

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 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.

¹ See References in Text note below.

(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 pub-

lic 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 substan-

tially 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 Sec-

retary 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