ASSURING COORDINATION AMONG DEPARTMENTS OF TREASURY, HEALTH AND HUMAN SERVICES, AND LABOR

Section 104 of Pub. L. 104–191 provided that: “The Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this subtitle (subtitle A (§§101–104) of title I of Pub. L. 104–191, enacting this section, sections 300gr, 300gg–1, 300gg–11 to 300gg–13, 300gg–21 to 300gg–23, and 300gg–91 of this title, and sections 1181 to 1183 and 1191 to 1191c of Title 29, Labor, amending sections 300e and 300bb–4 of this title and sections 1063, 1021, 1022, 1024, 1132, 1136, and 1144 of Title 29, and enacting provisions set out as notes under section 300gg of this title and section 1181 of Title 29) and the amendments made by this subtitle and section 401 (enacting sections 9801 to 9806 of Title 26, Internal Revenue Code) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.”

SUBCHAPTER XXVI—NATIONAL ALL-HAZARDS PREPAREDNESS FOR PUBLIC HEALTH EMERGENCIES

AMENDMENTS


PART A—NATIONAL ALL-HAZARDS PREPAREDNESS AND RESPONSE PLANNING, COORDINATING, AND REPORTING

AMENDMENTS


§ 300hh. Public health and medical preparedness and response functions

(a) In general

The Secretary of Health and Human Services shall lead all Federal public health and medical response to public health emergencies and incidents covered by the National Response Plan developed pursuant to section 314(6) of title 6, or any successor plan.

(b) Interagency agreement

The Secretary, in collaboration with the Secretary of Veterans Affairs, the Secretary of Transportation, the Secretary of Defense, the Secretary of Homeland Security, and the head of any other relevant Federal agency, shall establish an interagency agreement, consistent with the National Response Plan or any successor plan, under which agreement the Secretary of Health and Human Services shall assume operational control of emergency public health and medical response assets, as necessary, in the event of a public health emergency, except that members of the armed forces under the authority of the Secretary of Defense shall remain under the command and control of the Secretary of Defense, as shall any associated assets of the Department of Defense.


REFERENCES IN TEXT

Section 314(6) of title 6, referred to in subsec. (a), was in the original “section 502(6) of the Homeland Security Act of 2002” and was translated as meaning section 504(6) of Pub. L. 107–296, to reflect the probable intent of Congress and the renumbering of section 502 as 504 by Pub. L. 109–285, title VI, §411(b), Oct. 4, 2006, 120 Stat. 1356.

AMENDMENTS

2006—Pub. L. 109–417 amended section generally. Prior to amendment, section consisted of subsections (a) to (d) relating to a national preparedness plan for carrying out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies.

GOVERNMENT ACCOUNTABILITY OFFICE REPORT


“(a) In General [sic].—The Comptroller General shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, a report that describes—

(1) Federal activities primarily related to research on, preparedness for, and the management of the public health and medical consequences of a bioterrorist attack against the civilian population;

(2) the coordination of the activities described in paragraph (1);

(3) the effectiveness of such efforts in preparing national, State, and local authorities to address the public health and medical consequences of a potential bioterrorist attack against the civilian population;

(4) the activities and costs of the Civil Support Teams of the National Guard in responding to biological threats or attacks against the civilian population;

(5) the activities of the working group under subsection (a) and the efforts made by such group to carry out the activities described in such subsection; and

(6) the ability of private sector contractors to enhance governmental responses to biological threats or attacks.”

§ 300hh–1. National Health Security Strategy

(a) In general

(1) Preparedness and response regarding public health emergencies

Beginning in 2009 and every four years thereafter, the Secretary shall prepare and submit to the relevant committees of Congress a coordinated strategy (to be known as the National Health Security Strategy) and any revisions thereof, and an accompanying implementation plan for public health emergency preparedness and response. Such National Health Security Strategy shall identify the process for achieving the preparedness goals described in subsection (b) and shall be consistent with the event of a public health emergency, except that members of the armed forces under the authority of the Secretary of Defense shall remain under the command and control of the Secretary of Defense, as shall any associated assets of the Department of Defense.

(1944) ch. 373, text note below.
National Preparedness Goal, the National Incident Management System, and the National Response Plan developed pursuant to section 314(6)\(^1\) of title 6, or any successor plan.

(2) Evaluation of progress

The National Health Security Strategy shall include an evaluation of the progress made by Federal, State, local, and tribal entities, based on the evidence-based benchmarks and objective standards that measure levels of preparedness established pursuant to section 247d–3a(g) of this title. Such evaluation shall include aggregate and State-specific breakdowns of obligated funding spent by major category (as defined by the Secretary) for activities funded through awards pursuant to sections 247d–3a and 247d–3b of this title.

(3) Public health workforce

In 2009, the National Health Security Strategy shall include a national strategy for establishing an effective and prepared public health workforce, including defining the functions, capabilities, and gaps in such workforce, and identifying strategies to recruit, retain, and protect such workforce from workplace exposures during public health emergencies.

(b) Preparedness goals

The National Health Security Strategy shall include provisions in furtherance of the following:

(1) Integration

Integrating public health and public and private medical capabilities with other first responder systems, including through—

(A) the periodic evaluation of Federal, State, local, and tribal preparedness and response capabilities through drills and exercises; and

(B) integrating public and private sector public health and medical donations and volunteers.

(2) Public health

Developing and sustaining Federal, State, local, and tribal essential public health security capabilities, including the following:

(A) Disease situational awareness domestically and abroad, including detection, identification, and investigation.

(B) Disease containment including capabilities for isolation, quarantine, social distancing, and decontamination.

(C) Risk communication and public preparedness.

(D) Rapid distribution and administration of medical countermeasures.

(3) Medical

Increasing the preparedness, response capabilities, and surge capacity of hospitals, other health care facilities (including mental health facilities), and trauma care and emergency medical service systems, with respect to public health emergencies, which shall include developing plans for the following:

(A) Strengthening public health emergency medical management and treatment capabilities.

(B) Medical evacuation and fatality management.

(C) Rapid distribution and administration of medical countermeasures.

(D) Effective utilization of any available public and private mobile medical assets and integration of other Federal assets.

(E) Protecting health care workers and health care first responders from workplace exposures during a public health emergency.

(4) At-risk individuals

(A) Taking into account the public health and medical needs of at-risk individuals in the event of a public health emergency.

(B) For purpose of this section and sections 247d–3a, 247d–6, and 247d–7e of this title, the term “at-risk individuals” means children, pregnant women, senior citizens and other individuals who have special needs in the event of a public health emergency, as determined by the Secretary.

(5) Coordination

Minimizing duplication of, and ensuring coordination between, Federal, State, local, and tribal planning, preparedness, and response activities (including the State Emergency Management Assistance Compact). Such planning shall be consistent with the National Response Plan, or any successor plan, and the National Incident Management System and the National Preparedness Goal.

(6) Continuity of operations

Maintaining vital public health and medical services to allow for optimal Federal, State, local, and tribal operations in the event of a public health emergency.


References in Text


EX. ORD. No. 13527. ESTABLISHING FEDERAL CAPABILITY FOR THE TIMELY PROVISION OF MEDICAL COUNTERMEASURES FOLLOWING A BIOLOGICAL ATTACK

EX. ORD. No. 13527, Dec. 30, 2009, 75 F.R. 737, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. It is the policy of the United States to plan and prepare for the timely provision of medical countermeasures to the American people in the event of a biological attack in the United States through a rapid Federal response in coordination with State, local, territorial, and tribal governments. This policy would seek to: (1) mitigate illness and prevent death; (2) sustain critical infrastructure; and (3) complement and supplement State, local, territorial, and tribal government medical countermeasure distribution capacity.

SIC. 2. United States Postal Service Delivery of Medical Countermeasures. (a) The U.S. Postal Service has the capacity for rapid residential delivery of medical countermeasures for self administration across all communities in the United States. The Federal Government

\(^1\) See References in Text note below.
shall pursue a national U.S. Postal Service medical countermeasures dispensing model to respond to a large-scale biological attack.

(b) The Secretaries of Health and Human Services and Homeland Security, in coordination with the U.S. Postal Service, within 180 days of the date of this order, shall establish a national U.S. Postal Service medical countermeasures dispensing model for U.S. cities to respond to a large-scale biological attack, with anthrax as the primary threat consideration.

(c) In support of the national U.S. Postal Service model, the Secretaries of Homeland Security, Health and Human Services, and Defense, and the Attorney General, in coordination with the U.S. Postal Service, and in consultation with State and local public health, emergency management, and law enforcement officials, within 180 days of the date of this order, shall develop an accompanying plan for supplementing local law enforcement personnel, as necessary and appropriate, with local Federal law enforcement, as well as other appropriate personnel, to escort U.S. Postal workers delivering medical countermeasures.

SEC. 3. Federal Rapid Response. (a) The Federal Government must develop the capacity to anticipate and immediately supplement the capabilities of affected jurisdictions to rapidly distribute medical countermeasures following a biological attack. Implementation of a Federal strategy to rapidly dispense medical countermeasures requires establishment of a Federal rapid response capability.

(b) The Secretaries of Homeland Security and Health and Human Services, in coordination with the Secretary of Defense, within 90 days of the date of this order, shall develop a concept of operations and establish requirements for a Federal rapid response to dispense medical countermeasures to an affected population following a large-scale biological attack.

SEC. 4. Continuity of Operations. (a) The Federal Government must establish mechanisms for the provision of medical countermeasures to personnel performing mission-essential functions to ensure that mission-essential functions of Federal agencies continue to be performed following a biological attack.

(b) The Secretaries of Health and Human Services and Homeland Security, within 180 days of the date of this order, shall develop a plan for the provision of medical countermeasures to ensure that mission-essential functions of executive branch departments and agencies continue to be performed following a large-scale biological attack.

§ 300hh–2. Enhancing medical surge capacity

(a) Study of enhancing medical surge capacity

As part of the joint review described in section 300hh–11(b) of this title, the Secretary shall evaluate the benefits and feasibility of improving the capacity of the Department of Health and Human Services to provide additional medical surge capacity to local communities in the event of a public health emergency. Such study shall include an assessment of the need for and feasibility of improving surge capacity through—

(1) acquisition and operation of mobile medical assets by the Secretary to be deployed, on a contingency basis, to a community in the event of a public health emergency;

(2) integrating the practice of telemedicine within the National Disaster Medical System; and

(3) other strategies to improve such capacity as determined appropriate by the Secretary.

(b) Authority to acquire and operate mobile medical assets

In addition to any other authority to acquire, deploy, and operate mobile medical assets, the Secretary may acquire, deploy, and operate mobile medical assets if, taking into consideration the evaluation conducted under subsection (a), such acquisition, deployment, and operation is determined to be beneficial and feasible in improving the capacity of the Department of Health and Human Services to provide additional medical surge capacity to local communities in the event of a public health emergency.

(c) Using Federal facilities to enhance medical surge capacity

(1) Analysis

The Secretary shall conduct an analysis of whether there are Federal facilities which, in the event of a public health emergency, could practically be used as facilities in which to provide health care.

(2) Memoranda of understanding

If, based on the analysis conducted under paragraph (1), the Secretary determines that there are Federal facilities which, in the event of a public health emergency, could practically be used as facilities in which to provide health care, the Secretary shall, with respect to each such facility, seek to conclude a memorandum of understanding with the head of the Department or agency that operates such facility that permits the use of such facility to provide health care in the event of a public health emergency.

(July 1, 1944, ch. 373, title XXVIII, § 2803, as added Pub. L. 109–417, title III, § 302(a), Dec. 19, 2006, 120 Stat. 2855.)

PART B—ALL-HAZARDS EMERGENCY PREPAREDNESS AND RESPONSE

AMENDMENTS


§ 300hh–10. Coordination of preparedness for and response to all-hazards public health emergencies

(a) In general

There is established within the Department of Health and Human Services the position of the Assistant Secretary for Preparedness and Response. The President, with the advice and consent of the Senate, shall appoint an individual to serve in such position. Such Assistant Secretary shall report to the Secretary.
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(b) Duties

Subject to the authority of the Secretary, the Assistant Secretary for Preparedness and Response shall carry out the following functions:

(1) Leadership

Serve as the principal advisor to the Secretary on all matters related to Federal public health and medical preparedness and response for public health emergencies.

(2) Personnel

Register, credential, organize, train, equip, and have the authority to deploy Federal public health and medical personnel under the authority of the Secretary, including the National Disaster Medical System, and coordinate such personnel with the Medical Reserve Corps and the Emergency System for Advance Registration of Volunteer Health Professionals.

(3) Countermeasures

Oversee advanced research, development, and procurement of qualified countermeasures (as defined in section 247d–6a of this title) and qualified pandemic or epidemic products (as defined in section 247d–6d of this title).

(4) Coordination

(A) Federal integration

Coordinate with relevant Federal officials to ensure integration of Federal preparedness and response activities for public health emergencies.

(B) State, local, and tribal integration

Coordinate with State, local, and tribal public health officials, the Emergency Management Assistance Compact, health care systems, and emergency medical service systems to ensure effective integration of Federal public health and medical assets during a public health emergency.

(C) Emergency medical services

Promote improved emergency medical services medical direction, system integration, research, and uniformity of data collection, treatment protocols, and policies with regard to public health emergencies.

(5) Logistics

In coordination with the Secretary of Veterans Affairs, the Secretary of Homeland Security, the General Services Administration, and other public and private entities, provide logistical support for medical and public health aspects of Federal responses to public health emergencies.

(6) Leadership

Provide leadership in international programs, initiatives, and policies that deal with public health and medical emergency preparedness and response.

(c) Functions

The Assistant Secretary for Preparedness and Response shall—

(1) have authority over and responsibility for—

(A) the National Disaster Medical System (in accordance with section 301 of the Pandemic and All-Hazards Preparedness Act); and

(B) the Hospital Preparedness Cooperative Agreement Program pursuant to section 247d–3b of this title;

(2) exercise the responsibilities and authorities of the Secretary with respect to the coordination of—

(A) the Medical Reserve Corps pursuant to section 300hh–15 of this title;

(B) the Emergency System for Advance Registration of Volunteer Health Professionals pursuant to section 247d–7b of this title;

(C) the Strategic National Stockpile; and

(D) the Cities Readiness Initiative; and

(3) assume other duties as determined appropriate by the Secretary.

(7) Special Duties

(A) the National Disaster Medical System

The Secretary shall designate the Assistant Secretary for Preparedness and Response the functions, personnel, assets, and liabilities of the Assistant Secretary for Public Health Emergency Preparedness as in effect on the day before the date of enactment of this Act [Dec. 19, 2006].

(B) the Hospital Preparedness Program

The Secretary shall designate the Assistant Secretary for Preparedness and Response the functions, personnel, assets, and liabilities of the Assistant Secretary for Public Health Emergency Preparedness as in effect on the day before the date of enactment of this Act [Dec. 19, 2006].

(c) Special Duties

(7) Special Duties

(A) the National Disaster Medical System

The Secretary shall designate the Assistant Secretary for Preparedness and Response the functions, personnel, assets, and liabilities of the Assistant Secretary for Public Health Emergency Preparedness as in effect on the day before the date of enactment of this Act [Dec. 19, 2006].

(B) the Hospital Preparedness Program

The Secretary shall designate the Assistant Secretary for Preparedness and Response the functions, personnel, assets, and liabilities of the Assistant Secretary for Public Health Emergency Preparedness as in effect on the day before the date of enactment of this Act [Dec. 19, 2006].

(d) Special Duties

(1) In general

The Secretary shall provide for the operation in accordance with this section of a system to be known as the National Disaster Medical System. The Secretary shall designate the Assistant Secretary for Preparedness and Response as the head of the National Disaster Medical System, subject to the authority of the Secretary.

(e) Special Duties

(2) Federal and State collaborative System

(A) In general

The National Disaster Medical System shall be a coordinated effort by the Federal agencies specified in subparagraph (B), working in collaboration with the States
and other appropriate public or private entities, to carry out the purposes described in paragraph (3).

(B) Participating Federal agencies

The Federal agencies referred to in subparagraph (A) are the Department of Health and Human Services, the Department of Homeland Security, the Department of Defense, and the Department of Veterans Affairs.

(3) Purpose of System

(A) In general

The Secretary may activate the National Disaster Medical System to—

(1) provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency (whether or not determined to be a public health emergency under section 247d of this title); or

(ii) present at locations, and for limited periods of time, specified by the Secretary on the basis that the Secretary has determined that a location is at risk of a public health emergency during the time specified.

(B) Ongoing activities

The National Disaster Medical System shall carry out such ongoing activities as may be necessary to prepare for the provision of services described in subparagraph (A) in the event that the Secretary activates the National Disaster Medical System for such purposes.

(C) Test for mobilization of System

During the one-year period beginning on December 19, 2006, the Secretary shall conduct an exercise to test the capability and timeliness of the National Disaster Medical System to mobilize and otherwise respond effectively to a bioterrorist attack or other public health emergency that affects two or more geographic locations concurrently. Thereafter, the Secretary may periodically conduct such exercises regarding the National Disaster Medical System as necessary.

(b) Modifications

(1) In general

Taking into account the findings from the joint review described under paragraph (2), the Secretary shall modify the policies of the National Disaster Medical System as necessary.

(2) Joint review and medical surge capacity strategic plan

Not later than 180 days after December 19, 2006, the Secretary, in coordination with the Secretary of Homeland Security, the Secretary of Defense, and the Secretary of Veterans Affairs, shall conduct a joint review of the National Disaster Medical System. Such review shall include an evaluation of medical surge capacity, as described by section 300hh–2(a) of this title. As part of the National Health Security Strategy under section 300hh–1 of this title, the Secretary shall update the findings from such review and further modify the policies of the National Disaster Medical System as necessary.

(3) Participation agreements for non-Federal entities

In carrying out paragraph (1), the Secretary shall establish criteria regarding the participation of States and private entities in the National Disaster Medical System, including criteria regarding agreements for such participation. The criteria shall include the following:

(A) Provisions relating to the custody and use of Federal personal property by such entities, which may in the discretion of the Secretary include authorizing the custody and use of such property to respond to emergency situations for which the National Disaster Medical System has not been activated by the Secretary pursuant to subsection (a)(3)(A) of this section. Any such custody and use of Federal personal property shall be on a reimbursable basis.

(B) Provisions relating to circumstances in which an individual or entity has agreements with both the National Disaster Medical System and another entity regarding the provision of emergency services by the individual. Such provisions shall address the issue of priorities among the agreements involved.

(c) Intermittent disaster-response personnel

(1) In general

For the purpose of assisting the National Disaster Medical System in carrying out duties under this section, the Secretary may appoint individuals to serve as intermittent personnel of such System in accordance with applicable civil service laws and regulations.

(2) Liability

For purposes of section 233(a) of this title and the remedies described in such section, an individual appointed under paragraph (1) shall, while acting within the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions. With respect to the participation of individuals appointed under paragraph (1) in training programs authorized by the Assistant Secretary for Preparedness and Response or a comparable official of any Federal agency specified in subsection (a)(2)(B) of this section, acts of individuals so appointed that are within the scope of such participation shall be considered within the scope of the appointment under paragraph (1) (regardless of whether the individuals receive compensation for such participation).

(d) Certain employment issues regarding intermittent appointments

(1) Intermittent disaster-response appointee

For purposes of this subsection, the term “intermittent disaster-response appointee” means an individual appointed by the Secretary under subsection (c) of this section.
(2) Compensation for work injuries

An intermittent disaster-response appointee shall, while acting in the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions, and an injury sustained by such an individual shall be deemed “in the performance of duty”, for purposes of chapter 81 of title 5 pertaining to compensation for work injuries. With respect to the participation of individuals appointed under subsection (c) of this section in training programs authorized by the Assistant Secretary for Preparedness and Response or a comparable official of any Federal agency specified in subsection (a)(2)(B) of this section, injuries sustained by such an individual, while acting within the scope of such participation, also shall be deemed “in the performance of duty” for purposes of chapter 81 of title 5 pertaining to compensation for such participation. In the event of an injury to such an intermittent disaster-response appointee, the Secretary of Labor shall be responsible for making determinations as to whether the claimant is entitled to compensation or other benefits in accordance with chapter 81 of title 5.

(3) Employment and reemployment rights

(A) In general

Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System or when the individual participates in a training program authorized by the Assistant Secretary for Preparedness and Response or a comparable official of any Federal agency specified in subsection (a)(2)(B) of this section shall be deemed “service in the uniformed services” for purposes of chapter 43 of title 38 pertaining to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation).

All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in chapter 43 of title 38.

(B) Notice of absence from position of employment

Preclusion of giving notice of service by necessity of Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System shall be deemed preclusion by “military necessity” for purposes of section 4312(b) of title 38 pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Secretary, in consultation with the Secretary of Defense, and shall not be subject to judicial review.

(4) Limitation

An intermittent disaster-response appointee shall not be deemed an employee of the Department of Health and Human Services for purposes other than those specifically set forth in this section.

(e) Rule of construction regarding use of commissioned corps

If the Secretary assigns commissioned officers of the Regular or Reserve Corps to serve with the National Disaster Medical System, such assignments do not affect the terms and conditions of their appointments as commissioned officers of the Regular or Reserve Corps, respectively (including with respect to pay and allowances, retirement, benefits, rights, privileges, and immunities).

(f) Definition

For purposes of this section, the term “auxiliary services” includes mortuary services, veterinary services, and other services that are determined by the Secretary to be appropriate with respect to the needs referred to in subsection (a)(3)(A) of this section.

(g) Authorization of appropriations

For the purpose of providing for the Assistant Secretary for Preparedness and Response and the operations of the National Disaster Medical System, other than purposes for which amounts in the Public Health Emergency Fund under section 2812 of title 38 pertaining to employment and reemployment rights of commissioned officers of the Regular or Reserve Corps to serve with the National Disaster Medical System are available, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011.


REFERENCES IN TEXT

The civil service laws, referred to in subsec. (c)(1), are classified generally to Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

AMENDMENTS

§ 300hh–13. Evaluation of new and emerging technologies regarding bioterrorist attack and other public health emergencies

(a) In general

The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall promptly carry out a program to periodically evaluate new and emerging technologies that, in the determination of the Secretary, are designed to improve or enhance the ability of public health or safety officials to conduct public health surveillance activities relating to a bioterrorist attack or other public health emergency.

(b) Certain activities

In carrying out this subsection, the Secretary shall, to the extent practicable—

(1) survey existing technology programs funded by the Federal Government for potentially useful technologies;

(2) promptly issue a request, as necessary, for information from non-Federal public and private entities for ongoing activities in this area; and

(3) evaluate technologies identified under paragraphs (1) and (2) pursuant to subsection (c) of this section.

(c) Consultation and evaluation

In carrying out subsection (b)(3) of this section, the Secretary shall consult with the working group under section 247d–6(a)\(^1\) of this title, as well as other appropriate public, nonprofit, and private entities, to develop criteria for the evaluation of such technologies and to conduct such evaluations.

(d) Report

Not later than 180 days after June 12, 2002, and periodically thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities under this section.


REFERENCES IN TEXT

Section 247d–6 of this title, referred to in subsection (a), was amended by Pub. L. 109–417, title III, §304, Dec. 19, 2006, 120 Stat. 2639, and as so amended, subsection (a) of section 247d–6 no longer relates to a working group.

CODIFICATION

Section was enacted as part of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, and not as part of the Public Health Service Act which comprises this chapter.

§ 300hh–14. Protection of health and safety during disasters

CODIFICATION


\(^1\) See References in Text note below.
(A) in which a participating responder is a participant as a condition of the employment of such participating responder; and
(B) that the Secretary of Health and Human Services certifies includes an adequate baseline medical screening.

(2) Disaster area
The term “disaster area” means an area in which the President has declared a major disaster (as that term is defined in section 5122 of this title), during the period of such declaration.

(3) High exposure level
The term “high exposure level” means a level of exposure to a substance of concern that is for such a duration, or of such a magnitude, that adverse effects on human health can be reasonably expected to occur, as determined by the President, acting through the Secretary of Health and Human Services, in accordance with human monitoring or environmental or other appropriate indicators.

(4) Individual
The term “individual” includes—
(A) a worker or volunteer who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, including—
   (i) a police officer;
   (ii) a firefighter;
   (iii) an emergency medical technician;
   (iv) any participating member of an urban search and rescue team; and
   (v) any other relief or rescue worker or volunteer that the President, acting through the Secretary of Health and Human Services, determines to be appropriate;

(B) a worker who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, by assisting in the clean-up or restoration of critical infrastructure in and around a disaster area;
(C) a person whose place of residence is in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States;
(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States, of the United States; and
(E) any other person that the President, acting through the Secretary of Health and Human Services, determines to be appropriate.

(5) Participating responder
The term “participating responder” means an individual described in paragraph (4)(A).

(6) Program
The term “program” means a program described in subsection (b) that is carried out for a disaster area.

(7) Substance of concern
The term “substance of concern” means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President, acting through the Secretary of Health and Human Services, and in coordination with the Agency for Toxic Substances and Disease Registry, the Environmental Protection Agency, the Centers for Disease Control and Prevention, the National Institutes of Health, the Federal Emergency Management Agency, the Occupational Health and Safety Administration, and other agencies.

(b) Program
(1) In general
If the President, acting through the Secretary of Health and Human Services, determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area and disrupts the transportation system of the United States, the President, acting through the Secretary of Health and Human Services, may carry out a program for the coordination, protection, assessment, monitoring, and study of the health and safety of individuals with high exposure levels to ensure that—
(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern in a timely manner;
(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—
   (i) any short- and long-term health impacts of any substance of concern; and
   (ii) any mental health impacts;
(C) the individuals receive health care referrals as needed and appropriate; and
(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

(2) Activities
A program under paragraph (1) may include such activities as—
(A) collecting and analyzing environmental exposure data;
(B) developing and disseminating information and educational materials;
(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;
(D) establishing and maintaining an exposure registry;
(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and
(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.
(3) Timing

To the maximum extent practicable, activities under any program carried out under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

(4) Participation in registries and studies

(A) In general

Participation in any registry or study that is part of a program carried out under paragraph (1) shall be voluntary.

(B) Protection of privacy

The President, acting through the Secretary of Health and Human Services, shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

(C) Priority

(i) In general

Except as provided in clause (ii), the President, acting through the Secretary of Health and Human Services, may give priority to the participation, monitoring and study of the health and safety of individuals with the highest level of exposure to a substance of concern.

(ii) Modifications

Notwithstanding clause (i), the President, acting through the Secretary of Health and Human Services, may modify the priority of a registry or study described in subparagraph (A), if the President, acting through the Secretary of Health and Human Services, determines such modification to be appropriate.

(5) Cooperative agreements

(A) In general

The President, acting through the Secretary of Health and Human Services, may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

(B) Selection criteria

To the maximum extent practicable, the President, acting through the Secretary of Health and Human Services, shall select, to carry out a program under paragraph (1), a medical institution or a consortium of medical institutions that—

(i) is located near—

(I) the disaster area with respect to which the program is carried out; and

(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

(i) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

(II) conducting long-term health monitoring and epidemiological studies;

(III) conducting long-term mental health studies; and

(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

(6) Involvement

(A) In general

In carrying out a program under paragraph (1), the President, acting through the Secretary of Health and Human Services, shall—

(i) Federal, State, and local government agencies;

(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

(iii) local residents, businesses, and schools (including parents and teachers);

(iv) health care providers;

(v) faith based organizations; and

(vi) other organizations and persons.

(B) Committees

Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

(7) Privacy

The President, acting through the Secretary of Health and Human Services, may carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

(8) Existing programs

In carrying out a program under paragraph (1), the President, acting through the Secretary of Health and Human Services, may—

(A) include the baseline clinical health examination of a participating responder under a certified monitoring program; and

(B) substitute the baseline clinical health examination of a participating responder under a certified monitoring program for a baseline clinical health examination under paragraph (1).

(c) Reports

Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, acting through the Secretary of Health and Human Services, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), may submit a report to the Secretary of Homeland Security, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress describing the programs and studies carried out under the program.

1So in original. Probably should be “program;”. 
(d) National Academy of Sciences report on disaster area health and environmental protection and monitoring

(1) In general
The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(2) Participation of experts
The report under paragraph (1) shall be prepared with the participation of individuals who have expertise in—

- (A) environmental health, safety, and medicine;
- (B) occupational health, safety, and medicine;
- (C) clinical medicine, including pediatrics;
- (D) environmental toxicology;
- (E) epidemiology;
- (F) mental health;
- (G) medical monitoring and surveillance;
- (H) environmental monitoring and surveillance;
- (I) environmental and industrial hygiene;
- (J) emergency planning and preparedness;
- (K) public outreach and education;
- (L) State and local health departments;
- (M) State and local environmental protection departments;
- (N) functions of workers that respond to disasters, including first responders;
- (O) public health; and
- (P) family services, such as counseling and other disaster-related services provided to families.

(3) Contents
The report under paragraph (1) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

- (i) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;
- (ii) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;
- (iii) chemical- or substance-specific methods of sample analysis;
- (iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;
- (v) procedures for providing monitoring results to—
  - (I) appropriate Federal, State, and local government agencies;
  - (II) appropriate response personnel; and
  - (III) the public;
- (vi) responsibilities of Federal, State, and local agencies for—
  - (I) collecting and analyzing samples;
  - (II) reporting results; and
  - (III) taking appropriate response actions; and
  - (vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(B) other issues specified by the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency.

(4) Authorization of appropriations
There are authorized to be appropriated such sums as are necessary to carry out this subsection.


REFERENCES IN TEXT
Section 254(c) of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (b)(7), is section 254(c) of Pub. L. 104–191, which is set out as a note under section 1320d–2 of this title.

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 Public Health Service Act which comprises this chapter.

§ 300hh–15. Volunteer Medical Reserve Corps

(a) In general
Not later than 180 days after December 19, 2006, the Secretary, in collaboration with State, local, and tribal officials, shall build on State, local, and tribal programs in existence on December 19, 2006, to establish and maintain a Medical Reserve Corps (referred to in this section as the “Corps”) to provide for an adequate supply of volunteers in the case of a Federal, State, local, or tribal public health emergency. The Corps shall be headed by a Director who shall be appointed by the Secretary and shall oversee the activities of the Corps chapters that exist at the State, local, and tribal levels.

(b) State, local, and tribal coordination
The Corps shall be established using existing State, local, and tribal teams and shall not alter such teams.

(c) Composition
The Corps shall be composed of individuals who—

(1)(A) are health professionals who have appropriate professional training and expertise as determined appropriate by the Director of the Corps; or
(B) are non-health professionals who have an interest in serving in an auxiliary or support capacity to facilitate access to health care services in a public health emergency;
(2) are certified in accordance with the certification program developed under subsection (d);
(3) are geographically diverse in residence;
(4) have registered and carry out training exercises with a local chapter of the Medical Reserve Corps; and
(5) indicate whether they are willing to be deployed outside the area in which they reside in the event of a public health emergency.

d) Certification; drills

(1) Certification

The Director, in collaboration with State, local, and tribal officials, shall establish a process for the periodic certification of individuals who volunteer for the Corps, as determined by the Secretary, which shall include the completion by each individual of the core training programs developed under section 247d–6 of this title, as required by the Director. Such certification shall not supersede State licensing or credentialing requirements.

(2) Drills

In conjunction with the core training programs referred to in paragraph (1), and in order to facilitate the integration of trained volunteers into the health care system at the local level, Corps members shall engage in periodic training exercises to be carried out at the local level.

e) Deployment

During a public health emergency, the Secretary shall have the authority to activate and deploy willing members of the Corps to areas of need, taking into consideration the public health and medical expertise required, with the concurrence of the State, local, or tribal officials from the area where the members reside.

(f) Expenses and transportation

While engaged in performing duties as a member of the Corps pursuant to an assignment by the Secretary (including periods of travel to facilitate such assignment), members of the Corps who are not otherwise employed by the Federal Government shall be allowed travel or transportation expenses, including per diem in lieu of subsistence.

g) Identification

The Secretary, in cooperation and consultation with the States, shall develop a Medical Reserve Corps Identification Card that describes the licensure and certification information of Corps members, as well as other identifying information determined necessary by the Secretary.

(h) Intermittent disaster-response personnel

(1) In general

For the purpose of assisting the Corps in carrying out duties under this section, during a public health emergency, the Secretary may appoint selected individuals to serve as intermittent personnel of such Corps in accordance with applicable civil service laws and regulations. In all other cases, members of the Corps are subject to the laws of the State in which the activities of the Corps are undertaken.

(2) Applicable protections

Subsections (c)(2), (d), and (e) of section 300hh–11 of this title shall apply to an individual appointed under paragraph (1) in the same manner as such subsections apply to an individual appointed under section 300hh–11(c) of this title.

(i) Authorization of appropriations

There is authorized to be appropriated to carry out this section, $22,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011. (July 1, 1944, ch. 373, titles XXVIII, § 2813, as added Pub. L. 109–417, title III, § 303(a), Dec. 19, 2006, 120 Stat. 2836.)
§ 300hh–17. Emergency response coordination of primary care providers

The Secretary, acting through Administrator of the Health Resources and Services Administration, and in coordination with the Assistant Secretary for Preparedness and Response, shall

(1) provide guidance and technical assistance to health centers funded under section 254b of this title and to State and local health departments and emergency managers to integrate health centers into State and local emergency response plans and to better meet the primary care needs of populations served by health centers during public health emergencies; and

(2) encourage employees at health centers funded under section 254b of this title to participate in emergency medical response programs including the National Disaster Medical System authorized in section 300hh–11 of this title, the Volunteer Medical Reserve Corps authorized in section 300hh–15 of this title, and the Emergency System for Advance Registration of Health Professions Volunteers authorized in section 247d–7b of this title.

(4) Eligible State agency

The term “eligible State agency” means a State agency that—

(A) administers the State’s program under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], administers the State’s program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], or is designated by the Governor of such State to administer the State’s programs under this subchapter;

(B) is an aging and disability resource center;

(C) works in collaboration with a public or private nonprofit statewide respite care coalition or organization; and

(D) demonstrates—

(i) an ability to work with other State and community-based agencies;

(ii) an understanding of respite care and family caregiver issues across all age groups, disabilities, and chronic conditions; and

(iii) the capacity to ensure meaningful involvement of family members, family caregivers, and care recipients.

(5) Family caregiver

The term “family caregiver” means an unpaid family member, a foster parent, or another unpaid adult, who provides in-home monitoring, management, supervision, or treatment of a child or adult with a special need.

(6) Lifespan respite care

The term “lifespan respite care” means a coordinated system of accessible, community-based respite care services for family caregivers of children or adults with special needs.

(7) Respite care

The term “respite care” means planned or emergency care provided to a child or adult with a special need in order to provide temporary relief to the family caregiver of that child or adult.

(8) State

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

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in par. (4)(A), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which...