), and not section 506 which was redesignated section 502 by Pub. L. 109-295, § 611(9), and is classified to section 312 of this title, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 311, Pub. L. 107-296, title V, § 501, Nov. 25, 2002, 116 Stat. 2212, provided for an Under Secretary for Emergency Preparedness and Response, prior to repeal by Pub. L. 109-295, title VI, § 611(2), Oct. 4, 2006, 120 Stat. 1395.

AMENDMENTS

2016—Par. (13). Pub. L. 114-328 substituted “101(13)(B)” for “101(11)(B)”.

2007—Pars. (4) to (12). Pub. L. 110-53, § 401(a)(1)–(4), added pars. (4) and (11) and redesignated former pars. (4) to (10) as (5) to (10) and (12), respectively. Former par. (11) redesignated (13).

Par. (13). Pub. L. 110-53, § 502(c)(1), substituted “101(11)(B)” for “101(10)(B)”.

Pub. L. 110-53, § 401(a)(1), redesignated par. (11) as (13).

Par. (14). Pub. L. 110-53, § 401(a)(5)–(7), added par. (14).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of this title.

INTERIM ACTIONS

Pub. L. 109-295, title VI, § 612(f)(1), Oct. 4, 2006, 120 Stat. 1411, provided that: “During the period beginning on the date of enactment of this Act [Oct. 4, 2006] and

ending on March 31, 2007, the Secretary [of Homeland Security], the Under Secretary for Preparedness, and the Director of the Federal Emergency Management Agency shall take such actions as are necessary to provide for the orderly implementation of any amendment under this subtitle [subtitle A (§§ 611–614) of title VI of Pub. L. 109-295, see Tables for classification] that takes effect on March 31, 2007.”

§ 312. Definition

In this subchapter, the term “Nuclear Incident Response Team” means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

(Pub. L. 107-296, title V, § 502, formerly § 506, Nov. 25, 2002, 116 Stat. 2214; renumbered § 502, Pub. L. 109-295, title VI, § 611(9), Oct. 4, 2006, 120 Stat. 1395.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 316 of this title prior to renumbering by Pub. L. 109-295.

PRIOR PROVISIONS

A prior section 502 of Pub. L. 107-296 was renumbered section 504 and is classified to section 314 of this title.

§ 313. Federal Emergency Management Agency

(a) In general

There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

(b) Mission

(1) Primary mission

The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

(2) Specific activities

In support of the primary mission of the Agency, the Administrator shall—

(A) lead the Nation’s efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(B) partner with State, local, and tribal governments and emergency response pro-

viders, with other Federal agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation's resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other man-made disaster;

(D) integrate the Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

(E) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

(G) provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster;

(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation; and

(I) identify, integrate, and implement the needs of children, including children within under-served communities, into activities to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other disasters, including catastrophic incidents, including by appointing a technical expert, who may consult with relevant outside organizations and experts, as necessary, to coordinate such integration, as necessary.

(c) Administrator

(1) In general

The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Qualifications

The Administrator shall be appointed from among individuals who have—

(A) a demonstrated ability in and knowledge of emergency management and homeland security; and

(B) not less than 5 years of executive leadership and management experience in the public or private sector.

(3) Reporting

The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

(4) Principal advisor on emergency management

(A) In general

The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

(B) Advice and recommendations

(i) In general

In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

(ii) Advice on request

The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

(iii) Recommendations to Congress

After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

(5) Cabinet status

(A) In general

The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

(B) Retention of authority

Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this chapter.

(Pub. L. 107-296, title V, § 503, as added Pub. L. 109-295, title VI, § 611(11), Oct. 4, 2006, 120 Stat. 1396; amended Pub. L. 117-130, § 3, June 6, 2022, 136 Stat. 1229.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(5)(B), was in the original “this Act”, meaning Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security

Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

PRIOR PROVISIONS

A prior section 313, Pub. L. 107-296, title V, §503, Nov. 25, 2002, 116 Stat. 2213; Pub. L. 108-276, §3(c)(3), July 21, 2004, 118 Stat. 853; Pub. L. 109-417, title III, §301(c)(2), Dec. 19, 2006, 120 Stat. 2854, related to the transfer of certain functions to the Secretary of Homeland Security, prior to repeal by Pub. L. 109-295, title VI, §611(3), Oct. 4, 2006, 120 Stat. 1395.

AMENDMENTS

2022—Subsec. (b)(2)(I). Pub. L. 117-130 added subpar. (I).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that: “Any reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.”

Pub. L. 109-295, title VI, §612(f)(2), Oct. 4, 2006, 120 Stat. 1411, provided that: “Any reference to the Administrator of the Federal Emergency Management Agency in this title [see Tables for classification] or an amendment by this title shall be considered to refer and apply to the Director of the Federal Emergency Management Agency until March 31, 2007.”

EFFECTIVE DATE

Section effective Mar. 31, 2007, see section 614(b)(1) of Pub. L. 109-295, set out as a note under section 701 of this title.

§ 314. Authority and responsibilities

(a) In general

The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this subchapter)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government’s response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team and (when operating as an organizational unit of the Department pursuant to this subchapter) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources, including requiring deployment of the Strategic National Stockpile, in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan;

(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act;

(9) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

(A) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards;

(10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;

(11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;

(12) supervising grant programs administered by the Agency;

(13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;

(14) coordinating with the National Advisory Council established under section 318 of this title;

(15) preparing and implementing the plans and programs of the Federal Government for—

- (A) continuity of operations;
- (B) continuity of government; and
- (C) continuity of plans;

(16) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

(17) maintaining and operating within the Agency the National Response Coordination Center or its successor;

(18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

(19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and carrying out all functions and authorities of the Administrator under the national preparedness System;

(20) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 315 of this title; and

(21) otherwise carrying out the mission of the Agency as described in section 313(b) of this title.

(b) All-hazards approach

In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.

(Pub. L. 107-296, title V, § 504, formerly § 502, Nov. 25, 2002, 116 Stat. 2212; Pub. L. 108-276, § 3(b)(1), July 21, 2004, 118 Stat. 852; Pub. L. 108-458, title VII, § 7303(h)(1), Dec. 17, 2004, 118 Stat. 3846; renumbered § 504 and amended Pub. L. 109-295, title VI, § 611(8), (12), Oct. 4, 2006, 120 Stat. 1395, 1398; Pub. L. 109-417, title III, § 301(c)(1), Dec. 19, 2006, 120 Stat. 2854.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(8), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 312 of this title prior to renumbering by Pub. L. 109-295.

PRIOR PROVISIONS

A prior section 504 of Pub. L. 107-296 was renumbered section 517 and is classified to section 321f of this title.

AMENDMENTS

2006—Pub. L. 109-295, § 611(12)(A), (B), inserted “Authority and” before “responsibilities” in section catchline, designated existing provisions as subsec. (a), inserted subsec. heading, and substituted “The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—” for “The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall include—” in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 109-417, which directed that section 502(3)(B) of Pub. L. 107-296 be amended by striking “, the National Disaster Medical System,” was executed by striking those words after “Domestic Emergency Support Team” in subsec. (a)(3)(B) of this section, to reflect the probable intent of Congress and the redesignation of section 502(3)(B) as 504(a)(3)(B) by Pub. L. 109-295, § 611(8), (12)(B). See credits and Amendment note above.

Subsec. (a)(7) to (21). Pub. L. 109-295, § 611(12)(C), (D), added pars. (7) to (21) and struck out former par. (7) which read as follows: “helping to ensure that emergency response providers acquire interoperable communications technology.”

Subsec. (b). Pub. L. 109-295, § 611(12)(D), added subsec. (b).

2004—Par. (3)(B). Pub. L. 108-276, § 3(b)(1)(A), struck out “the Strategic National Stockpile,” after “Domestic Emergency Support Team.”

Par. (3)(D). Pub. L. 108-276, § 3(b)(1)(B), inserted “, including requiring deployment of the Strategic National Stockpile,” after “resources”.

Par. (7). Pub. L. 108-458 struck out “developing comprehensive programs for developing interoperative communications technology, and” before “helping” and substituted “acquire interoperable communications technology” for “acquire such technology”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-417, title III, § 301(f), Dec. 19, 2006, 120 Stat. 2855, provided that: “The amendments made by subsections (b) and (c) [amending this section and former section 313 of this title and enacting provisions set out as a note under section 300hh-11 of Title 42, The Public Health and Welfare] shall take effect on January 1, 2007.”

Amendment by section 611(12) of Pub. L. 109-295 effective Mar. 31, 2007, see section 614(b)(2) of Pub. L. 109-295, set out as an Effective Date note under section 701 of this title.

Executive Documents

EX. ORD. NO. 13347. INDIVIDUALS WITH DISABILITIES IN EMERGENCY PREPAREDNESS

Ex. Ord. No. 13347, July 22, 2004, 69 F.R. 44573, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to strengthen emergency preparedness with respect to individuals with disabilities, it is hereby ordered as follows:

SECTION 1. *Policy.* To ensure that the Federal Government appropriately supports safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism, it shall be the policy of the United States that executive departments and agencies of the Federal Government (agencies):

(a) consider, in their emergency preparedness planning, the unique needs of agency employees with disabilities and individuals with disabilities whom the agency serves;

(b) encourage, including through the provision of technical assistance, as appropriate, consideration of

the unique needs of employees and individuals with disabilities served by State, local, and tribal governments and private organizations and individuals in emergency preparedness planning; and

(c) facilitate cooperation among Federal, State, local, and tribal governments and private organizations and individuals in the implementation of emergency preparedness plans as they relate to individuals with disabilities.

SEC. 2. *Establishment of Council.* (a) There is hereby established, within the Department of Homeland Security for administrative purposes, the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (the “Council”). The Council shall consist exclusively of the following members or their designees:

(i) the heads of executive departments, the Administrator of the Environmental Protection Agency, the Administrator of General Services, the Director of the Office of Personnel Management, and the Commissioner of Social Security; and

(ii) any other agency head as the Secretary of Homeland Security may, with the concurrence of the agency head, designate.

(b) The Secretary of Homeland Security shall chair the Council, convene and preside at its meetings, determine its agenda, direct its work, and, as appropriate to particular subject matters, establish and direct subgroups of the Council, which shall consist exclusively of Council members.

(c) A member of the Council may designate, to perform the Council functions of the member, an employee of the member's department or agency who is either an officer of the United States appointed by the President, or a full-time employee serving in a position with pay equal to or greater than the minimum rate payable for GS-15 of the General Schedule.

SEC. 3. *Functions of Council.* (a) The Council shall:

(i) coordinate implementation by agencies of the policy set forth in section 1 of this order;

(ii) whenever the Council obtains in the performance of its functions information or advice from any individual who is not a full-time or permanent part-time Federal employee, obtain such information and advice only in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation; and

(iii) at the request of any agency head (or the agency head's designee under section 2(c) of this order) who is a member of the Council, unless the Secretary of Homeland Security declines the request, promptly review and provide advice, for the purpose of furthering the policy set forth in section 1, on a proposed action by that agency.

(b) The Council shall submit to the President each year beginning 1 year after the date of this order, through the Assistant to the President for Homeland Security, a report that describes:

(i) the achievements of the Council in implementing the policy set forth in section 1;

(ii) the best practices among Federal, State, local, and tribal governments and private organizations and individuals for emergency preparedness planning with respect to individuals with disabilities; and

(iii) recommendations of the Council for advancing the policy set forth in section 1.

SEC. 4. *General.* (a) To the extent permitted by law:

(i) agencies shall assist and provide information to the Council for the performance of its functions under this order; and

(ii) the Department of Homeland Security shall provide funding and administrative support for the Council.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit,

substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 314a. FEMA programs

Notwithstanding any other provision of Federal law, as of April 1, 2007, the Director of the Federal Emergency Management Agency shall be responsible for the radiological emergency preparedness program and the chemical stockpile emergency preparedness program.

(Pub. L. 109-347, title VI, § 612, Oct. 13, 2006, 120 Stat. 1943.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Security and Accountability For Every Port Act of 2006, also known as the SAFE Port Act, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

References to the Director of the Federal Emergency Management Agency considered to refer and apply to the Administrator of the Federal Emergency Management Agency, see section 612(c) of Pub. L. 109-295, set out as a note under section 313 of this title.

§ 315. Functions transferred

(a) In general

Except as provided in subsection (b), there are transferred to the Agency the following:

(1) All functions of the Federal Emergency Management Agency, including existing responsibilities for emergency alert systems and continuity of operations and continuity of government plans and programs as constituted on June 1, 2006, including all of its personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Preparedness relating thereto.

(b) Exceptions

The following within the Preparedness Directorate shall not be transferred:

(1) The Office of Infrastructure Protection.

(2) The National Communications System.

(3) The National Cybersecurity Division.

(4) The functions, personnel, assets, components, authorities, and liabilities of each component described under paragraphs (1) through (3).

(Pub. L. 107-296, title V, § 505, as added Pub. L. 109-295, title VI, § 611(13), Oct. 4, 2006, 120 Stat. 1400; amended Pub. L. 115-387, § 2(f)(4), Dec. 21, 2018, 132 Stat. 5168.)

Editorial Notes

PRIOR PROVISIONS

A prior section 505 of Pub. L. 107-296 was renumbered section 518 and is classified to section 321g of this title.

AMENDMENTS

2018—Subsec. (b)(4), (5). Pub. L. 115-387 redesignated par. (5) as (4), substituted “(1) through (3)” for “(1) through (4)”, and struck out former par. (4) which read as follows: “The Office of the Chief Medical Officer.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Mar. 31, 2007, see section 614(b)(3) of Pub. L. 109-295, set out as a note under section 701 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of this title and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of this title.

§ 316. Preserving the Federal Emergency Management Agency**(a) Distinct entity**

The Agency shall be maintained as a distinct entity within the Department.

(b) Reorganization

Section 452 of this title shall not apply to the Agency, including any function or organizational unit of the Agency.

(c) Prohibition on changes to missions**(1) In general**

The Secretary may not substantially or significantly reduce, including through a Joint Task Force established under section 348 of this title, the authorities, responsibilities, or functions of the Agency or the capability of the Agency to perform those missions, authorities, responsibilities,¹ except as otherwise specifically provided in an Act enacted after October 4, 2006.

(2) Certain transfers prohibited

No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, including a Joint Task Force established under section 348 of this title, except for details or assignments that do not reduce the capability of the Agency to perform its missions.

(d) Reprogramming and transfer of funds

In reprogramming or transferring funds, the Secretary shall comply with any applicable provisions of any Act making appropriations for the Department for fiscal year 2007, or any succeeding fiscal year, relating to the reprogramming or transfer of funds.

(Pub. L. 107-296, title V, § 506, as added Pub. L. 109-295, title VI, § 611(13), Oct. 4, 2006, 120 Stat. 1400; amended Pub. L. 114-328, div. A, title XIX, § 1901(d)(1), Dec. 23, 2016, 130 Stat. 2670.)

¹ So in original. Probably should be “authorities, responsibilities, or functions”.

Editorial Notes

PRIOR PROVISIONS

A prior section 506 of Pub. L. 107-296 was renumbered section 502 and is classified to section 312 of this title.

AMENDMENTS

2016—Subsec. (c)(1). Pub. L. 114-328, § 1901(d)(1)(A), inserted “, including through a Joint Task Force established under section 348 of this title, after “reduce”.

Subsec. (c)(2). Pub. L. 114-328, § 1901(d)(1)(B), inserted “including a Joint Task Force established under section 348 of this title,” after “Department,”.

§ 317. Regional offices**(a) In general**

There are in the Agency 10 regional offices, as identified by the Administrator.

(b) Management of regional offices**(1) Regional Administrator**

Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Administrator and be in the Senior Executive Service.

(2) Qualifications**(A) In general**

Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

(B) Considerations

In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

(c) Responsibilities**(1) In general**

The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

(2) Responsibilities

The responsibilities of a Regional Administrator include—

(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);

(B) assisting in the development of regional capabilities needed for a national catastrophic response system;

(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

(F) fostering the development of mutual aid and other cooperative agreements;

(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

(H) maintaining and operating a Regional Response Coordination Center or its successor;

(I) coordinating with the private sector to help ensure private sector preparedness for natural disasters, acts of terrorism, and other man-made disasters;

(J) assisting State, local, and tribal governments, where appropriate, to preidentify and evaluate suitable sites where a multi-jurisdictional incident command system may quickly be established and operated from, if the need for such a system arises; and

(K) performing such other duties relating to such responsibilities as the Administrator may require.

(3) Training and exercise requirements

(A) Training

The Administrator shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National Response Plan, and such other subjects as determined by the Administrator.

(B) Exercises

The Administrator shall require each Regional Administrator to participate as appropriate in regional and national exercises.

(d) Area offices

(1) In general

There is an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

(2) Alaska

The Administrator shall establish an Area Office in Alaska, as a component in the appropriate Regional Office.

(e) Regional Advisory Council

(1) Establishment

Each Regional Administrator shall establish a Regional Advisory Council.

(2) Nominations

A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

(3) Responsibilities

Each Regional Advisory Council shall—

(A) advise the Regional Administrator on emergency management issues specific to that region;

(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

(C) advise the Regional Administrator of any weaknesses or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council is aware.

(f) Regional Office strike teams

(1) In general

In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 5144 of title 42 that shall consist of—

(A) a designated Federal coordinating officer;

(B) personnel trained in incident management;

(C) public affairs, response and recovery, and communications support personnel;

(D) a defense coordinating officer;

(E) liaisons to other Federal agencies;

(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

(2) Other duties

The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be consistent with the emergency preparedness activities of the agency that employs such individual.

(3) Location of members

The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

(4) Coordination

Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and non-governmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

(5) Preparedness

Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(6) Authorities

If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.

(Pub. L. 107-296, title V, § 507, as added Pub. L. 109-295, title VI, § 611(13), Oct. 4, 2006, 120 Stat. 1401; amended Pub. L. 110-53, title IV, § 404, Aug. 3, 2007, 121 Stat. 303.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 317, Pub. L. 107-296, title V, § 507, Nov. 25, 2002, 116 Stat. 2214, related to the role of the Federal Emergency Management Agency, prior to repeal by Pub. L. 109-295, title VI, § 611(4), Oct. 4, 2006, 120 Stat. 1395.

AMENDMENTS

2007—Subsec. (c)(2)(I) to (K). Pub. L. 110-53 added subpars. (I) and (J) and redesignated former subpar. (I) as (K).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective Mar. 31, 2007, see section 614(b)(3) of Pub. L. 109-295, set out as a note under section 701 of this title.

§ 318. National Advisory Council**(a) Establishment**

Not later than 60 days after October 4, 2006, the Secretary shall establish an advisory body under section 451(a) of this title to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

(b) Responsibilities**(1) In general**

The National Advisory Council shall advise the Administrator on all aspects of emergency management. The National Advisory Council shall incorporate State, local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(2) Consultation on grants

To ensure input from and coordination with State, local, and tribal governments and emergency response providers, the Administrator shall regularly consult and work with the Na-

tional Advisory Council on the administration and assessment of grant programs administered by the Department, including with respect to the development of program guidance and the development and evaluation of risk-assessment methodologies, as appropriate.

(c) Membership**(1) In general**

The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and non-governmental organizations, including as appropriate—

(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

(B) health scientists, emergency and inpatient medical providers, and public health professionals;

(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

(D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;

(E) elected State, local, and tribal government executives;

(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

(G) representatives of individuals with disabilities and other populations with special needs; and

(H) such other individuals as the Administrator determines to be appropriate.

(2) Coordination with the Departments of Health and Human Services and Transportation

In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

(3) Ex officio members

The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

(4) Terms of office**(A) In general**

Except as provided in subparagraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

(B) Initial appointments

Of the members initially appointed to the National Advisory Council—

- (i) one-third shall be appointed for a term of 1 year; and
- (ii) one-third shall be appointed for a term of 2 years.

(d) RESPONSE Subcommittee**(1) Establishment**

Not later than 30 days after December 16, 2016, the Administrator shall establish, as a subcommittee of the National Advisory Council, the Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation Subcommittee (referred to in this subsection as the “RESPONSE Subcommittee”).

(2) Membership

Notwithstanding subsection (c), the RESPONSE Subcommittee shall be composed of the following:

(A) The Deputy Administrator, Protection and National Preparedness of the Federal Emergency Management Agency, or designee.

(B) The Chief Safety Officer of the Pipeline and Hazardous Materials Safety Administration, or designee.

(C) The Associate Administrator for Hazardous Materials Safety of the Pipeline and Hazardous Materials Safety Administration, or designee.

(D) The Assistant Director for Emergency Communications, or designee.

(E) The Director for the Office of Railroad, Pipeline and Hazardous Materials Investigations of the National Transportation Safety Board, or designee.

(F) The Chief Safety Officer and Associate Administrator for Railroad Safety of the Federal Railroad Administration, or designee.

(G) The Assistant Administrator for Security Policy and Industry Engagement of the Transportation Security Administration, or designee.

(H) The Assistant Commandant for Response Policy of the Coast Guard, or designee.

(I) The Assistant Administrator for the Office of Solid Waste and Emergency Response of the Environmental Protection Agency, or designee.

(J) Such other qualified individuals as the co-chairpersons shall jointly appoint as soon as practicable after December 16, 2016, from among the following:

- (i) Members of the National Advisory Council that have the requisite technical knowledge and expertise to address rail emergency response issues, including members from the following disciplines:

- (I) Emergency management and emergency response providers, including fire service, law enforcement, hazardous materials response, and emergency medical services.

- (II) State, local, and tribal government officials.

- (ii) Individuals who have the requisite technical knowledge and expertise to serve on the RESPONSE Subcommittee, including at least 1 representative from each of the following:

- (I) The rail industry.

- (II) Rail labor.

- (III) Persons who offer oil for transportation by rail.

- (IV) The communications industry.

- (V) Emergency response providers, including individuals nominated by national organizations representing State and local governments and emergency responders.

- (VI) Emergency response training providers.

- (VII) Representatives from tribal organizations.

- (VIII) Technical experts.

- (IX) Vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for emergency responder services.

- (iii) Representatives of such other stakeholders and interested and affected parties as the co-chairpersons consider appropriate.

(3) Co-chairpersons

The members described in subparagraphs (A) and (B) of paragraph (2) shall serve as the co-chairpersons of the RESPONSE Subcommittee.

(4) Initial meeting

The initial meeting of the RESPONSE Subcommittee shall take place not later than 90 days after December 16, 2016.

(5) Consultation with nonmembers

The RESPONSE Subcommittee and the program offices for emergency responder training and resources shall consult with other relevant agencies and groups, including entities engaged in federally funded research and academic institutions engaged in relevant work and research, which are not represented on the RESPONSE Subcommittee to consider new and developing technologies and methods that may be beneficial to preparedness and response to rail hazardous materials incidents.

(6) Recommendations

The RESPONSE Subcommittee shall develop recommendations, as appropriate, for improving emergency responder training and resource allocation for hazardous materials incidents involving railroads after evaluating the following topics:

- (A) The quality and application of training for State and local emergency responders related to rail hazardous materials incidents, including training for emergency responders serving small communities near railroads, including the following:

- (i) Ease of access to relevant training for State and local emergency responders, including an analysis of—

- (I) the number of individuals being trained;

- (II) the number of individuals who are applying;

- (III) whether current demand is being met;
- (IV) current challenges; and
- (V) projected needs.

(ii) Modernization of training course content related to rail hazardous materials incidents, with a particular focus on fluctuations in oil shipments by rail, including regular and ongoing evaluation of course opportunities, adaptation to emerging trends, agency and private sector outreach, effectiveness and ease of access for State and local emergency responders.

(iii) Identification of overlap in training content and identification of opportunities to develop complementary courses and materials among governmental and non-governmental entities.

(iv) Online training platforms, train-the-trainer, and mobile training options.

(B) The availability and effectiveness of Federal, State, local, and nongovernmental funding levels related to training emergency responders for rail hazardous materials incidents, including emergency responders serving small communities near railroads, including—

(i) identifying overlap in resource allocations;

(ii) identifying cost savings measures that can be implemented to increase training opportunities;

(iii) leveraging government funding with nongovernmental funding to enhance training opportunities and fill existing training gaps;

(iv) adaptation of priority settings for agency funding allocations in response to emerging trends;

(v) historic levels of funding across Federal agencies for rail hazardous materials incident response and training, including funding provided by the private sector to public entities or in conjunction with Federal programs; and

(vi) current funding resources across agencies.

(C) The strategy for integrating commodity flow studies, mapping, and rail and hazardous materials databases for State and local emergency responders and increasing the rate of access to the individual responder in existing or emerging communications technology.

(7) Report

(A) In general

Not later than 1 year after December 16, 2016, the RESPONSE Subcommittee shall submit a report to the National Advisory Council that—

(i) includes the recommendations developed under paragraph (6);

(ii) specifies the timeframes for implementing any such recommendations that do not require congressional action; and

(iii) identifies any such recommendations that do require congressional action.

(B) Review

Not later than 30 days after receiving the report under subparagraph (A), the National

Advisory Council shall begin a review of the report. The National Advisory Council may ask for additional clarification, changes, or other information from the RESPONSE Subcommittee to assist in the approval of the recommendations.

(C) Recommendation

Once the National Advisory Council approves the recommendations of the RESPONSE Subcommittee, the National Advisory Council shall submit the report to—

(i) the co-chairpersons of the RESPONSE Subcommittee;

(ii) the head of each other agency represented on the RESPONSE Subcommittee;

(iii) the Committee on Homeland Security and Governmental Affairs of the Senate;

(iv) the Committee on Commerce, Science, and Transportation of the Senate;

(v) the Committee on Homeland Security of the House of Representatives; and

(vi) the Committee on Transportation and Infrastructure of the House of Representatives.

(8) Interim activity

(A) Updates and oversight

After the submission of the report by the National Advisory Council under paragraph (7), the Administrator shall—

(i) provide annual updates to the congressional committees referred to in paragraph (7)(C) regarding the status of the implementation of the recommendations developed under paragraph (6); and

(ii) coordinate the implementation of the recommendations described in paragraph (6)(G)(i), as appropriate.

(B) Sunset

The requirements of subparagraph (A) shall terminate on the date that is 2 years after the date of the submission of the report required under paragraph (7)(A).

(9) Termination

The RESPONSE Subcommittee shall terminate not later than 90 days after the submission of the report required under paragraph (7)(C).

(e) Applicability of chapter 10 of title 5

(1) In general

Notwithstanding section 451(a) of this title and subject to paragraph (2), chapter 10 of title 5, including subsections (a), (b), and (d) of section 1009 of title 5, and section 552b(c) of title 5 shall apply to the National Advisory Council.

(2) Termination

Section 1013(a)(2) of title 5 shall not apply to the National Advisory Council.

(Pub. L. 107–296, title V, §508, as added Pub. L. 109–295, title VI, §611(13), Oct. 4, 2006, 120 Stat. 1403; amended Pub. L. 110–53, title I, §102(a), Aug. 3, 2007, 121 Stat. 293; Pub. L. 114–321, §2, Dec. 16, 2016, 130 Stat. 1623; Pub. L. 115–278, §2(g)(4)(A), Nov. 16, 2018, 132 Stat. 4178; Pub. L. 117–286, §4(a)(15), Dec. 27, 2022, 136 Stat. 4306.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 508 of Pub. L. 107–296 was renumbered section 519 and is classified to section 321h of this title.

AMENDMENTS

2022—Subsec. (e). Pub. L. 117–286, §4(a)(15)(A), substituted “chapter 10 of title 5” for “Federal Advisory Committee Act” in heading.

Subsec. (e)(1). Pub. L. 117–286, §4(a)(15)(B), substituted “chapter 10 of title 5, including subsections (a), (b), and (d) of section 1009 of title 5,” for “the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act.”

Subsec. (e)(2). Pub. L. 117–286, §4(a)(15)(C), substituted “Section 1013(a)(2) of title 5” for “Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.)”.

2018—Subsec. (d)(2)(D). Pub. L. 115–278 substituted “The Assistant Director for Emergency Communications” for “The Director of the Office of Emergency Communications of the Department of Homeland Security”.

2016—Subsecs. (d), (e). Pub. L. 114–321 added subsec. (d) and redesignated former subsec. (d) as (e).

2007—Subsec. (b). Pub. L. 110–53 designated existing provisions as par. (1), inserted heading, and added par. (2).

Statutory Notes and Related Subsidiaries**CHANGE OF NAME**

Reference to the Assistant Director for Emergency Communications deemed to be a reference to the Executive Assistant Director for Emergency Communications, see section 571(g) of this title, enacted Jan. 1, 2021.

EFFECTIVE DATE

Section effective Mar. 31, 2007, see section 614(b)(3) of Pub. L. 109–295, set out as a note under section 701 of this title.

§ 319. National Integration Center**(a) In general**

There is established in the Agency a National Integration Center.

(b) Responsibilities**(1) In general**

The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan.

(2) Specific responsibilities

The National Integration Center shall periodically review, and revise as appropriate, the National Incident Management System and the National Response Plan, including—

(A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;

(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and

(C) revising the Catastrophic Incident Annex, finalizing and releasing the Cata-

strophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

(c) Incident management**(1) In general****(A) National Response Plan**

The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

(B) Administrator

The chain of the command specified in the National Response Plan shall—

(i) provide for a role for the Administrator consistent with the role of the Administrator as the principal emergency management advisor to the President, the Homeland Security Council, and the Secretary under section 313(c)(4) of this title and the responsibility of the Administrator under the Post-Katrina Emergency Management Reform Act of 2006, and the amendments made by that Act, relating to natural disasters, acts of terrorism, and other man-made disasters; and

(ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 5143(b) of title 42.

(2) Principal Federal Official; Joint Task Force

The Principal Federal Official (or the successor thereto) or Director of a Joint Task Force established under section 348 of this title shall not—

(A) direct or replace the incident command structure established at the incident; or

(B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials.

(Pub. L. 107–296, title V, §509, as added Pub. L. 109–295, title VI, §611(13), Oct. 4, 2006, 120 Stat. 1405; amended Pub. L. 114–328, div. A, title XIX, §1901(d)(2), Dec. 23, 2016, 130 Stat. 2670.)

Editorial Notes**REFERENCES IN TEXT**

The Post-Katrina Emergency Management Reform Act of 2006, referred to in subsec. (c)(1)(B)(i), is title VI of Pub. L. 109–295, Oct. 4, 2006, 120 Stat. 1394. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

PRIOR PROVISIONS

A prior section 509 of Pub. L. 107–296 was renumbered section 520 and is classified to section 321i of this title.

AMENDMENTS

2016—Subsec. (c)(2). Pub. L. 114–328 inserted “; Joint Task Force” after “Official” in heading and “or Director of a Joint Task Force established under section 348 of this title” before “shall” in introductory provisions.

Statutory Notes and Related Subsidiaries**CHANGE OF NAME**

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of this title.

§ 320. Credentialing and typing**(a) In general**

The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including for credentialing and typing of incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

(b) Distribution**(1) In general**

Not later than 1 year after August 3, 2007, the Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to—

(A) each Federal agency that has responsibilities under the National Response Plan to aid that agency with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster; and

(B) State, local, and tribal governments, to aid such governments with credentialing and typing of State, local, and tribal incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

(2) Assistance

The Administrator shall provide expertise and technical assistance to aid Federal, State, local, and tribal government agencies with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

(c) Credentialing and typing of personnel

Not later than 6 months after receiving the standards provided under subsection (b), each Federal agency with responsibilities under the National Response Plan shall ensure that incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster are

credentialed and typed in accordance with this section.

(d) Consultation on health care standards

In developing standards for credentialing health care professionals under this section, the Administrator shall consult with the Secretary of Health and Human Services.

(Pub. L. 107–296, title V, §510, as added Pub. L. 109–295, title VI, §611(13), Oct. 4, 2006, 120 Stat. 1406; amended Pub. L. 110–53, title IV, §408, Aug. 3, 2007, 121 Stat. 304.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 510 of Pub. L. 107–296 was renumbered section 521 and is classified to section 321j of this title.

Another prior section 510 of Pub. L. 107–296 was classified to section 321 of this title, prior to repeal by Pub. L. 109–295.

AMENDMENTS

2007—Pub. L. 110–53 designated existing provisions as subsec. (a), inserted heading, substituted “for credentialing and typing of incident management personnel, emergency response providers, and other personnel (including temporary personnel) and” for “credentialing of personnel and typing of”, and added subsecs. (b) to (d).

Statutory Notes and Related Subsidiaries**CHANGE OF NAME**

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of this title.

SCOPE OF PRACTICE IN PUBLIC HEALTH EMERGENCY

Pub. L. 117–328, div. F, title V, §543, Dec. 29, 2022, 136 Stat. 4757, provided that: “Subsection (c) of section 16005 of title VI of division B of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) [set out below] shall be applied as if the language read as follows: ‘Subsection (a) shall apply until September 30, 2023.’”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 117–103, div. F, title V, §541, Mar. 15, 2022, 136 Stat. 344.

Pub. L. 116–136, div. B, title VI, §16005, Mar. 27, 2020, 134 Stat. 545, provided that:

“(a) Notwithstanding any other provision of law regarding the licensure of health-care providers, a health-care professional described in subsection (b) may practice the health profession or professions of the health-care professional at any location in any State, the District of Columbia, or Commonwealth, territory, or possession of the United States, or any location designated by the Secretary, regardless of where such health-care professional or the patient is located, so long as the practice is within the scope of the authorized Federal duties of such health-care professional.

“(b) DEFINITION.—As used in this section, the term ‘health-care professional’ means an individual (other than a member of the Coast Guard, a civilian employee of the Coast Guard, member of the Public Health Service who is assigned to the Coast Guard, or an individual with whom the Secretary, pursuant to 10 U.S.C. 1091, has entered into a personal services contract to carry out health care responsibilities of the Secretary at a medical treatment facility of the Coast Guard) who—

“(1) is—
 “(A) an employee of the Department of Homeland Security,
 “(B) a detailee to the Department from another Federal agency,
 “(C) a personal services contractor of the Department, or
 “(D) hired under a Contract for Services;
 “(2) performs health care services as part of duties of the individual in that capacity;
 “(3) has a current, valid, and unrestricted equivalent license certification that is—
 “(A) issued by a State, the District of Columbia, or a Commonwealth, territory, or possession of the United States; and
 “(B) for the practice of medicine, osteopathic medicine, dentistry, nursing, emergency medical services, or another health profession; and
 “(4) is not affirmatively excluded from practice in the licensing or certifying jurisdiction or in any other jurisdiction.
 “(c) Subsection (a) shall apply during the incident period of the emergency declared by the President on March 13, 2020, pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [Pub. L. 93-288] (42 U.S.C. 5121(b) [5191(b)]), and to any subsequent major declaration under section 401 of such Act [42 U.S.C. 5170] that supersedes such emergency declaration.”

§ 321. The National Infrastructure Simulation and Analysis Center

(a) Definition

In this section, the term “National Infrastructure Simulation and Analysis Center” means the National Infrastructure Simulation and Analysis Center established under section 5195c(d) of title 42.

(b) Authority

(1) In general

There is in the Department the National Infrastructure Simulation and Analysis Center which shall serve as a source of national expertise to address critical infrastructure protection and continuity through support for activities related to—

- (A) counterterrorism, threat assessment, and risk mitigation; and
- (B) a natural disaster, act of terrorism, or other man-made disaster.

(2) Infrastructure modeling

(A) Particular support

The support provided under paragraph (1) shall include modeling, simulation, and analysis of the systems and assets comprising critical infrastructure, in order to enhance preparedness, protection, response, recovery, and mitigation activities.

(B) Relationship with other agencies

Each Federal agency and department with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive, shall establish a formal relationship, including an agreement regarding information sharing, between the elements of such agency or department and the National Infrastructure Simulation and Analysis Center, through the Department.

(C) Purpose

(i) In general

The purpose of the relationship under subparagraph (B) shall be to permit each

Federal agency and department described in subparagraph (B) to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center (particularly vulnerability and consequence analysis), consistent with its work load capacity and priorities, for real-time response to reported and projected natural disasters, acts of terrorism, and other man-made disasters.

(ii) Recipient of certain support

Modeling, simulation, and analysis provided under this subsection shall be provided to relevant Federal agencies and departments, including Federal agencies and departments with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive.

(Pub. L. 107-296, title V, § 511, as added Pub. L. 109-295, title VI, § 611(13), Oct. 4, 2006, 120 Stat. 1406.)

Editorial Notes

PRIOR PROVISIONS

A prior section 321, Pub. L. 107-296, title V, § 510, as added Pub. L. 108-458, title VII, § 7303(d), Dec. 17, 2004, 118 Stat. 3844, related to urban and other high risk area communications capabilities, prior to repeal by Pub. L. 109-295, title VI, § 611(5), Oct. 4, 2006, 120 Stat. 1395.

§ 321a. Evacuation plans and exercises

(a) In general

Notwithstanding any other provision of law, and subject to subsection (d), grants made to States or local or tribal governments by the Department through the State Homeland Security Grant Program or the Urban Area Security Initiative may be used to—

- (1) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster;
- (2) prepare for the execution of such plans, including the development of evacuation routes and the purchase and stockpiling of necessary supplies and shelters; and
- (3) conduct exercises of such plans.

(b) Plan development

In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

- (1) establish incident command and decision making processes;
- (2) ensure that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;
- (3) identify primary and alternative evacuation routes and methods to increase evacuation capabilities along such routes such as conversion of two-way traffic to one-way evacuation routes;
- (4) identify evacuation transportation modes and capabilities, including the use of mass and public transit capabilities, and coordinating and integrating evacuation plans for all popu-

lations including for those individuals located in hospitals, nursing homes, and other institutional living facilities;

(5) develop procedures for informing the public of evacuation plans before and during an evacuation, including individuals—

(A) with disabilities or other special needs, including the elderly;

(B) with limited English proficiency; or

(C) who might otherwise have difficulty in obtaining such information; and

(6) identify shelter locations and capabilities.

(c) Assistance

(1) In general

The Administrator may establish any guidelines, standards, or requirements determined appropriate to administer this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

(2) Requested assistance

The Administrator shall make assistance available upon request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs to establish, maintain, and exercise mass evacuation plans that are coordinated and integrated into the plans developed by that State, local, or tribal government under this section.

(d) Multipurpose funds

Nothing in this section may be construed to preclude a State, local, or tribal government from using grant funds in a manner that enhances preparedness for a natural or man-made disaster unrelated to an act of terrorism, if such use assists such government in building capabilities for terrorism preparedness.

(Pub. L. 107-296, title V, §512, as added Pub. L. 109-295, title VI, §611(13), Oct. 4, 2006, 120 Stat. 1407; amended Pub. L. 110-53, title I, §102(b), Aug. 3, 2007, 121 Stat. 293.)

Editorial Notes

AMENDMENTS

2007—Subsec. (b)(5)(A). Pub. L. 110-53 inserted “, including the elderly” after “needs”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of this title.

§ 321b. Disability Coordinator

(a) In general

After consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, established under Executive Order No. 13347, the Adminis-

trator shall appoint a Disability Coordinator. The Disability Coordinator shall report directly to the Administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief.

(b) Responsibilities

The Disability Coordinator shall be responsible for—

(1) providing guidance and coordination on matters related to individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347, other agencies of the Federal Government, and State, local, and tribal government authorities regarding the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

(4) ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities;

(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuations, and disaster relief;

(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

(8) ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation;

(9) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;

(10) ensuring that meeting the needs of individuals with disabilities are included in the components of the national preparedness system established under section 744 of this title; and

(11) any other duties as assigned by the Administrator.

(Pub. L. 107-296, title V, §513, as added Pub. L. 109-295, title VI, §611(13), Oct. 4, 2006, 120 Stat. 1408.)

Editorial Notes

REFERENCES IN TEXT

Executive Order No. 13347, referred to in subsecs. (a) and (b)(2), is set out as a note under section 314 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of this title.

§ 321c. Department and Agency officials**(a) Deputy Administrators**

The President may appoint, by and with the advice and consent of the Senate, not more than 4 Deputy Administrators to assist the Administrator in carrying out this subchapter.

(b) United States Fire Administration

The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

(Pub. L. 107–296, title V, § 514, as added Pub. L. 109–295, title VI, § 611(13), Oct. 4, 2006, 120 Stat. 1409; amended Pub. L. 115–278, § 2(g)(4)(B), Nov. 16, 2018, 132 Stat. 4178.)

Editorial Notes

AMENDMENTS

2018—Subsecs. (b), (c). Pub. L. 115–278 redesignated subsec. (c) as (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: “There is in the Department an Assistant Secretary for Cybersecurity and Communications.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Mar. 31, 2007, see section 614(b)(3) of Pub. L. 109–295, set out as a note under section 701 of this title.

§ 321d. National Operations Center**(a) Definition**

In this section, the term “situational awareness” means information gathered from a variety of sources that, when communicated to emergency managers, decision makers, and other appropriate officials, can form the basis for incident management decisionmaking and steady-state activity.

(b) Establishment

The National Operations Center is the principal operations center for the Department and shall—

- (1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, tribal, and territorial governments, the private sector, and international partners as appropriate, for events, threats, and incidents involving a natural disaster, act of terrorism, or other man-made disaster;

(2) ensure that critical terrorism and disaster-related information reaches government decision-makers; and

(3) enter into agreements with other Federal operations centers and other homeland security partners, as appropriate, to facilitate the sharing of information.

(c) State and local emergency responder representation**(1) Establishment of positions**

The Secretary shall establish a position, on a rotating basis, for a representative of State and local emergency responders at the National Operations Center established under subsection (b) to ensure the effective sharing of information between the Federal Government and State and local emergency response services.

(2) Management

The Secretary shall manage the position established pursuant to paragraph (1) in accordance with such rules, regulations, and practices as govern other similar rotating positions at the National Operations Center.

(Pub. L. 107–296, title V, § 515, as added Pub. L. 109–295, title VI, § 611(13), Oct. 4, 2006, 120 Stat. 1409; amended Pub. L. 110–376, § 8, Oct. 8, 2008, 122 Stat. 4060; Pub. L. 114–328, div. A, title XIX, § 1909, Dec. 23, 2016, 130 Stat. 2681.)

Editorial Notes

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–328, § 1909(1), substituted “emergency managers, decision makers, and other appropriate officials” for “emergency managers and decision makers” and inserted “and steady-state activity” before period at end.

Subsec. (b)(1). Pub. L. 114–328, § 1909(2)(A), substituted “tribal, and territorial governments, the private sector, and international partners” for “and tribal governments” and “for events, threats, and incidents involving” for “in the event of” and struck out “and” at end.

Subsec. (b)(2). Pub. L. 114–328, § 1909(2)(B), substituted “; and” for period at end.

Subsec. (b)(3). Pub. L. 114–328, § 1909(2)(C), added par. (3).

Subsec. (c). Pub. L. 114–328, § 1909(4)(A), substituted “emergency responder” for “fire service” in heading.

Subsec. (c)(1). Pub. L. 114–328, § 1909(4)(B), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “The Secretary shall, in consultation with the Administrator of the United States Fire Administration, establish a fire service position at the National Operations Center established under subsection (b) to ensure the effective sharing of information between the Federal Government and State and local fire services.”

Subsec. (c)(2), (3). Pub. L. 114–328, § 1909(4)(C), (D), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “The Secretary shall designate, on a rotating basis, a State or local fire service official for the position described in paragraph (1).”

2008—Subsec. (c). Pub. L. 110–376 added subsec. (c).

§ 321e. Repealed. Pub. L. 115–387, § 2(c)(1), Dec. 21, 2018, 132 Stat. 5166

Section, Pub. L. 107–296, title V, § 516, as added Pub. L. 109–295, title VI, § 611(13), Oct. 4, 2006, 120 Stat. 1409; amended Pub. L. 112–166, § 2(f)(4), Aug. 10, 2012, 126 Stat. 1285, related to establishment, qualifications, and re-

sponsibilities of Chief Medical Officer. See section 597 of this title.

§ 321f. Nuclear incident response

(a) In general

At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) Rule of construction

Nothing in this subchapter shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this subchapter) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

(Pub. L. 107–296, title V, § 517, formerly § 504, Nov. 25, 2002, 116 Stat. 2213; renumbered § 517, Pub. L. 109–295, title VI, § 611(6), Oct. 4, 2006, 120 Stat. 1395.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 314 of this title prior to renumbering by Pub. L. 109–295.

§ 321g. Conduct of certain public health-related activities

(a) In general

With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) Evaluation of progress

In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(Pub. L. 107–296, title V, § 518, formerly § 505, Nov. 25, 2002, 116 Stat. 2213; renumbered § 518, Pub. L. 109–295, title VI, § 611(6), Oct. 4, 2006, 120 Stat. 1395.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 315 of this title prior to renumbering by Pub. L. 109–295.

§ 321h. Use of national private sector networks in emergency response

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

(Pub. L. 107–296, title V, § 519, formerly § 508, Nov. 25, 2002, 116 Stat. 2215; renumbered § 519, Pub. L. 109–295, title VI, § 611(6), Oct. 4, 2006, 120 Stat. 1395.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 318 of this title prior to renumbering by Pub. L. 109–295.

§ 321i. Use of commercially available technology, goods, and services

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

(Pub. L. 107–296, title V, § 520, formerly § 509, Nov. 25, 2002, 116 Stat. 2215; renumbered § 520, Pub. L. 109–295, title VI, § 611(6), Oct. 4, 2006, 120 Stat. 1395.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 319 of this title prior to renumbering by Pub. L. 109–295.

§ 321j. Procurement of security countermeasures for Strategic National Stockpile

(a) Authorization of appropriations

For the procurement of security countermeasures under section 247d–6b(c) of title 42 (referred to in this section as the “security countermeasures program”), there is authorized to be appropriated up to \$5,593,000,000 for the fiscal years 2004 through 2013. Of the amounts appropriated under the preceding sentence, not to exceed \$3,418,000,000 may be obligated during the fiscal years 2004 through 2008, of which not to exceed \$890,000,000 may be obligated during fiscal year 2004. None of the funds made available under this subsection shall be used to procure countermeasures to diagnose, mitigate, prevent, or treat harm resulting from any naturally occurring infectious disease or other public health threat that are not security countermeasures under section 247d–6b(c)(1)(B) of title 42.¹

¹ See References in Text note below.

(b) Special reserve fund

For purposes of the security countermeasures program, the term “special reserve fund” means the “Biodefense Countermeasures” appropriations account or any other appropriation made under subsection (a).

(c) Availability

Amounts appropriated under subsection (a) become available for a procurement under the security countermeasures program only upon the approval by the President of such availability for the procurement in accordance with paragraph (6)(B) of such program.

(d) Related authorizations of appropriations**(1) Threat assessment capabilities**

For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006, for the hiring of professional personnel within the Office of Intelligence and Analysis, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment (including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 403-4¹ of title 50.

(2) Intelligence sharing infrastructure

For the purpose of carrying out the acquisition and deployment of secure facilities (including information technology and physical infrastructure, whether mobile and temporary, or permanent) sufficient to permit the Secretary to receive, not later than 180 days after July 21, 2004, all classified information and products to which the Under Secretary for Intelligence and Analysis is entitled under part A of subchapter II, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.

(Pub. L. 107-296, title V, § 521, formerly § 510, as added Pub. L. 108-276, § 3(b)(2), July 21, 2004, 118 Stat. 852; renumbered § 521, Pub. L. 109-295, title VI, § 611(7), Oct. 4, 2006, 120 Stat. 1395; amended Pub. L. 109-417, title IV, § 403(c), Dec. 19, 2006, 120 Stat. 2874; Pub. L. 110-53, title V, § 531(b)(1)(D), Aug. 3, 2007, 121 Stat. 334.)

Editorial Notes**REFERENCES IN TEXT**

Section 247d-6b(c)(1)(B) of title 42, referred to in subsec. (a), was in the original “section 319F-2(c)(1)(B)”, which was translated as meaning section 319F-2(c)(1)(B) of the Public Health Service Act, to reflect the probable intent of Congress.

Section 403-4 of title 50, referred to in subsec. (d)(1), was repealed and a new section 403-4 enacted by Pub. L.

108-458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660, and subsequently editorially reclassified to section 3035 of Title 50, War and National Defense; as so enacted, section 3035 no longer relates to promulgation of standards and qualifications for the performance of intelligence activities.

Part A of subchapter II of this chapter, referred to in subsec. (d)(2), was in the original “subtitle A of title II”, meaning subtitle A of title II of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2145, which is classified generally to part A (§ 121 et seq.) of subchapter II of this chapter. For complete classification of part A to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 320 of this title prior to renumbering by Pub. L. 109-295.

AMENDMENTS

2007—Subsec. (d)(1). Pub. L. 110-53, § 531(b)(1)(D)(i), substituted “Office of Intelligence and Analysis” for “Directorate for Information Analysis and Infrastructure Protection”.

Subsec. (d)(2). Pub. L. 110-53, § 531(b)(1)(D)(ii), substituted “Under Secretary for Intelligence and Analysis” for “Under Secretary for Information Analysis and Infrastructure Protection”.

2006—Subsec. (a). Pub. L. 109-417, which directed amendment of section 510(a) of the Homeland Security Act of 2002, Pub. L. 107-296, by inserting a new last sentence, was executed to subsec. (a) of this section to reflect the probable intent of Congress and the redesignation of section 510(a) as 521(a) by Pub. L. 109-295, § 611(7).

Statutory Notes and Related Subsidiaries**CHANGE OF NAME**

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.

§ 321k. Model standards and guidelines for critical infrastructure workers**(a) In general**

Not later than 12 months after August 3, 2007, and in coordination with appropriate national professional organizations, Federal, State, local, and tribal government agencies, and private-sector and nongovernmental entities, the Administrator shall establish model standards and guidelines for credentialing critical infrastructure workers that may be used by a State to credential critical infrastructure workers that may respond to a natural disaster, act of terrorism, or other man-made disaster.

(b) Distribution and assistance

The Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to State, local, and tribal governments, and provide expertise and technical assistance to aid such governments with credentialing critical infrastructure workers that may respond to a natural disaster, act of terrorism, or other manmade disaster.

(Pub. L. 107-296, title V, § 522, as added Pub. L. 110-53, title IV, § 409(a), Aug. 3, 2007, 121 Stat. 305.)

§ 321l. Guidance and recommendations**(a) In general**

Consistent with their responsibilities and authorities under law, as of the day before August 3, 2007, the Administrator and the Director of the Cybersecurity and Infrastructure Security Agency, in consultation with the private sector, may develop guidance or recommendations and identify best practices to assist or foster action by the private sector in—

- (1) identifying potential hazards and assessing risks and impacts;
- (2) mitigating the impact of a wide variety of hazards, including weapons of mass destruction;
- (3) managing necessary emergency preparedness and response resources;
- (4) developing mutual aid agreements;
- (5) developing and maintaining emergency preparedness and response plans, and associated operational procedures;
- (6) developing and conducting training and exercises to support and evaluate emergency preparedness and response plans and operational procedures;
- (7) developing and conducting training programs for security guards to implement emergency preparedness and response plans and operations procedures; and
- (8) developing procedures to respond to requests for information from the media or the public.

(b) Issuance and promotion

Any guidance or recommendations developed or best practices identified under subsection (a) shall be—

- (1) issued through the Administrator; and
- (2) promoted by the Secretary to the private sector.

(c) Small business concerns

In developing guidance or recommendations or identifying best practices under subsection (a), the Administrator and the Director of the Cybersecurity and Infrastructure Security Agency shall take into consideration small business concerns (under the meaning given that term in section 632 of title 15), including any need for separate guidance or recommendations or best practices, as necessary and appropriate.

(d) Rule of construction

Nothing in this section may be construed to supersede any requirement established under any other provision of law.

(Pub. L. 107–296, title V, § 523, as added Pub. L. 110–53, title IX, § 901(a), Aug. 3, 2007, 121 Stat. 364; amended Pub. L. 115–278, § 2(g)(4)(C), Nov. 16, 2018, 132 Stat. 4178; Pub. L. 117–263, div. G, title LXXI, § 7143(c)(1), Dec. 23, 2022, 136 Stat. 3662.)

Editorial Notes**AMENDMENTS**

2022—Subsecs. (a), (c). Pub. L. 117–263 substituted “Director of the Cybersecurity and Infrastructure Security Agency” for “Director of Cybersecurity and Infrastructure Security”.

2018—Subsecs. (a), (c). Pub. L. 115–278 substituted “Director of Cybersecurity and Infrastructure Security”

for “Assistant Secretary for Infrastructure Protection”.

Statutory Notes and Related Subsidiaries**RULE OF CONSTRUCTION**

Nothing in amendment made by Pub. L. 117–263 to be construed to alter the authorities, responsibilities, functions, or activities of any agency (as such term is defined in 44 U.S.C. 3502) or officer or employee of the United States on or before Dec. 23, 2022, see section 7143(f)(1) of Pub. L. 117–263, set out in a note under section 650 of this title.

§ 321m. Voluntary private sector preparedness accreditation and certification program**(a) Establishment****(1) In general**

The Secretary, acting through the officer designated under paragraph (2), shall establish and implement the voluntary private sector preparedness accreditation and certification program in accordance with this section.

(2) Designation of officer

The Secretary shall designate an officer responsible for the accreditation and certification program under this section. Such officer (hereinafter referred to in this section as the “designated officer”) shall be one of the following:

(A) The Administrator, based on consideration of—

- (i) the expertise of the Administrator in emergency management and preparedness in the United States; and
- (ii) the responsibilities of the Administrator as the principal advisor to the President for all matters relating to emergency management in the United States.

(B) The Assistant Secretary for Infrastructure Protection,¹ based on consideration of the expertise of the Assistant Secretary in, and responsibilities for—

- (i) protection of critical infrastructure;
- (ii) risk assessment methodologies; and
- (iii) interacting with the private sector on the issues described in clauses (i) and (ii).

(C) The Under Secretary for Science and Technology, based on consideration of the expertise of the Under Secretary in, and responsibilities associated with, standards.

(3) Coordination

In carrying out the accreditation and certification program under this section, the designated officer shall coordinate with—

- (A) the other officers of the Department referred to in paragraph (2), using the expertise and responsibilities of such officers; and
- (B) the Special Assistant to the Secretary for the Private Sector, based on consideration of the expertise of the Special Assistant in, and responsibilities for, interacting with the private sector.

¹ See Change of Name note below.

(b) Voluntary private sector preparedness standards; voluntary accreditation and certification program for the private sector

(1) Accreditation and certification program

Not later than 210 days after August 3, 2007, the designated officer shall—

(A) begin supporting the development and updating, as necessary, of voluntary preparedness standards through appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards and voluntary consensus standards development organizations; and

(B) in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 112(f)(4) of this title, appropriate representatives of State and local governments, including emergency management officials, and appropriate private sector advisory groups, such as sector coordinating councils and information sharing and analysis centers—

(i) develop and promote a program to certify the preparedness of private sector entities that voluntarily choose to seek certification under the program; and

(ii) implement the program under this subsection through any entity with which the designated officer enters into an agreement under paragraph (3)(A), which shall accredit third parties to carry out the certification process under this section.

(2) Program elements

(A) In general

(i) Program

The program developed and implemented under this subsection shall assess whether a private sector entity complies with voluntary preparedness standards.

(ii) Guidelines

In developing the program under this subsection, the designated officer shall develop guidelines for the accreditation and certification processes established under this subsection.

(B) Standards

The designated officer, in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, representatives of appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 112(f)(4) of this title, appropriate representatives of State and local governments, including emergency management officials, and appropriate private sector advisory groups such as sector coordinating councils and information sharing and analysis centers—

(i) shall adopt one or more appropriate voluntary preparedness standards that promote preparedness, which may be tailored to address the unique nature of var-

ious sectors within the private sector, as necessary and appropriate, that shall be used in the accreditation and certification program under this subsection; and

(ii) after the adoption of one or more standards under clause (i), may adopt additional voluntary preparedness standards or modify or discontinue the use of voluntary preparedness standards for the accreditation and certification program, as necessary and appropriate to promote preparedness.

(C) Submission of recommendations

In adopting one or more standards under subparagraph (B), the designated officer may receive recommendations from any entity described in that subparagraph relating to appropriate voluntary preparedness standards, including appropriate sector specific standards, for adoption in the program.

(D) Small business concerns

The designated officer and any entity with which the designated officer enters into an agreement under paragraph (3)(A) shall establish separate classifications and methods of certification for small business concerns (under the meaning given that term in section 632 of title 15) for the program under this subsection.

(E) Considerations

In developing and implementing the program under this subsection, the designated officer shall—

(i) consider the unique nature of various sectors within the private sector, including preparedness standards, business continuity standards, or best practices, established—

(I) under any other provision of Federal law; or

(II) by any Sector Risk Management Agency, as defined under Homeland Security Presidential Directive-7; and

(ii) coordinate the program, as appropriate, with—

(I) other Department private sector related programs; and

(II) preparedness and business continuity programs in other Federal agencies.

(3) Accreditation and certification processes

(A) Agreement

(i) In general

Not later than 210 days after August 3, 2007, the designated officer shall enter into one or more agreements with a highly qualified nongovernmental entity with experience or expertise in coordinating and facilitating the development and use of voluntary consensus standards and in managing or implementing accreditation and certification programs for voluntary consensus standards, or a similarly qualified private sector entity, to carry out accreditations and oversee the certification process under this subsection. An entity entering into an agreement with the des-

ignated officer under this clause (hereinafter referred to in this section as a “selected entity”) shall not perform certifications under this subsection.

(ii) Contents

A selected entity shall manage the accreditation process and oversee the certification process in accordance with the program established under this subsection and accredit qualified third parties to carry out the certification program established under this subsection.

(B) Procedures and requirements for accreditation and certification

(i) In general

Any selected entity shall collaborate to develop procedures and requirements for the accreditation and certification processes under this subsection, in accordance with the program established under this subsection and guidelines developed under paragraph (2)(A)(ii).

(ii) Contents and use

The procedures and requirements developed under clause (i) shall—

(I) ensure reasonable uniformity in any accreditation and certification processes if there is more than one selected entity; and

(II) be used by any selected entity in conducting accreditations and overseeing the certification process under this subsection.

(iii) Disagreement

Any disagreement among selected entities in developing procedures under clause (i) shall be resolved by the designated officer.

(C) Designation

A selected entity may accredit any qualified third party to carry out the certification process under this subsection.

(D) Disadvantaged business involvement

In accrediting qualified third parties to carry out the certification process under this subsection, a selected entity shall ensure, to the extent practicable, that the third parties include qualified small, minority, women-owned, or disadvantaged business concerns when appropriate. The term “disadvantaged business concern” means a small business that is owned and controlled by socially and economically disadvantaged individuals, as defined in section 124 of title 13, United States Code of Federal Regulations.

(E) Treatment of other certifications

At the request of any entity seeking certification, any selected entity may consider, as appropriate, other relevant certifications acquired by the entity seeking certification. If the selected entity determines that such other certifications are sufficient to meet the certification requirement or aspects of the certification requirement under this section, the selected entity may give credit to

the entity seeking certification, as appropriate, to avoid unnecessarily duplicative certification requirements.

(F) Third parties

To be accredited under subparagraph (C), a third party shall—

(i) demonstrate that the third party has the ability to certify private sector entities in accordance with the procedures and requirements developed under subparagraph (B);

(ii) agree to perform certifications in accordance with such procedures and requirements;

(iii) agree not to have any beneficial interest in or any direct or indirect control over—

(I) a private sector entity for which that third party conducts a certification under this subsection; or

(II) any organization that provides preparedness consulting services to private sector entities;

(iv) agree not to have any other conflict of interest with respect to any private sector entity for which that third party conducts a certification under this subsection;

(v) maintain liability insurance coverage at policy limits in accordance with the requirements developed under subparagraph (B); and

(vi) enter into an agreement with the selected entity accrediting that third party to protect any proprietary information of a private sector entity obtained under this subsection.

(G) Monitoring

(i) In general

The designated officer and any selected entity shall regularly monitor and inspect the operations of any third party conducting certifications under this subsection to ensure that the third party is complying with the procedures and requirements established under subparagraph (B) and all other applicable requirements.

(ii) Revocation

If the designated officer or any selected entity determines that a third party is not meeting the procedures or requirements established under subparagraph (B), the selected entity shall—

(I) revoke the accreditation of that third party to conduct certifications under this subsection; and

(II) review any certification conducted by that third party, as necessary and appropriate.

(4) Annual review

(A) In general

The designated officer, in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, appro-

appropriate representatives of State and local governments, including emergency management officials, and each private sector advisory council created under section 112(f)(4) of this title, shall annually review the voluntary accreditation and certification program established under this subsection to ensure the effectiveness of such program (including the operations and management of such program by any selected entity and the selected entity's inclusion of qualified disadvantaged business concerns under paragraph (3)(D)) and make improvements and adjustments to the program as necessary and appropriate.

(B) Review of standards

Each review under subparagraph (A) shall include an assessment of the voluntary preparedness standard or standards used in the program under this subsection.

(5) Voluntary participation

Certification under this subsection shall be voluntary for any private sector entity.

(6) Public listing

The designated officer shall maintain and make public a listing of any private sector entity certified as being in compliance with the program established under this subsection, if that private sector entity consents to such listing.

(c) Rule of construction

Nothing in this section may be construed as—

(1) a requirement to replace any preparedness, emergency response, or business continuity standards, requirements, or best practices established—

(A) under any other provision of federal law; or

(B) by any Sector Risk Management Agency, as those agencies are defined under Homeland Security Presidential Directive-7; or

(2) exempting any private sector entity seeking certification or meeting certification requirements under subsection (b) from compliance with all applicable statutes, regulations, directives, policies, and industry codes of practice.

(Pub. L. 107-296, title V, § 524, as added Pub. L. 110-53, title IX, § 901(a), Aug. 3, 2007, 121 Stat. 365; amended Pub. L. 116-283, div. H, title XC, § 9002(c)(2)(B), Jan. 1, 2021, 134 Stat. 4772.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(2)(E)(i)(II). Pub. L. 116-283, § 9002(c)(2)(B)(i), substituted “Sector Risk Management Agency” for “sector-specific agency”.

Subsec. (c)(1)(B). Pub. L. 116-283, § 9002(c)(2)(B)(ii), substituted “Sector Risk Management Agency” for “sector-specific agency”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to Assistant Secretary for Infrastructure Protection deemed to be a reference to Assistant Direc-

tor for Infrastructure Security, see section 654(a)(3) of this title. Assistant Secretary for Infrastructure Protection serving on the day before Nov. 16, 2018, authorized to continue to serve as Assistant Director for Infrastructure Security on and after such date, see section 2(b)(4) of Pub. L. 115-278, set out as a note under section 654 of this title.

DEADLINE FOR DESIGNATION OF OFFICER

Pub. L. 110-53, title IX, § 901(c), Aug. 3, 2007, 121 Stat. 371, provided that: “The Secretary of Homeland Security shall designate the officer as described in section 524 of the Homeland Security Act of 2002 [6 U.S.C. 321m], as added by subsection (a), by not later than 30 days after the date of the enactment of this Act [Aug. 3, 2007].”

§ 321n. Acceptance of gifts

(a) Authority

The Secretary may accept and use gifts of property, both real and personal, and may accept gifts of services, including from guest lecturers, for otherwise authorized activities of the Center for Domestic Preparedness that are related to efforts to prevent, prepare for, protect against, or respond to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.

(b) Prohibition

The Secretary may not accept a gift under this section if the Secretary determines that the use of the property or services would compromise the integrity or appearance of integrity of—

(1) a program of the Department; or

(2) an individual involved in a program of the Department.

(c) Report

(1) In general

The Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report disclosing—

(A) any gifts that were accepted under this section during the year covered by the report;

(B) how the gifts contribute to the mission of the Center for Domestic Preparedness; and

(C) the amount of Federal savings that were generated from the acceptance of the gifts.

(2) Publication

Each report required under paragraph (1) shall be made publically available.

(Pub. L. 107-296, title V, § 525, as added Pub. L. 111-245, § 2(a)(1), Sept. 30, 2010, 124 Stat. 2620.)

§ 321o. Integrated public alert and warning system modernization

(a) In general

To provide timely and effective warnings regarding natural disasters, acts of terrorism, and other man-made disasters or threats to public safety, the Administrator shall—

(1) modernize the integrated public alert and warning system of the United States (in this

section referred to as the “public alert and warning system”) to help ensure that under all conditions the President and, except to the extent the public alert and warning system is in use by the President, Federal agencies and State, tribal, and local governments can alert and warn the civilian population in areas endangered by natural disasters, acts of terrorism, and other man-made disasters or threats to public safety; and

(2) implement the public alert and warning system to disseminate timely and effective warnings regarding natural disasters, acts of terrorism, and other man-made disasters or threats to public safety.

(b) Implementation requirements

In carrying out subsection (a), the Administrator shall—

(1) establish or adopt, as appropriate, common alerting and warning protocols, standards, terminology, and operating procedures for the public alert and warning system;

(2) include in the public alert and warning system the capability to adapt the distribution and content of communications on the basis of geographic location, risks, and multiple communication systems and technologies, as appropriate and to the extent technically feasible;

(3) include in the public alert and warning system the capability to alert, warn, and provide equivalent information to individuals with disabilities, individuals with access and functional needs, and individuals with limited-English proficiency, to the extent technically feasible;

(4) ensure that training, tests, and exercises are conducted for the public alert and warning system, including by—

(A) incorporating the public alert and warning system into other training and exercise programs of the Department, as appropriate;

(B) establishing and integrating into the National Incident Management System a comprehensive and periodic training program to instruct and educate Federal, State, tribal, and local government officials in the use of the Common Alerting Protocol enabled Emergency Alert System; and

(C) conducting, not less than once every 3 years, periodic nationwide tests of the public alert and warning system;

(5) to the extent practicable, ensure that the public alert and warning system is resilient and secure and can withstand acts of terrorism and other external attacks;

(6) conduct public education efforts so that State, tribal, and local governments, private entities, and the people of the United States reasonably understand the functions of the public alert and warning system and how to access, use, and respond to information from the public alert and warning system through a general market awareness campaign;

(7) consult, coordinate, and cooperate with the appropriate private sector entities and Federal, State, tribal, and local governmental authorities, including the Regional Administrators and emergency response providers;

(8) consult and coordinate with the Federal Communications Commission, taking into account rules and regulations promulgated by the Federal Communications Commission; and

(9) coordinate with and consider the recommendations of the Integrated Public Alert and Warning System Subcommittee established under section 2(b) of the Integrated Public Alert and Warning System Modernization Act of 2015.

(c) System requirements

The public alert and warning system shall—

(1) to the extent determined appropriate by the Administrator, incorporate multiple communications technologies;

(2) be designed to adapt to, and incorporate, future technologies for communicating directly with the public;

(3) to the extent technically feasible, be designed—

(A) to provide alerts to the largest portion of the affected population feasible, including nonresident visitors and tourists, individuals with disabilities, individuals with access and functional needs, and individuals with limited-English proficiency; and

(B) to improve the ability of remote areas to receive alerts;

(4) promote local and regional public and private partnerships to enhance community preparedness and response;

(5) provide redundant alert mechanisms where practicable so as to reach the greatest number of people; and

(6) to the extent feasible, include a mechanism to ensure the protection of individual privacy.

(d) Use of system

Except to the extent necessary for testing the public alert and warning system, the public alert and warning system shall not be used to transmit a message that does not relate to a natural disaster, act of terrorism, or other man-made disaster or threat to public safety.

(e) Performance reports

(1) In general

Not later than 1 year after April 11, 2016, and annually thereafter through 2018, the Administrator shall make available on the public website of the Agency a performance report, which shall—

(A) establish performance goals for the implementation of the public alert and warning system by the Agency;

(B) describe the performance of the public alert and warning system, including—

(i) the type of technology used for alerts and warnings issued under the system;

(ii) the measures taken to alert, warn, and provide equivalent information to individuals with disabilities, individuals with access and function¹ needs, and individuals with limited-English proficiency; and

(iii) the training, tests, and exercises performed and the outcomes obtained by the Agency;

¹ So in original. Probably should be “functional”.

(C) identify significant challenges to the effective operation of the public alert and warning system and any plans to address these challenges;

(D) identify other necessary improvements to the system; and

(E) provide an analysis comparing the performance of the public alert and warning system with the performance goals established under subparagraph (A).

(2) Congress

The Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives each report required under paragraph (1).

(Pub. L. 107-296, title V, §526, as added Pub. L. 114-143, §2(a), Apr. 11, 2016, 130 Stat. 327.)

Editorial Notes

REFERENCES IN TEXT

Section 2(b) of the Integrated Public Alert and Warning System Modernization Act of 2015, referred to in subsec. (b)(9), is section 2(b) of Pub. L. 114-143, Apr. 11, 2016, 130 Stat. 329, which is not classified to the Code.

Statutory Notes and Related Subsidiaries

CONSTRUCTION

Pub. L. 114-143, §2(d), Apr. 11, 2016, 130 Stat. 332, provided that:

“(1) DEFINITION.—In this subsection, the term ‘participating commercial mobile service provider’ has the meaning given that term under section 10.10(f) of title 47, Code of Federal Regulations, as in effect on the date of enactment of this Act [Apr. 11, 2016].

“(2) LIMITATIONS.—Nothing in this Act [enacting this section and provisions set out as a note under section 101 of this title], including an amendment made by this Act, shall be construed—

“(A) to affect any authority—

“(i) of the Department of Commerce;

“(ii) of the Federal Communications Commission;

or

“(iii) provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

“(B) to provide the Secretary of Homeland Security with authority to require any action by the Department of Commerce, the Federal Communications Commission, or any nongovernmental entity;

“(C) to apply to, or to provide the Administrator of the Federal Emergency Management Agency with authority over, any participating commercial mobile service provider;

“(D) to alter in any way the wireless emergency alerts service established under the Warning, Alert, and Response Network Act (47 U.S.C. 1201 et seq.) or any related orders issued by the Federal Communications Commission after October 13, 2006; or

“(E) to provide the Federal Emergency Management Agency with authority to require a State or local jurisdiction to use the integrated public alert and warning system of the United States.”

§ 321o-1. Integrated public alert and warning system

(a) Definitions

In this section—

(1) the term “Administrator” means the Administrator of the Agency;

(2) the term “Agency” means the Federal Emergency Management Agency;

(3) the term “appropriate congressional committees” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

(C) the Committee on Homeland Security of the House of Representatives;

(4) the term “public alert and warning system” means the integrated public alert and warning system of the United States described in section 321o of this title;

(5) the term “Secretary” means the Secretary of Homeland Security; and

(6) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(b) Integrated public alert and warning system

(1) In general

Not later than 1 year after December 20, 2019, the Administrator shall develop minimum requirements for State, Tribal, and local governments to participate in the public alert and warning system and that are necessary to maintain the integrity of the public alert and warning system, including—

(A) guidance on the categories of public emergencies and appropriate circumstances that warrant an alert and warning from State, Tribal, and local governments using the public alert and warning system;

(B) the procedures for State, Tribal, and local government officials to authenticate civil emergencies and initiate, modify, and cancel alerts transmitted through the public alert and warning system, including protocols and technology capabilities for—

(i) the initiation, or prohibition on the initiation, of alerts by a single authorized or unauthorized individual;

(ii) testing a State, Tribal, or local government incident management and warning tool without accidentally initiating an alert through the public alert and warning system; and

(iii) steps a State, Tribal, or local government official should take to mitigate the possibility of the issuance of a false alert through the public alert and warning system;

(C) the standardization, functionality, and interoperability of incident management and warning tools used by State, Tribal, and local governments to notify the public of an emergency through the public alert and warning system;

(D) the annual training and recertification of emergency management personnel on requirements for originating and transmitting an alert through the public alert and warning system;

(E) the procedures, protocols, and guidance concerning the protective action plans that State, Tribal, and local governments shall issue to the public following an alert issued under the public alert and warning system;

(F) the procedures, protocols, and guidance concerning the communications that State, Tribal, and local governments shall issue to the public following a false alert issued under the public alert and warning system;

(G) a plan by which State, Tribal, and local government officials may, during an emergency, contact each other as well as Federal officials and participants in the Emergency Alert System and the Wireless Emergency Alert System, when appropriate and necessary, by telephone, text message, or other means of communication regarding an alert that has been distributed to the public; and

(H) any other procedure the Administrator considers appropriate for maintaining the integrity of and providing for public confidence in the public alert and warning system.

(2) Coordination with National Advisory Council report

The Administrator shall ensure that the minimum requirements developed under paragraph (1) do not conflict with recommendations made for improving the public alert and warning system provided in the report submitted by the National Advisory Council under section 2(b)(7)(B) of the Integrated Public Alert and Warning System Modernization Act of 2015 (Public Law 114-143; 130 Stat. 332).

(3) Public consultation

In developing the minimum requirements under paragraph (1), the Administrator shall ensure appropriate public consultation and, to the extent practicable, coordinate the development of the requirements with stakeholders of the public alert and warning system, including—

(A) appropriate personnel from Federal agencies, including the National Institute of Standards and Technology, the Agency, and the Federal Communications Commission;

(B) representatives of State and local governments and emergency services personnel, who shall be selected from among individuals nominated by national organizations representing those governments and personnel;

(C) representatives of Federally recognized Indian tribes and national Indian organizations;

(D) communications service providers;

(E) vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of communications services;

(F) third-party service bureaus;

(G) the national organization representing the licensees and permittees of noncommercial broadcast television stations;

(H) technical experts from the broadcasting industry;

(I) educators from the Emergency Management Institute; and

(J) other individuals with technical expertise as the Administrator determines appropriate.

(4) Advice to the administrator

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.),¹ the Administrator may obtain advice from a single individual or non-consensus advice from each of the several members of a group without invoking that Act.

(c) Incident management and warning tool validation

(1) In general

The Administrator shall establish a process to ensure that an incident management and warning tool used by a State, Tribal, or local government to originate and transmit an alert through the public alert and warning system meets the requirements developed by the Administrator under subsection (b)(1).

(2) Requirements

The process required to be established under paragraph (1) shall include—

(A) the ability to test an incident management and warning tool in the public alert and warning system lab;

(B) the ability to certify that an incident management and warning tool complies with the applicable cyber frameworks of the Department of Homeland Security and the National Institute of Standards and Technology;

(C) a process to certify developers of emergency management software; and

(D) requiring developers to provide the Administrator with a copy of and rights of use for ongoing testing of each version of incident management and warning tool software before the software is first used by a State, Tribal, or local government.

(d) Review and update of memoranda of understanding

The Administrator shall review the memoranda of understanding between the Agency and State, Tribal, and local governments with respect to the public alert and warning system to ensure that all agreements ensure compliance with the requirements developed by the Administrator under subsection (b)(1).

(e) Future memoranda

On and after the date that is 60 days after the date on which the Administrator issues the requirements developed under subsection (b)(1), any new memorandum of understanding entered into between the Agency and a State, Tribal, or local government with respect to the public alert and warning system shall comply with those requirements.

(f) Missile alert and warning authorities

(1) In general

(A) Authority

On and after the date that is 120 days after December 20, 2019, the authority to originate an alert warning the public of a missile

¹ See References in Text note below.

launch directed against a State using the public alert and warning system shall reside primarily with the Federal Government.

(B) Delegation of authority

The Secretary may delegate the authority described in subparagraph (A) to a State, Tribal, or local entity if, not later than 180 days after December 20, 2019, the Secretary submits a report to the appropriate congressional committees that—

- (i) it is not feasible for the Federal Government to alert the public of a missile threat against a State; or
- (ii) it is not in the national security interest of the United States for the Federal Government to alert the public of a missile threat against a State.

(C) Activation of system

Upon verification of a missile threat, the President, utilizing established authorities, protocols and procedures, may activate the public alert and warning system.

(D) Rule of construction

Nothing in this paragraph shall be construed to change the command and control relationship between entities of the Federal Government with respect to the identification, dissemination, notification, or alerting of information of missile threats against the United States that was in effect on the day before December 20, 2019.

(2) Required processes

The Secretary, acting through the Administrator, shall establish a process to promptly notify a State warning point, and any State entities that the Administrator determines appropriate, following the issuance of an alert described in paragraph (1)(A) so the State may take appropriate action to protect the health, safety, and welfare of the residents of the State.

(3) Guidance

The Secretary, acting through the Administrator, shall work with the Governor of a State warning point to develop and implement appropriate protective action plans to respond to an alert described in paragraph (1)(A) for that State.

(4) Study and report

Not later than 1 year after December 20, 2019, the Secretary shall—

- (A) examine the feasibility of establishing an alert designation under the public alert and warning system that would be used to alert and warn the public of a missile threat while concurrently alerting a State warning point so that a State may activate related protective action plans; and
- (B) submit a report of the findings under subparagraph (A), including of the costs and timeline for taking action to implement an alert designation described in subparagraph (A), to—
 - (i) the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate;
 - (ii) the Committee on Homeland Security and Governmental Affairs of the Senate;

- (iii) the Subcommittee on Homeland Security of the Committee on Appropriations of the House of Representatives;

- (iv) the Committee on Transportation and Infrastructure of the House of Representatives; and

- (v) the Committee on Homeland Security of the House of Representatives.

(g) Use of integrated public alert and warning system lab

Not later than 1 year after December 20, 2019, the Administrator shall—

- (1) develop a program to increase the utilization of the public alert and warning system lab of the Agency by State, Tribal, and local governments to test incident management and warning tools and train emergency management professionals on alert origination protocols and procedures; and

- (2) submit to the appropriate congressional committees a report describing—

- (A) the impact on utilization of the public alert and warning system lab by State, Tribal, and local governments, with particular attention given to the impact on utilization in rural areas, resulting from the program developed under paragraph (1); and

- (B) any further recommendations that the Administrator would make for additional statutory or appropriations authority necessary to increase the utilization of the public alert and warning system lab by State, Tribal, and local governments.

(h) Awareness of alerts and warnings

Not later than 1 year after December 20, 2019, the Administrator shall—

- (1) conduct a review of the National Watch Center and each Regional Watch Center of the Agency; and

- (2) submit to the appropriate congressional committees a report on the review conducted under paragraph (1), which shall include—

- (A) an assessment of the technical capability of the National and Regional Watch Centers described in paragraph (1) to be notified of alerts and warnings issued by a State through the public alert and warning system;

- (B) a determination of which State alerts and warnings the National and Regional Watch Centers described in paragraph (1) should be aware of; and

- (C) recommendations for improving the ability of the National and Regional Watch Centers described in paragraph (1) to receive any State alerts and warnings that the Administrator determines are appropriate.

(i) Reporting false alerts

Not later than 15 days after the date on which a State, Tribal, or local government official transmits a false alert under the public alert and warning system, the Administrator shall report to the appropriate congressional committees on—

- (1) the circumstances surrounding the false alert;

- (2) the content, cause, and population impacted by the false alert; and

- (3) any efforts to mitigate any negative impacts of the false alert.

(j) Reporting participation rates

The Administrator shall, on an annual basis, report to the appropriate congressional committees on—

- (1) participation rates in the public alert and warning system; and
- (2) any efforts to expand alert, warning, and interoperable communications to rural and underserved areas.

(k) Timeline for compliance

Each State shall be given a reasonable amount of time to comply with any new rules, regulations, or requirements imposed under this section.

(Pub. L. 116–92, div. A, title XVII, § 1756, Dec. 20, 2019, 133 Stat. 1855.)

Editorial Notes**REFERENCES IN TEXT**

Section 2(b)(7)(B) of the Integrated Public Alert and Warning System Modernization Act of 2015, referred to in subsec. (b)(2), is section 2(b)(7)(B) of Pub. L. 114–143, Apr. 11, 2016, 130 Stat. 332, which relates to submission of reports by the National Advisory Council and is not classified to the Code.

The Federal Advisory Committee Act, referred to in subsec. (b)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§ 1001 et seq.) of Title 5 by Pub. L. 117–286, §§ 3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2020, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

§ 321p. National planning and education

The Secretary shall, to the extent practicable—

- (1) include in national planning frameworks the threat of an EMP or GMD event; and
- (2) conduct outreach to educate owners and operators of critical infrastructure, emergency planners, and emergency response providers at all levels of government regarding threats of EMP and GMD.

(Pub. L. 107–296, title V, § 527, as added Pub. L. 114–328, div. A, title XIX, § 1913(a)(4), Dec. 23, 2016, 130 Stat. 2686.)

§ 321q. Coordination of Department of Homeland Security efforts related to food, agriculture, and veterinary defense against terrorism**(a) Program required**

The Secretary, acting through the Assistant Secretary for the Countering Weapons of Mass Destruction Office, shall carry out a program to coordinate the Department's efforts related to defending the food, agriculture, and veterinary systems of the United States against terrorism and other high-consequence events that pose a high risk to homeland security.

(b) Program elements

The coordination program required by subsection (a) shall include, at a minimum, the following:

(1) Providing oversight and management of the Department's responsibilities pursuant to Homeland Security Presidential Directive 9–Defense of United States Agriculture and Food.

(2) Providing oversight and integration of the Department's activities related to veterinary public health, food defense, and agricultural security.

(3) Leading the Department's policy initiatives relating to food, animal, and agricultural incidents, and the impact of such incidents on animal and public health.

(4) Leading the Department's policy initiatives relating to overall domestic preparedness for and collective response to agricultural terrorism.

(5) Coordinating with other Department components, including U.S. Customs and Border Protection, as appropriate, on activities related to food and agriculture security and screening procedures for domestic and imported products.

(6) Coordinating with appropriate Federal departments and agencies.

(7) Other activities as determined necessary by the Secretary.

(c) Rule of construction

Nothing in this section may be construed as altering or superseding the authority of the Secretary of Agriculture or the Secretary of Health and Human Services.

(Pub. L. 107–296, title V, § 528, as added Pub. L. 115–43, § 2(a), June 30, 2017, 131 Stat. 884; amended Pub. L. 115–387, § 2(f)(5), Dec. 21, 2018, 132 Stat. 5168.)

Editorial Notes**AMENDMENTS**

2018—Subsec. (a). Pub. L. 115–387 substituted “the Countering Weapons of Mass Destruction Office,” for “Health Affairs.”

§ 321r. Transfer of equipment during a public health emergency**(a) Authorization of transfer of equipment**

During a public health emergency declared by the Secretary of Health and Human Services under section 247d(a) of title 42, the Secretary, at the request of the Secretary of Health and Human Services, may transfer to the Department of Health and Human Services, on a reimbursable basis, excess personal protective equipment or medically necessary equipment in the possession of the Department.

(b) Determination by Secretaries**(1) In general**

In carrying out this section—

(A) before requesting a transfer under subsection (a), the Secretary of Health and Human Services shall determine whether the personal protective equipment or medically necessary equipment is otherwise available; and

(B) before initiating a transfer under subsection (a), the Secretary, in consultation with the heads of each component within the Department, shall—

(i) determine whether the personal protective equipment or medically necessary equipment requested to be transferred under subsection (a) is excess equipment; and

(ii) certify that the transfer of the personal protective equipment or medically necessary equipment will not adversely impact the health or safety of officers, employees, or contractors of the Department.

(2) Notification

The Secretary of Health and Human Services and the Secretary shall each submit to Congress a notification explaining the determination made under subparagraphs (A) and (B), respectively, of paragraph (1).

(3) Required inventory

(A) In general

The Secretary shall—

(i) acting through the Chief Medical Officer of the Department, maintain an inventory of all personal protective equipment and medically necessary equipment in the possession of the Department; and

(ii) make the inventory required under clause (i) available, on a continual basis, to—

(I) the Secretary of Health and Human Services; and

(II) the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations and the Committee on Homeland Security of the House of Representatives.

(B) Form

Each inventory required to be made available under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 107-296, title V, § 529, as added Pub. L. 117-58, div. G, title IX, § 70953(f)(2)(A), Nov. 15, 2021, 135 Stat. 1315.)

§ 322. Continuity of the economy plan

(a) Requirement

(1) In general

The President shall develop and maintain a plan to maintain and restore the economy of the United States in response to a significant event.

(2) Principles

The plan required under paragraph (1) shall—

(A) be consistent with—

- (i) a free market economy; and
- (ii) the rule of law; and

(B) respect private property rights.

(3) Contents

The plan required under paragraph (1) shall—

(A) examine the distribution of goods and services across the United States necessary for the reliable functioning of the United States during a significant event;

(B) identify the economic functions of relevant actors, the disruption, corruption, or dysfunction of which would have a debilitating effect in the United States on—

- (i) security;
- (ii) economic security;
- (iii) defense readiness; or
- (iv) public health or safety;

(C) identify the critical distribution mechanisms for each economic sector that should be prioritized for operation during a significant event, including—

- (i) bulk power and electric transmission systems;
- (ii) national and international financial systems, including wholesale payments, stocks, and currency exchanges;
- (iii) national and international communications networks, data-hosting services, and cloud services;
- (iv) interstate oil and natural gas pipelines; and
- (v) mechanisms for the interstate and international trade and distribution of materials, food, and medical supplies, including road, rail, air, and maritime shipping;

(D) identify economic functions of relevant actors, the disruption, corruption, or dysfunction of which would cause—

- (i) catastrophic economic loss;
- (ii) the loss of public confidence; or
- (iii) the widespread imperilment of human life;

(E) identify the economic functions of relevant actors that are so vital to the economy of the United States that the disruption, corruption, or dysfunction of those economic functions would undermine response, recovery, or mobilization efforts during a significant event;

(F) incorporate, to the greatest extent practicable, the principles and practices contained within Federal plans for the continuity of Government and continuity of operations;

(G) identify—

(i) industrial control networks for which a loss of internet connectivity, a loss of network integrity or availability, an exploitation of a system connected to the network, or another failure, disruption, corruption, or dysfunction would have a debilitating effect in the United States on—

- (I) security;
- (II) economic security;
- (III) defense readiness; or
- (IV) public health or safety; and

(ii) for each industrial control network identified under clause (i), risk mitigation measures, including—

- (I) the installation of parallel services;
- (II) the use of stand-alone analog services; or
- (III) the significant hardening of the industrial control network against failure, disruption, corruption, or dysfunction;

(H) identify critical economic sectors for which the preservation of data in a pro-

tested, verified, and uncorrupted status would be required for the quick recovery of the economy of the United States in the face of a significant disruption following a significant event;

(I) include a list of raw materials, industrial goods, and other items, the absence of which would significantly undermine the ability of the United States to sustain the functions described in subparagraphs (B), (D), and (E);

(J) provide an analysis of supply chain diversification for the items described in subparagraph (I) in the event of a disruption caused by a significant event;

(K) include—

(i) a recommendation as to whether the United States should maintain a strategic reserve of 1 or more of the items described in subparagraph (I); and

(ii) for each item described in subparagraph (I) for which the President recommends maintaining a strategic reserve under clause (i), an identification of mechanisms for tracking inventory and availability of the item in the strategic reserve;

(L) identify mechanisms in existence on January 1, 2021 and mechanisms that can be developed to ensure that the swift transport and delivery of the items described in subparagraph (I) is feasible in the event of a distribution network disturbance or degradation, including a distribution network disturbance or degradation caused by a significant event;

(M) include guidance for determining the prioritization for the distribution of the items described in subparagraph (I), including distribution to States and Indian Tribes;

(N) consider the advisability and feasibility of mechanisms for extending the credit of the United States or providing other financial support authorized by law to key participants in the economy of the United States if the extension or provision of other financial support—

(i) is necessary to avoid severe economic degradation; or

(ii) allows for the recovery from a significant event;

(O) include guidance for determining categories of employees that should be prioritized to continue to work in order to sustain the functions described in subparagraphs (B), (D), and (E) in the event that there are limitations on the ability of individuals to travel to workplaces or to work remotely, including considerations for defense readiness;

(P) identify critical economic sectors necessary to provide material and operational support to the defense of the United States;

(Q) determine whether the Secretary of Homeland Security, the National Guard, and the Secretary of Defense have adequate authority to assist the United States in a recovery from a severe economic degradation caused by a significant event;

(R) review and assess the authority and capability of heads of other agencies that the

President determines necessary to assist the United States in a recovery from a severe economic degradation caused by a significant event; and

(S) consider any other matter that would aid in protecting and increasing the resilience of the economy of the United States from a significant event.

(b) Coordination

In developing the plan required under subsection (a)(1), the President shall—

(1) receive advice from—

(A) the Secretary of Homeland Security;

(B) the Secretary of Defense;

(C) the Secretary of the Treasury;

(D) the Secretary of Health and Human Services;

(E) the Secretary of Commerce;

(F) the Secretary of Transportation;

(G) the Secretary of Energy;

(H) the Administrator of the Small Business Administration; and

(I) the head of any other agency that the President determines necessary to complete the plan;

(2) consult with economic sectors relating to critical infrastructure through sector-coordinated councils, as appropriate;

(3) consult with relevant State, Tribal, and local governments and organizations that represent those governments; and

(4) consult with any other non-Federal entity that the President determines necessary to complete the plan.

(c) Submission to Congress

(1) In general

Not later than 2 years after January 1, 2021, and not less frequently than every 3 years thereafter, the President shall submit the plan required under subsection (a)(1) and the information described in paragraph (2) to—

(A) the majority and minority leaders of the Senate;

(B) the Speaker and the minority leader of the House of Representatives;

(C) the Committee on Armed Services of the Senate;

(D) the Committee on Armed Services of the House of Representatives;

(E) the Committee on Homeland Security and Governmental Affairs of the Senate;

(F) the Committee on Homeland Security of the House of Representatives;

(G) the Committee on Health, Education, Labor, and Pensions of the Senate;

(H) the Committee on Commerce, Science, and Transportation of the Senate;

(I) the Committee on Energy and Commerce of the House of Representatives;

(J) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(K) the Committee on Finance of the Senate;

(L) the Committee on Financial Services of the House of Representatives;

(M) the Committee on Small Business and Entrepreneurship of the Senate;

(N) the Committee on Small Business of the House of Representatives;

(O) the Committee on Energy and Natural Resources of the Senate;

(P) the Committee on Environment and Public Works of the Senate;

(Q) the Committee on Indian Affairs of the Senate;

(R) the Committee on Oversight and Reform of the House of Representatives;

(S) Committee on the Budget of the House of Representatives; and

(T) any other committee of the Senate or the House of Representatives that has jurisdiction over the subject of the plan.

(2) Additional information

The information described in this paragraph is—

(A) any change to Federal law that would be necessary to carry out the plan required under subsection (a)(1); and

(B) any proposed changes to the funding levels provided in appropriation Acts for the most recent fiscal year that can be implemented in future appropriation Acts or additional resources necessary to—

(i) implement the plan required under subsection (a)(1); or

(ii) maintain any program offices and personnel necessary to—

(I) maintain the plan required under subsection (a)(1) and the plans described in subsection (a)(3)(F); and

(II) conduct exercises, assessments, and updates to the plans described in subclause (I) over time.

(3) Budget of the President

The President may include the information described in paragraph (2)(B) in the budget required to be submitted by the President under section 1105(a) of title 31.

(d) Definitions

In this section:

(1) The term “agency” has the meaning given the term in section 551 of title 5.

(2) The term “economic sector” means a sector of the economy of the United States.

(3) The term “relevant actor” means—

(A) the Federal Government;

(B) a State, local, or Tribal government; or

(C) the private sector.

(4) The term “significant event” means an event that causes severe degradation to economic activity in the United States due to—

(A) a cyber attack; or

(B) another significant event that is natural or human-caused.

(5) The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(Pub. L. 116-283, div. H, title XCVI, §9603, Jan. 1, 2021, 134 Stat. 4829.)

Editorial Notes

CODIFICATION

Section was enacted as part of the William M. (Mac) Thornberry National Defense Authorization Act for

Fiscal Year 2021, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

§ 323. Guidance on how to prevent exposure to and release of PFAS

(a) In general

Not later than 1 year after December 20, 2022, the Secretary of Homeland Security, in consultation with the Administrator of the United States Fire Administration, the Administrator of the Environmental Protection Agency, the Director of the National Institute for Occupational Safety and Health, and the heads of any other relevant agencies, shall—

(1) develop and publish guidance for firefighters and other emergency response personnel on training, education programs, and best practices;

(2) make available a curriculum designed to—

(A) reduce and eliminate exposure to per- and polyfluoroalkyl substances (commonly referred to as “PFAS”) from firefighting foam and personal protective equipment;

(B) prevent the release of PFAS from firefighting foam into the environment; and

(C) educate firefighters and other emergency response personnel on foams and non-foam alternatives, personal protective equipment, and other firefighting tools and equipment that do not contain PFAS; and

(3) create an online public repository, which shall be updated on a regular basis, on tools and best practices for firefighters and other emergency response personnel to reduce, limit, and prevent the release of and exposure to PFAS.

(b) Curriculum

(1) In general

For the purpose of developing the curriculum required under subsection (a)(2), the Administrator of the United States Fire Administration shall make recommendations to the Secretary of Homeland Security as to the content of the curriculum.

(2) Consultation

For the purpose of making recommendations under paragraph (1), the Administrator of the United States Fire Administration shall consult with interested entities, as appropriate, including—

(A) firefighters and other emergency response personnel, including national fire service and emergency response organizations;

(B) impacted communities dealing with PFAS contamination;

(C) scientists, including public and occupational health and safety experts, who are studying PFAS and PFAS alternatives in firefighting foam;

(D) voluntary standards organizations engaged in developing standards for firefighter and firefighting equipment;

(E) State fire training academies;

(F) State fire marshals;

(G) manufacturers of firefighting tools and equipment; and

(H) any other relevant entities, as determined by the Secretary of Homeland Security and the Administrator of the United States Fire Administration.

(c) Review

Not later than 3 years after the date on which the guidance and curriculum required under subsection (a) is issued, and not less frequently than once every 3 years thereafter, the Secretary of Homeland Security, in consultation with the Administrator of the United States Fire Administration, the Administrator of the Environmental Protection Agency, and the Director of the National Institute for Occupational Safety and Health, shall review the guidance and curriculum and, as appropriate, issue updates to the guidance and curriculum.

(d) Applicability of FACA

The Federal Advisory Committee Act (5 U.S.C. App.)¹ shall not apply to this Act.

(e) Rule of construction

Nothing in this Act shall be construed to require the Secretary of Homeland Security to promulgate or enforce regulations under subchapter II of chapter 5 of title 5 (commonly known as the “Administrative Procedure Act”). (Pub. L. 117–248, § 2, Dec. 20, 2022, 136 Stat. 2348.)

Editorial Notes

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

CODIFICATION

Section was enacted as part of the Protecting Firefighters from Adverse Substances Act, also known as the PFAS Act, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

SUBCHAPTER VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

§ 331. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations

(a) Findings

Congress finds the following:

- (1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.
- (2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.
- (3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the

world are often put in harm’s way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a \$6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) Designation of Johnny Micheal Spann Patriot Trusts

Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a “Johnny Micheal Spann Patriot Trust”.

(c) Requirements for the designation of Johnny Micheal Spann Patriot Trusts

The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3003(4) of title 50;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with

¹ See References in Text note below.