



**Use of the Defense Production Act to Reduce  
Interruptions in Critical Infrastructure and Key  
Resource Operations During Emergencies**

*Calendar Year 2014 Report to Congress  
March 31, 2015*



Homeland  
Security

*Federal Emergency Management Agency*

# Message from the Administrator

March 31, 2015

I am pleased to present the following report, “Use of the Defense Production Act to Reduce Interruptions in Critical Infrastructure and Key Resource Operations During Emergencies” for Calendar Year 2014. This report is required by Subsection 1002(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53).



The report is an interagency effort led by the Federal Emergency Management Agency in the Department of Homeland Security and including the Departments of Agriculture, Commerce, Defense, Energy, and Transportation.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Richard C. Shelby  
Chairman, Senate Committee on Banking, Housing, and Urban Affairs

The Honorable Sherrod Brown  
Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs

The Honorable Jeb Hensarling  
Chairman, House Committee on Financial Services

The Honorable Maxine Waters  
Ranking Member, House Committee on Financial Services

The Honorable Ron Johnson  
Chairman, Senate Homeland Committee on Security and Governmental Affairs

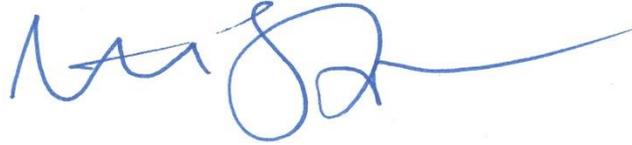
The Honorable Thomas R. Carper  
Ranking Member, Senate Committee on Homeland Security and Governmental Affairs

The Honorable Michael McCaul  
Chairman, House Committee on Homeland Security

The Honorable Bennie Thompson  
Ranking Member, House Committee on Homeland Security

Inquiries relating to this report may be directed to me at (202) 646-3900.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. Craig Fugate', with a long horizontal flourish extending to the right.

W. Craig Fugate  
Administrator  
Federal Emergency Management Agency

## Executive Summary

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This is the eighth annual report to Congress on actions taken by the Federal Government using the priorities and allocations authority provided in Section 101 of the Defense Production Act of 1950 (DPA) to ensure the preparedness of industry to reduce interruption of critical infrastructure and key resource operations under emergency conditions. This report was prepared in accordance with Subsection 1002(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 [Public Law 110-53]. The Department of Homeland Security (DHS) developed this report in cooperation with the Departments of Commerce (DOC), Defense (DOD), Energy (DOE), Agriculture (USDA), and Transportation (DOT). The reporting period for this report is from January 1, 2014 to December 31, 2014.

Section 101 authorizes the President to require acceptance and priority performance of contracts or orders and to allocate materials, services, and facilities to promote the national defense or to maximize domestic energy supplies. Executive Order (E.O.) 13603 delegates the President's priorities and allocations authorities to DOC, DOD, DOE, DOT, USDA, and the Department of Health and Human Services with respect to resources within each department's jurisdiction. It provides that the priorities and allocations authorities may only be used for programs determined "necessary or appropriate to promote the national defense" by DOD (for military and space programs), DOE (for energy resources), or DHS (with respect to all other national defense programs, including civil defense and continuity of government).

Section 101(d) of the DPA directs the head of each of the six federal departments to which the President has delegated priorities and allocations authority to issue final rules that establish standards and procedures by which this authority is used to promote national defense, under both emergency and non-emergency conditions. An interagency working group, led by DHS, coordinated development of "common rule" provisions to be incorporated into the priorities and allocations rules of the six departments and is providing continuing coordination for establishment of "a consistent and unified federal priorities and allocations system," to "the extent practicable," in accordance with section 101(d)(2) of the DPA.

In addition to developing new and updated guidance and procedures for use of the DPA section 101 authorities, the six federal departments with delegated DPA priorities and allocations authorities and the departments with responsibilities for protection and restoration of critical infrastructure and key resource operations have continued to develop plans to use the authorities in support of emergency preparedness and response activities. Priority-rated contracts and orders are used, as needed and appropriate, to prevent or minimize interruptions in critical infrastructure operations caused by acts of terrorism or natural disasters.



# Use of the Defense Production Act to Reduce Interruptions in Critical Infrastructure and Key Resource Operations During Emergencies

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# 1. Introduction

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## 1.1. Purpose and Scope

This report was prepared pursuant to Subsection 1002(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 [Public Law 110-53]. Subsection 1002(b) directs the Secretary of Homeland Security to submit an annual report to Congress on actions taken by the Federal Government to ensure, in accordance with Subsections (a) and (c) of Section 101 of the Defense Production Act of 1950 (DPA) [50 U.S.C. App. 2071], the preparedness of industry to reduce interruption of critical infrastructure<sup>1</sup> and key resource (hereinafter “critical infrastructure”<sup>2</sup>) operations during an act of terrorism, natural catastrophe, or other similar national emergency.<sup>3</sup>

This report was prepared by the Department of Homeland Security (DHS) in cooperation with the Departments of Agriculture (USDA), Commerce (DOC), Defense (DOD), Energy (DOE), and Transportation (DOT). This report is being submitted to the Senate Committees on Banking, Housing, and Urban Affairs and Homeland Security and Governmental Affairs, and the House Committees on Financial Services and Homeland Security. Within DHS, the Federal Emergency Management Agency (FEMA) serves as the executive agent for DPA implementation while the National Protection and Programs Directorate (NPPD) is responsible for implementing the Department’s critical infrastructure security and resilience responsibility.

Development of this report involved: (1) interagency meetings and conference calls to provide direction and coordination for the drafting of each department’s input; (2) preparation of report language by personnel engaged in DPA programs and critical infrastructure protection and restoration activities; (3) consolidation of each department’s input into this report; and (4) review and approval of the consolidated report by departments whose actions are described herein.

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<sup>1</sup> As defined in the Defense Production Act of 1950, critical infrastructure means “any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health and safety.”

<sup>2</sup> Presidential Policy Directive 21, February 12, 2013, drops all mention of the term “key resources” and simply refers to the broader term “critical infrastructure,” which is defined to encompass “key resources” as previously defined.

<sup>3</sup> Subsection 1002(b) reads as follows: “(b) Report on Industry Preparedness.--Not later than 6 months after the last day of fiscal year 2007 and each subsequent fiscal year, the Secretary of Homeland Security, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy, shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with Subsections (a) and (c) of Section 101 of the Defense Production Act of 1950 [50 U.S.C. App. 2071], the preparedness of industry to reduce interruption of critical infrastructure and key resource operations during an act of terrorism, natural catastrophe, or other similar national emergency.”

## 1.2. Background

### 1.2.1. Protection of Critical Infrastructure

Ensuring the security and resilience of the Nation's critical infrastructure is one of the core missions of DHS. Through the efforts of NPPD, DHS is at the forefront for promoting industry preparedness to reduce interruption of critical infrastructure operations. DHS works with industry on a daily basis to provide industry with analysis and mitigation recommendations to reduce both the likelihood and consequences of interruptions to critical infrastructure operations due to terrorism, natural catastrophes, cyber attacks and systems degradation, or other national emergencies.

DHS is responsible for coordinating interagency critical infrastructure security and resilience and emergency preparedness planning efforts. These responsibilities include, but are not limited to implementing relevant provisions of the Homeland Security Act and Presidential authorities pertaining to critical infrastructure. DHS is also responsible for coordinating with both government and critical infrastructure owners and operators to implement specific responsibilities identified in the National Infrastructure Protection Plan (NIPP),<sup>4</sup> National Preparedness Goal, National Planning Frameworks and Interagency Operational Plans for Prevention, Protection, Mitigation, Response, and Recovery. Together, these strategic documents provide the context for integrating critical infrastructure security and resilience as a key component of the Nation's unified approach to homeland security. They provide a context for implementation of the DPA provisions when relevant and appropriate for reducing interruptions of critical infrastructure operations under terrorist threats, natural disasters, and emergency conditions.

Presidential Policy Directive 21, *Critical Infrastructure Security and Resilience* (PPD 21)<sup>5</sup> charges the Secretary of Homeland Security with responsibility for providing strategic guidance, promoting a national unity of effort, and coordinating the overall federal effort to promote the security and resilience of the Nation's critical infrastructure. PPD 21 also designates federal Sector-Specific Agencies (SSAs) with responsibility for coordinating day-to-day sector-specific activities; carrying out incident management responsibilities (consistent with applicable authorities, policies, regulations or directives); providing, supporting or facilitating technical assistance and consultations for sectors to identify vulnerabilities and help mitigate incidents, including cybersecurity incidents; and supporting the Secretary of Homeland Security by providing annual sector-specific critical infrastructure information. This approach provides the structure needed to address the unique characteristics and operating models of each of the critical infrastructure sectors.

The overarching framework for the critical infrastructure mission is outlined in the NIPP and supporting Sector-Specific Plans. The NIPP serves as the foundation for the integrated risk-

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<sup>4</sup> An updated version of the NIPP was issued on December 20, 2013. The text of the updated NIPP is available at [www.dhs.gov/nipp/](http://www.dhs.gov/nipp/)

<sup>5</sup> Presidential Policy Directive 21, *Critical Infrastructure Security and Resilience* (PPD 21) was issued on February 12, 2013. PPD 21 is available at <http://www.whitehouse.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil>

informed approach used by government and private sector partners to identify, assess, and prioritize risks to critical infrastructure and implement programs to enhance critical infrastructure protection and resilience.

Developed by DHS through a collaborative process with critical infrastructure partners at all levels of government and the private sector, the NIPP captures the evolution and maturation of programs and processes established for enhancing public-private partnerships, implementing a consistent approach to critical infrastructure risk management, a networked approach to information sharing, and a focus on building national awareness, education, training, and exercises to ensure an effective and unified infrastructure protection and resilience program over the long term. The NIPP integrates the concepts of resilience and protection and broadens the focus of NIPP-related programs and activities to the all-hazards environment. Among other enhancements, the NIPP includes an expanded discussion of the DPA. The critical infrastructure sectors and the SSAs are listed in Table 1-1.

**Table 1-1. Sector-Specific Agencies for Critical Infrastructure**

<b>Sector-Specific Agency</b>	<b>Critical Infrastructure Sector</b>
Department of Agriculture <sup>6</sup> Department of Health and Human Services <sup>7</sup>	Food and Agriculture
Department of Defense <sup>8</sup>	Defense Industrial Base
Department of Energy <sup>9</sup>	Energy
Department of Health and Human Services	Healthcare and Public Health
Department of the Treasury	Banking and Finance
Environmental Protection Agency	Water
Departments of Homeland Security and Transportation	Transportation Systems <sup>10</sup>
Department of Homeland Security and General Services Administration	Government Facilities <sup>11</sup>
Department of Homeland Security	Chemical Commercial Facilities Critical Manufacturing Dams Emergency Services Nuclear Reactors, Materials, and Waste Communications Information Technology

<sup>6</sup> The Department of Agriculture is responsible for agriculture and food (meat, poultry, and egg products).

<sup>7</sup> The Department of Health and Human Services is responsible for food other than meat, poultry, and egg products.

<sup>8</sup> Nothing in this plan impairs or otherwise affects the authority of the Secretary of Defense over the Department of Defense, including the chain of command for military forces from the President as Commander in Chief, to the Secretary of Defense, to the commander of military forces, or military command and control procedures.

<sup>9</sup> The Energy Sector includes the production, refining, storage, and distribution of oil, gas, and electric power, except for commercial nuclear power facilities.

<sup>10</sup> PPD 21 designates the Department of Transportation as a co-SSA with DHS for the sector.

<sup>11</sup> PPD 21 designates the General Services Administration as a co-SSA with DHS for the Government Facilities sector.

## 1.2.2. Defense Production Act

The DPA provides a number of important authorities to expedite and expand the supply of materials and services from the U.S. industrial base to protect and restore critical infrastructure, as well as to support military, energy, stockpiling, space, domestic disaster preparedness, and other homeland security programs.

This report focuses on use of the authorities provided in subsections 101(a) and 101(c) of the DPA. Subsection 101(a) authorizes the President to: (1) require acceptance and preferential performance of contracts or orders (other than contracts of employment) that the President deems necessary or appropriate to promote the national defense; and (2) allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as the President shall deem necessary or appropriate to promote the national defense.<sup>12</sup> Subsection 101(c) provides similar priorities and allocations authorities to maximize domestic energy supplies, if the President finds that: (1) materials, services, and facilities needed to maximize domestic energy supplies are scarce, critical, and essential; and (2) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the priorities and allocations authority.<sup>13</sup>

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<sup>12</sup> Section 101(a) reads as follows: “(a) Allocation of Materials, Services, and Facilities. The President is authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.”

<sup>13</sup> (c) Domestic Energy; Materials, Equipment, and Services

(1) Notwithstanding any other provision of this Act [50 U.S.C. App. § 2061-2171], the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, materials, equipment, and services in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, services, and facilities in the marketplace, unless the President finds that—

(A) such materials, services, and facilities are scarce, critical, and essential—

(i) to maintain or expand exploration, production, refining, transportation;

(ii) to conserve energy supplies; or

(iii) to construct or maintain energy facilities; and

(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

(3) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.

The President's authorities under subsection 101 are delegated in subsection 201(a) of Executive Order (E.O.) 13603 (National Defense Resources Preparedness) to:

- The Secretary of Agriculture with respect to food resources (including potable water packaged in commercially marketable containers), food resource facilities, livestock resources, veterinary resources, plant health resources, and the domestic distribution of farm equipment and commercial fertilizer;
- The Secretary of Energy with respect to all forms of energy;
- The Secretary of Health and Human Services with respect to health resources;
- The Secretary of Transportation with respect to all forms of civil transportation;
- The Secretary of Defense with respect to water resources; and
- The Secretary of Commerce with respect to all other materials, services, and facilities, including construction materials.

Section 201(e) of E.O. 13603 provides that each department that is delegated priorities and allocations authority under section 201(a) of E.O. 13603 may use this authority with respect to control of the general distribution of any material (including applicable services) in the civilian market only after: (1) making the finding required under section 101(b) of the DPA; and (2) the finding has been approved by the President.

Section 202 of E.O. 13603 provides that the section 201(a) authority of E.O. 13603 may be used only to support programs that have been determined in writing as necessary or appropriate to promote the national defense (hereinafter "Approved Programs") by:

- DOD with respect to military production and construction, military assistance to foreign nations, military use of civil transportation, stockpiles managed by the DOD, space, and directly related activities;
- DOE with respect to energy production and construction, distribution and use, and directly related activities; and
- DHS with respect to all other national defense programs, including civil defense and continuity of government.

In general, proposed uses of DPA Section 101 authority for protection or restoration of most types of critical infrastructure must first be determined by DHS to be "necessary or appropriate to promote the national defense."

## 2. Priorities and Allocations

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Federal departments, both individually and collectively, have taken a number of actions to implement DPA Section 101 authorities in support of critical infrastructure protection and restoration in recent years. Representatives of the federal departments with delegated DPA authorities and responsibilities meet periodically to review DPA delegations and guidance with regard to critical infrastructure protection and restoration. DPA authorities, including the priorities and allocations authority, have been incorporated into federal emergency preparedness plans. This chapter describes recent and ongoing actions with regard to the DPA priorities authority.

### 2.1. *Department of Commerce*

DOC is delegated authority, through E.O. 13603, to implement the DPA priorities and allocations provisions for industrial resources.<sup>14</sup> DOC has continuously administered a priorities and allocations system for industrial resources since 1950. DOC's Bureau of Industry and Security (DOC/BIS) administers the Defense Priorities and Allocations System (DPAS) and may exercise priorities and allocations authority to ensure the timely delivery of industrial resources to meet Approved Programs (including homeland security and critical infrastructure protection and restoration activities) requirements. DPAS establishes procedures for the placement, acceptance, and performance of priority-rated contracts and orders and for the allocation of materials, services and facilities. All companies in the United States must comply with the provisions of the DPAS regulation.

DOC/BIS has delegated authority to DOD, DOE, DHS, and the General Services Administration, in accordance with the DPAS regulation and under the authority of the DPA and E.O. 13603, to place priority ratings on contracts or orders for industrial resources to support programs determined by DOD, DOE, or DHS as "necessary or appropriate to promote the national defense." DOC/BIS may also authorize other federal, state, and local government agencies, foreign governments, owners and operators of critical infrastructure, or companies to place priority ratings on contracts or orders for industrial resources on a case-by-case basis. Such requests must also be determined "necessary or appropriate to promote the national defense" by DOD, DOE, or DHS.

DOC/BIS has authorized other federal agencies, on a case-by-case basis, to place priority ratings on orders to expedite the delivery of industrial resources to support the protection of government facilities, a critical infrastructure sector. DOC's DPAS delegation to DOD provides that DOD may authorize persons to place rated orders for delivery of production or construction equipment required to support DOD Approved Programs, when the equipment is necessary for the timely

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<sup>14</sup> For the purposes of DPAS, "industrial resources" includes all materials, services, and facilities, including construction materials, the authority for which has not been delegated to other agencies under Executive Order 13603 (e.g., industrial resources do not include: food resources, food resource facilities, livestock resources, veterinary resources, plant health resources, and the domestic distribution of farm equipment and commercial fertilizer; all forms of energy; health resources; all forms of civil transportation; and water resources).

performance or completion of rated contracts or orders and timely delivery of the equipment cannot be obtained otherwise. DOD has authorized companies in the defense industrial base, a critical infrastructure sector, to place priority ratings on orders to expedite the delivery of industrial resources, including supporting recovery from industrial accidents that have adversely impacted production capabilities.

In 2014, BIS published proposed and final rules to amend the Defense Priorities and Allocations System regulation. The final rule clarifies existing standards and procedures by which BIS may require that certain contracts or orders that promote the national defense be given priority over other contracts or orders. The final rule also sets new standards and procedures for prioritizing contracts and orders for emergency preparedness activities to enhance the system's ability to support the timely delivery of industrial resources to support the U.S. Government's response during domestic emergencies where it may be necessary to finalize contracts and orders within hours. The final rule implements provisions in the Defense Production Act Reauthorization of 2009 regarding publication of regulations providing standards and procedures for prioritization of contracts and orders to promote the national defense under emergency and non-emergency conditions.

## ***2.2. Department of Defense***

PPD-21 assigns two broad responsibilities to DOD associated with limiting and managing risks to critical infrastructure operations. DOD is designated as the SSA for the Defense Industrial Base, and the U.S. Army Corps of Engineers (USACE) plays a significant role in the Water and Dams Sectors under the Sector-Specific Agency lead of the Environmental Protection Agency and NPPD/IP, respectively. As an element of the Department of the Army within DOD, the USACE has responsibility or jurisdiction for dams that it planned, designed, constructed, and operates; dams that it designed and constructed, but are operated and maintained by others; and non-USACE dams and reservoir projects subject to Section 7 of the 1944 Flood Control Act, the 1920 Federal Power Act, as amended, and other laws for which it is responsible for prescribing regulations for the use of storage allocated to flood control and/or navigation.

In addition, USACE is the lead agency for executing Emergency Support Function #3, Public Works and Engineering. Activities within the scope of this function include conducting pre-incident and post-incident assessments of public works and infrastructure; executing emergency contract support for life-saving and life-sustaining services; providing technical assistance to include engineering expertise, construction management, and contracting and real estate services; providing emergency repair of damaged public infrastructure and critical facilities; and supporting FEMA in implementing the FEMA Public Assistance Program and other recovery programs. Within USACE, the Critical Infrastructure Protection and Resilience Program is responsible for the development and implementation of a comprehensive risk assessment and management framework to ensure the protection and enhance the resilience of the USACE's critical infrastructure portfolio.

### **2.2.1. The Defense Priorities and Allocations System (DPAS)**

DPAS provides DOD with powerful authorities to help protect our Nation. DOD has delegated to DOD authority under DPAS to place priority-rated contracts and orders for industrial

resources in support of DOD Approved Programs, and the Department uses it as a standard contracting provision for most weapon system-related procurements that require industrial resources. DPAS priority ratings help to ensure that rated orders will be performed on time. For the most part, contractors and suppliers act on their own to fulfill their obligations under rated orders, without further action required by the government. However, when problems occur that cannot be resolved by the contractors and suppliers, DPAS provides for Special Priorities Assistance (SPA), whereby problems can be resolved with the assistance of DOD or, ultimately, DOC.

DOD has also used DPAS to support U.S. civilian infrastructure requirements that are critical to our national defense – specifically to accelerate levee reconstruction work in New Orleans. The Greater New Orleans Hurricane and Storm Damage Risk Reconstruction System is critical infrastructure vital to national economic security and national public health and safety. The system protects one of the world’s largest ports and navigation infrastructure through which around half of the country’s petroleum supply is imported. It also protects refineries, military bases, a metropolis of over 1,000,000 people, and several other populated areas. The USACE submitted a SPA request to use DPAS to accelerate reconstruction in order to comply with a Congressional directive to complete the project by June 2011. Since this was a civil works project, USACE requested and received the support of DHS and DOC. As a result, DPA priorities authority helped expedite efforts to strengthen and protect critical infrastructure against hurricane damage, thus reducing the threat to life and property.

### ***2.3. Department of Energy***

While it has rarely been necessary to consider use of the priority authority to address emergency supply needs to restore electric power, concerns have increased recently, particularly on the security of electrical substations after an attack knocked out the Metcalf substation in California. Common industry practice for utilities affected by substation outages is to “borrow” needed components from unaffected utilities if such components are available, but the availability and transportation of very large transformers present unique challenges. In addition, certain high-impact but low-frequency events, such as major earthquakes or historic-sized hurricanes, tornadoes, flooding, or space weather events may require use of priority ratings to assist utilities with restoration and recovery. Recent major government and private sector exercises have highlighted the potential damage to both the electricity grid and energy supply system including electrical substations, pipelines, terminals, and refineries. DPA priority ratings may be called into play to support maintaining critical energy assets and energy supply systems.

DOE includes priority ratings in its maintenance and operations contracts for industrial resources placed in accordance with DOC’s DPAS Delegation to DOE, and placed by national laboratories and other facilities that support DOD nuclear programs. These contracts support efforts to protect and restore operations at these facilities, in the event of a disruption caused by an act of terrorism, natural catastrophe, or other similar national emergency.

DOE has not encountered emergency conditions requiring use of DPA Sections 101(a) and 101(c) authorities to reduce interruptions in energy supplies caused by natural disasters or terrorist threats since the DPA definition of “national defense” was expanded in 2003 to include “critical infrastructure protection and restoration.” Nevertheless, in cooperation with DHS,

DOC, DOD, HHS, USDA, and DOT, DOE adopted common provisions in 10 CFR Part 217 in order to fulfill its congressional mandate. DOE has considered the use of these authorities in response to a number of emergency preparedness and disaster response cases since 2003, but determined in each case that priorities or allocations action was not needed to protect or restore impacted energy supplies. The fact that these authorities have not been used for protection and restoration of energy resources does not lessen their potential importance for addressing energy supply problems caused by catastrophic disasters or other threats to national defense and homeland security.

In cooperation with DHS, DOC, DOD, and DOT, DOE held a seminar in July 2014 with industry participation to review the authorities provided by Title I of the DPA. Follow-up discussions were held with representatives of the electricity and oil and natural gas subsectors. Discussions were also held with DOT on the possible use of the DPA to facilitate the transportation of very large transformers during emergencies.

#### ***2.4. Department of Homeland Security***

E.O. 13603 assigns a number of important responsibilities to the Secretary of Homeland Security with respect to DPA authorities. Responsibilities impacting the use of DPA authorities to ensure the preparedness of industry to reduce interruption of critical infrastructure operations include: (1) serving as an advisor to the President on national security resource preparedness and use of DPA authorities; (2) providing coordination and guidance for use of these authorities by federal departments and agencies; and (3) determining which programs (other than military, space, and energy programs) are eligible to be supported using the priorities and allocations authorities.

Under DPAS Delegation 4 from DOC, the Secretary of Homeland Security is also authorized to place priority-rated contracts and orders in support of DHS programs and on behalf of state and local governments with respect to emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. § 5195 et seq.]. Within DHS, the Secretary's DPA responsibilities, including those provided in DPAS Delegation 4, are delegated to the Administrator of FEMA, who has provided government-wide DPA coordination and guidance for more than 30 years.

DHS actions to help ensure the preparedness of industry to reduce interruption of critical infrastructure operations under emergency conditions include:

- FEMA has established and chairs an interagency working group (IWG) to coordinate development and implementation of the Federal Priorities and Allocations System. The IWG includes representatives from the six resource departments delegated DPA section 101 authority in E.O. 13603. During 2014, the IWG held a number of meetings and conducted a tabletop exercise to develop, test, and improve standards and procedures for FPAS.
- Delegations of DPAS authority both within FEMA and other DHS components were updated in 2014 to enable more-effective use of DPAS priority ratings, as necessary or appropriate, to support restoration of critical infrastructure in the face of physical or cyber attack or degradation, and for other homeland security purposes.

- FEMA offers two on-line DPAS courses through the Emergency Management Institute. These courses are available to owners and operators of critical infrastructure, as well as other public and private organizations. A block of DPA instruction has also been included in the Basic Interagency Logistics Course.

## **2.5. *Department of Transportation***

DOT is delegated DPA Section 101 authority with respect to all forms of civil transportation. In October 2012, DOT promulgated the Transportation Priorities and Allocations System (TPAS) rule, which clarifies the priorities and allocations authorities exercised by DOT under Title I of the DPA and sets forth the administrative procedures by which DOT will exercise this authority. To the extent practicable, this rule follows the principles of a consistent and unified federal priorities and allocations system, in accordance with section 101(d)(2) of the DPA. DOT is formalizing existing policies and procedures to ensure efficient implementation of TPAS during emergency conditions.

The U.S. Maritime Administration (MARAD) has a long-established regulation derived from the DPA:

- 46 C.F.R. Part 340—Priority Use and Allocation of Shipping Services. This regulation is designed to ensure that the DOD will have access, as necessary, to shipping services and port facilities in crisis or war.

MARAD is currently reviewing this regulation to determine if it will require modification to conform to TPAS.

## **2.6. *Department of Agriculture***

The Department of Agriculture is delegated authority, through E.O. 13603, Section 201, to implement the DPA priorities and allocations provisions for food, food resource facilities and distribution of farm equipment and commercial fertilizer. USDA delegated their DPA authority to DOC to fulfill emergency program provisions. Recent events have increased the need for DPA priorities requiring USDA to implement an Agriculture Priorities and Allocations System (APAS). USDA's Farm Service Agency (USDA/FSA) has published a proposed rule, which establishes the APAS and implements USDA/FSA's administration. A final rule is in progress.

## Appendix A. Acronyms

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DHS	Department of Homeland Security
DOC	Department of Commerce
DOC/BIS	Department of Commerce/Bureau of Industry and Security
DOD	Department of Defense
DOE	Department of Energy
DOT	Department of Transportation
DPA	Defense Production Act of 1950
DPAS	Defense Priorities and Allocations System
E.O.	Executive Order
FEMA	Federal Emergency Management Agency
MARAD	Maritime Administration
NIPP	National Infrastructure Protection Plan
NPPD	National Protection and Programs Directorate
SPA	Special Priorities Assistance
SSA	Sector-Specific Agency
TPAS	Transportation Priorities and Allocations System
USDA	U.S. Department of Agriculture