

# CRS Report for Congress

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## **The National Preparedness System: Issues in the 109<sup>th</sup> Congress**

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# The National Preparedness System: Issues in the 109th Congress

## Summary

The national preparedness system (NPS) under development within the Department of Homeland Security (DHS) holds significant implications for the operations and priorities of homeland security officials, emergency managers, and first responders. The NPS documents and the procedures issued in 2004 and 2005 will guide federal funding allocation decisions, direct federal and non-federal efforts to build emergency response capabilities, establish the means by which homeland security priorities will be set, and save lives and property when catastrophes occur. Work on the NPS stems from authority set out in the Homeland Security Act of 2002 (P.L. 107-296), the DHS appropriations legislation for FY2005 (P.L. 108-334), and executive directives issued by President Bush.

Six basic documents comprise the NPS. First, the draft National Preparedness Goal (NPG) sets a general goal for national preparedness, identifies the means of measuring such preparedness, and establishes national preparedness priorities. Second, 15 planning scenarios set forth examples of catastrophic situations to which non-federal agencies are expected to be able to respond. Third, the Universal Task List (UTL) identifies specific tasks that federal agencies, and non-federal agencies as appropriate, would be expected to undertake. Fourth, the Target Capabilities List identifies 36 areas in which responding agencies are expected to be proficient in order to meet the expectations set out in the UTL. Fifth, the National Response Plan (NRP) sets out the framework through which federal agencies (and voluntary agencies) operate when a catastrophe occurs. Sixth, the National Incident Management System (NIMS) identifies standard operating procedures and approaches to be used by respondent agencies as they work to manage the consequences of a catastrophe. These documents (and other ancillary agreements) are intended to establish a national system to ensure that the response to a catastrophe will be as efficient and effective as possible.

The NPS represents the most comprehensive effort taken to develop an emergency preparedness and response system that relies upon all levels of government and non-governmental actors. Compliance might be an issue of debate during the the 109<sup>th</sup> Congress. In general, agreement appears to exist among federal and non-federal emergency management officials that standards and objectives are required. Some express concern, however, that agencies in poor or rural areas may lack the resources to reach new national standards; these areas could be penalized through the loss of federal funds if they fail to meet the standards. Issues of federalism and state sovereignty might be raised as some contend that the national concern with preparedness for terrorist attacks could subordinate local priorities, particularly those associated with natural disasters. Accordingly, Members of Congress might elect to evaluate the reach of the presidential directives that underlie these documents, and consider legislation to modify or help oversee the policy changes. This report will be updated as events warrant.

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# The National Preparedness System: Issues in the 109th Congress

Congressional mandates and administrative directives of recent years have resulted in policy changes focused on improving the nation's preparedness for catastrophes, including terrorist attacks. Within months of enactment of the Homeland Security Act (HSA) of 2002 (P.L. 107-296)<sup>1</sup> President Bush issued Homeland Security Presidential Directive 5 (HSPD 5) which requires that the Secretary of Homeland Security develop and administer a National Incident Management System (NIMS) and a National Response Plan (NRP).<sup>2</sup> These two documents are to be used to "enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system."

The President subsequently issued HSPD 8 to complement HSPD 5.<sup>3</sup> HSPD 8 requires development of a national preparedness goal (NPG) applicable to catastrophes regardless of cause, referred to as "all-hazards." HSPD 8 requires that the NPG establish priorities and balance threats with resources.

Congress recently enacted FY2005 appropriations legislation (P.L. 108-334) for the Department of Homeland Security (DHS) that followed upon these directives and established a statutory requirement for DHS officials to develop preparedness goals. The statute requires the following.

In accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office of State and Local Government Coordination and Preparedness shall provide state and local jurisdictions with nationally-accepted first responder preparedness levels no later than January 31, 2005; include in the fiscal year 2005 formula-based grant guidance guidelines for state and local jurisdictions to adopt national preparedness standards in fiscal year 2005; and issue final guidance on the implementation of the National Preparedness Goal no later than March 31, 2005.<sup>4</sup>

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<sup>1</sup> P.L. 107-296, 6 U.S.C. 101 et. seq., 116 Stat. 2140-2321.

<sup>2</sup> U.S. President (Bush), "Management of Domestic Incidents," Homeland Security Presidential Directive - 5, Feb. 28, 2003.

<sup>3</sup> U.S. President (Bush), "National Preparedness," Homeland Security Presidential Directive - 8, Dec. 17, 2003.

<sup>4</sup> P.L. 108-334, 118 Stat. 1310.

## The NPS Documents and Issues They Raise

On the basis of the authorities identified above, DHS officials have developed six documents to be used in building the NPS.<sup>5</sup> Background information on each of these documents is presented in this CRS report at the page noted below.

- National Preparedness Goal (draft) [see page 3]
- Planning Scenarios (15) [see page 7]
- Universal Task List [see page 11]
- Target Capabilities List [see page 14]
- National Incident Management System [see page 19]
- National Response Plan [see page 22]

The texts of these documents, and the manner in which DHS staff use the documents to implement the NPS and measure state, tribal, and local government achievements, will influence the homeland security priorities and operations of federal and non-federal agencies.

State and local government officials have generally supported development of the NPS, but some have expressed concern about these documents and the NPS, apparently largely because compliance will be mandatory in order for these units of government to be eligible to receive “federal preparedness assistance” in FY2006.<sup>6</sup> Roughly \$3.6 billion has been appropriated for such funding purposes in FY2005; the Administration has requested slightly less (\$3.3 billion) for FY2006.<sup>7</sup> The potential loss of the funds in FY2006 and in subsequent years constitutes considerable incentive for non-federal units of government to be in compliance with the NPS standards.

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<sup>5</sup> A seventh document, not yet available in draft or final form, is the National Preparedness Guidance, which will provide information on defining and measuring essential capabilities. This CRS report provides summary information on the six documents (one in draft form) available at the date of publication. The guidelines for state and local governments for FY2005 are not reviewed in this report and are found in the following document: U.S. Department of Homeland Security, Office of State and Local Government Coordination and Preparedness, Office for Domestic Preparedness, *Fiscal Year 2005 Homeland Security Grant Program, Program Guidelines and Application Kit* (Washington: 2005), found at [<http://www.ojp.usdoj.gov/odp/docs/fy05hsgp.pdf>], visited March 4, 2005.

<sup>6</sup> “To the extent permitted by law, federal preparedness assistance will be predicated on adoption of statewide comprehensive all-hazards preparedness strategies. The strategies should be consistent with the national preparedness goal.... To the extent permitted by law, adoption of approved statewide strategies will be a requirement for receiving federal preparedness assistance at all levels of government by September 30, 2005.” Section (9) of HSPD-8.

<sup>7</sup> CRS Report RS22050, *FY2006 Appropriations for State and Local Homeland Security*, by Shawn Reese.

This report provides background information on the six NPS documents, and identifies related issues that may be the subject of debate during the 109<sup>th</sup> Congress. The construction of the NPS is just beginning.<sup>8</sup> DHS officials reportedly will seek and obtain feedback from state and local governments, reconsider the documents, and modify the NPS. Congressional involvement in the process of building the NPS will likely have an impact on the development of the NPS components.

**National Preparedness Goal.** HSPD 8 requires the Secretary of DHS to develop a national preparedness goal (NPG) to improve the nation's capabilities and practices to ensure that adequate resources exist to respond to a catastrophe. The directive sets forth the following specific task.

The national preparedness goal will establish measurable readiness priorities and targets that appropriately balance the potential threat and magnitude of terrorist attacks, major disasters, and other emergencies with the resources required to prevent, respond to, and recover from them. It will also include readiness metrics and elements that support the national preparedness goal including standards for preparedness assessments and strategies, and a system for assessing the nation's overall preparedness to respond to major events, especially those involving acts of terrorism.<sup>9</sup>

DHS has issued a draft NPG and related preparedness standards in accordance with the statutory mandate in the FY2005 appropriations act and HSPD 8. The national preparedness goal set out in the draft document is as follows.

To achieve and sustain capabilities that enable the nation to collaborate in successfully preventing terrorist attacks on the homeland, and rapidly and effectively responding to and recovering from any terrorist attack, major disaster, or other emergency that does occur to minimize the impact on lives, property, and the economy. This state of national preparedness will be achieved by reaching risk-based target levels of capability, and sustained by measuring readiness and directing resources to areas of greatest risk and need.<sup>10</sup>

The roles and responsibilities of federal and non-federal entities are intended to be clarified through the goal. Preparedness, as noted in the document, is a shared responsibility of all units of government, and will be measured and directed toward guidelines to be issued in 2005. "The goal establishes the first truly national approach to preparedness by encouraging alignment of efforts at all levels of government to achieve shared goals and priorities."<sup>11</sup>

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<sup>8</sup> Considerable effort has been expended on improving preparedness measures and evaluating the capabilities of state and local governments. See CRS Report RL32520, *Emergency Management Preparedness Standards: Overview and Options for Congress*, by Keith Bea.

<sup>9</sup> Section (6) of HSPD 8.

<sup>10</sup> U.S. Department of Homeland Security, *National Preparedness Goal Homeland Security Presidential Directive 8: "National Preparedness,"* (Washington: 2005), p. 2. The final NPG is to be issued before April 1, 2005.

<sup>11</sup> *Ibid.*, p. 3.

The national priorities included in the draft NPG have been identified as follows.

- Expand regional collaboration
- Implement the National Incident Management System and the National Response Plan
- Implement the National Infrastructure Protection Plan
- Strengthen Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) detection capabilities
- Strengthen interoperable communication capabilities
- Strengthen medical surge capabilities

Like other aspects of the NPS, the NPG will be reevaluated and modified over time. As part of this process, the draft NPG document notes that the goal will change operations and procedures at the federal and non-federal level, as follows.

Progress towards implementing the Goal must be assessed in order to monitor effectiveness and adjust policies, programs, and budgets accordingly. To the extent permitted by law, requirements in existing federal programs will be realigned to support the goal, including statewide strategies, first responder preparedness assistance, first responder equipment standards and research and development efforts, a national training program, a national exercise program, federal performance measurements, relevant federal regulatory requirements, maintenance of specialized federal assets, and an annual status report on the nation's level of preparedness.<sup>12</sup>

***Issues for Congressional Consideration.*** The NPG is arguably one of the more important documents issued thus far in the attempt to create an effective system that integrates federal, state and local resources. While the other documents described in the remainder of this report provide details on operations and procedures, the NPG is intended to “guide the nation in achieving its vision for preparedness.”<sup>13</sup> Issues that might be explored as the draft NPG is considered and the final document is readied for release include the following.

State and local governments have been submitting strategies and risk assessments to DHS in order to receive homeland security preparedness funds.<sup>14</sup> As part of this process, states have identified threats, risks, and critical assets, to an extent, according to some, without necessary federal guidance.<sup>15</sup> For example, a study released by the Government Accountability Office (GAO) concluded that the lack of preparedness standards presented a “challenge,” and that “efforts by state and

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<sup>12</sup> Ibid., cover memorandum.

<sup>13</sup> Ibid., p. 2.

<sup>14</sup> Requirements for FY2005 state strategies are set out in: U.S. Department of Homeland Security, Office for Domestic Preparedness, *Fiscal Year 2005 Homeland Security Grant Program*, Appendix D, available at [<http://www.ojp.usdoj.gov/odp/docs/fy05hsgp.pdf>], visited Dec. 29, 2004.

<sup>15</sup> Alice Lipowicz, “Apples to Oranges: State Assessments of Terror Threats are a Subject in Subjectivity,” *CQ Homeland Security*, Oct. 12, 2004, available by subscription.

local jurisdictions to prioritize expenditures to enhance first responder preparedness have been hindered by the lack of clear guidance in defining the appropriate level of preparedness and setting priorities to achieve it.”<sup>16</sup>

- Have state and local officials determined that the NPG (and related documents) resolve this problem?
- What consideration has DHS given to the existing state priorities in preparing the goal?<sup>17</sup>

Police, fire, rescue, emergency medical, and public works employees frequently respond to local and relatively minor catastrophes. These “first responders” will be on the scene when what was first seen to be a relatively minor incident comes to be recognized as an Incident of National Significance (as defined in the National Response Plan, discussed on page 22 of this report).

- To what extent will the work and priorities of local responders, largely oriented toward events of lesser consequence, become more identified with and responsive to federal needs resulting from major incidents that rarely occur?
- Will local concerns be relegated to a lower priority as communities strive to meet NPG standards in order to receive federal funding?

Some might argue that the range of federal response capabilities and the authorities enacted since 2001 have established the foundation for such an entity, and have resulted in the federalization of functions previously carried out by state and local governments.

- Will the NPG presage development of a federal first responder force?
- Might DHS consider addressing concerns about the federalization of emergency preparedness and response in the NPG?

The NPG document is not the only federal standard or guidance with which state and local emergency responders will have to comply. The National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation is developing a “Scope of Practice Model” that will present certification guidelines (not standards)

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<sup>16</sup> U.S. Government Accountability Office, *Homeland Security: Management of First Responder Grant Programs Has Improved, but Challenges Remain*, GAO report GAO-05-121 (Washington: Feb. 2, 2005), p. 18.

<sup>17</sup> According to the GAO, some state and local government officials at a workshop held by DHS expressed concern “that the process, among other things, was moving too fast and did not consider the state and local needs assessments that had already been done.” *Ibid.*, p. 20. In commenting on the GAO report, the DHS respondent noted that “officials listened and responded to the concerns of stakeholders and others as noted in the draft report and will continue to do so.” *Ibid.*, p. 46.



for emergency medical technicians (EMTs) throughout the nation.<sup>18</sup> Those guidelines might bear on a community's efforts to meet NPS requirements.<sup>19</sup>

According to NHTSA officials, development of the EMT guidelines for education curricula is coordinated with DHS officials.<sup>20</sup>

- To what extent are the NPG scenarios and tasks consistent or coordinated with NHTSA's EMT guidelines and other federal standards pertinent to emergency responders?<sup>21</sup>

The Homeland Security Act of 2002 assigned preparedness responsibility to the Under Secretary of Emergency Preparedness and Response (EPR).<sup>22</sup> According to the acting executive director of a different unit within DHS, the Office of State and Local Government Coordination and Preparedness "was assigned lead responsibility to coordinate implementation of HSPD-8 on behalf of the Department."<sup>23</sup> The draft NPG document begins with a memorandum from Admiral James Loy, Acting Secretary of DHS, which notes that "the President tasked me to develop a national domestic all-hazards preparedness goal."<sup>24</sup>

<sup>18</sup> For further information on the NHTSA standards see "The National Scope of Practice Model" available at [<http://www.emsscopeofpractice.org/>], visited Dec. 29, 2004. Detailed information is available on the "First Responder National Standard Curriculum" at [<http://www.nhtsa.dot.gov/people/injury/ems/pub/frnsc.pdf>], visited Dec. 29, 2004.

<sup>19</sup> For example, the different skills and functions for which EMS providers would be certified or licensed might affect the type of service provided under different scenarios in the NPG. Communities that rely upon volunteers (emergency medical responders) may not be certified to provide the medication needed immediately by victims of a bioterrorist attack.

<sup>20</sup> Telephone conversation with Drew Dawson and Gam Wijetunge, NHTSA, December 29, 2004.

<sup>21</sup> Other references to federal response standards include the identification of common standards and protocols for "field operators and first responders" [Section 312(c)(4), P.L. 107-296, 6 U.S.C. 192(c)(4)]; standards for public safety officer response to hazardous material incidents [29 CFR 1910.120]; critical benchmarks for public health systems see [[http://www.bt.cdc.gov/planning/continuationguidance/pdf/guidance\\_intro.pdf](http://www.bt.cdc.gov/planning/continuationguidance/pdf/guidance_intro.pdf)], visited March 9, 2005.

<sup>22</sup> The responsibilities of the Under Secretary include "building a comprehensive national incident management system with federal, state, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;" Sec. 502(5), P.L. 107-296, 6 U.S.C. 312(5).

<sup>23</sup> Statement of Matt A. Mayer before the House Homeland Security Committee at the hearing *Enhancing Terrorism Preparedness for First Responders*, Feb. 10, 2005, document available from CQ.com on a subscription basis. According to the draft NPG document then-Secretary Ridge of DHS "charged the Executive Director of the Office of State and Local Government Coordination and Preparedness (DHS/SLGCP) with responsibility to lead the HSPD-8 implementation effort on his behalf. See *National Preparedness Goal Homeland Security Presidential Directive 8: "National Preparedness,"* p. 1.

<sup>24</sup> *National Preparedness Goal Homeland Security Presidential Directive 8: "National Preparedness,"* cover memorandum.

- What role has the Under Secretary for EPR had in development of the goal, pursuant to the statutory assignment of responsibility?

**Planning Scenarios.** Fifteen scenarios have been developed to assess the emergency response and preparedness capabilities of state, local and tribal governments. These scenarios have not been developed to identify events that are likely to occur; instead, they facilitate efforts by all government agencies to assess the full range of needs that might be required if events similar to these scenarios take place. **Table 1**, below, summarizes the scenarios.

**Table 1. Homeland Security Planning Scenarios and Summary Descriptions**

Threat	Description summary	Projected consequences <sup>A</sup>
Nuclear detonation	Terrorists detonate a 10-kiloton nuclear device in a large city	450,000 or more evacuees; 3,000 square miles contaminated; hundreds of billions of dollars in economic impact
Biological attack	Terrorists spray anthrax spores in a city using a concealed spray device	13,000 fatalities and injuries; extensive contamination; billions of dollars in economic impact
Biological disease outbreak — pandemic influenza	Natural outbreak of pandemic influenza that begins in China and spreads to other countries	87,000 fatalities, 300,000 hospitalizations; \$70 to \$160 billion impact
Biological attack — plague	Terrorists release pneumonic plague into three areas of a large city	2,500 fatalities; 7,000 injuries; millions of dollars in economic impact; possible evacuations
Chemical attack — blister agent	Terrorists spray a combination of blister agents into a crowded football stadium	150 fatalities; 70,000 hospitalized; more than 100,000 persons evacuated; \$500 million in economic impact
Chemical attack — toxic industrial chemicals	Terrorists use grenades and explosive devices at petroleum facilities	350 fatalities, 1,000 hospitalizations; 50% of facility damaged; up to 700,000 persons evacuated

Threat	Description summary	Projected consequences <sup>A</sup>
Chemical attack — nerve agent	Terrorists sprays Sarin into the ventilation system of three commercial buildings in a city	6,000 fatalities in buildings, 350 injuries downwind; evacuation of unknown number of people; \$300 million in economic impact
Chemical attack — chlorine tank explosion	Terrorists uses explosives to release a large quantity of chlorine gas	17,500 fatalities, 100,000 hospitalizations; up to 70,000 persons evacuated; contamination at site and waterways
Natural disaster — major earthquake	7.2 magnitude earthquake occurs in a major metropolitan area	1,400 fatalities, 100,000 hospitalizations; 150,000 buildings destroyed; hundreds of billions of dollars in economic impact
Natural disaster — major hurricane	Category 5 hurricane strikes a major city	1,000 fatalities, 5,000 hospitalizations; 1 million people evacuated; millions of dollars in economic impact
Radiological attack — radiological dispersal device (RDDs)	Terrorists detonate “dirty bombs” in three cities in close proximity	180 fatalities, 20,000 detectible contaminations in each city; billions of dollars in economic impact
Explosives attack — bombing using improvised explosive device (IED)	Terrorists detonate IEDs in a sports arena, use suicide bombers in a public transit concourse, and in a parking facility	100 fatalities, 450 hospitalizations; local economic impact; minimal evacuations
Biological attack — food contamination	Terrorists contaminate food with anthrax in processing facilities	300 fatalities, 400 hospitalizations; millions of dollars in economic impact
Biological attack — Foreign Animal Disease (FAD, foot & mouth disease)	Terrorists infect livestock at specific locations	No casualties; huge loss of livestock; hundreds of millions of dollars in economic impact
Cyber attack	Terrorists conduct cyber attacks on U.S. financial infrastructure	No casualties; millions of dollars in economic impact

A. These hypothetical results are among those presented in the scenarios. They are not intended to be dispositive, but to identify the types of situations responding units should be prepared to address.

**Source:** The Homeland Security Council (Washington: 2004).

Each scenario is accompanied by descriptions of impacts and consequences. Also, eight mission areas are discussed for each scenario in order to outline the types of responses that might be expected.<sup>25</sup>

According to the draft NPG, “catastrophic WMD scenarios predominate since they present the gravest threat to our national interests and generally require capabilities for which the nation is currently the least prepared.”<sup>26</sup> The scenarios depict events that might require federal involvement and coordination; such events are referred to as Incidents of National Significance.

**Issues for Congressional Consideration.** The FY2005 program guidance issued by ODP states the following: “The scenarios used in [exercises funded through specified preparedness programs] must be terrorism-related and based on the State or Urban Area Homeland Security Strategy and plans.”<sup>27</sup> The emphasis upon terrorist attacks in the scenarios appears to have raised concern among some. This, and other issues related to the scenarios, are outlined below.

Some have questioned whether the emphasis by DHS on terrorist attacks indicates that the NPG is disproportionately oriented toward enemy attacks and away from the most frequently occurring catastrophes, natural disasters. Some might argue that the terrorism focus is a shift from the “all-hazards” approach that has developed for years. Under “all-hazards” planning, response and preparedness needs common to all disasters are developed, regardless of the cause of the disaster. Examples include the need to prepare for surge capacities at medical facilities, ensuring that safe shelters are available, and distributing essential supplies.

- Is there a conflict between a terrorism focus and all-hazards planning? To what extent is the “all-hazards” orientation dominated by terrorism concerns?

State, tribal and local units of government will be expected to respond to all 15 scenarios, whether the disasters are caused by floods, civil unrest, earthquakes, attacks, or industrial accidents. However, the demands that will result from certain terrorist attacks present unique circumstances that have little bearing on the responses to floods, tornados, and similar natural disasters. Examples include the targeting of first responders and citizens by secondary and tertiary attack teams of terrorists and the decontamination or isolation requirements associated with chemical attacks. Also, the environmental and health concerns that remain in New York City years

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<sup>25</sup> The eight mission areas are: (1) Prevention/Deterrence/Protection; (2) Emergency Assessment/Diagnosis; (3) Emergency Management/Response; (4) Incident/Hazard Mitigation; (5) Public Protection; (6) Victim Care; (7) Investigation/Apprehension; and (8) Recovery/Remediation.

<sup>26</sup> *National Preparedness Goal Homeland Security Presidential Directive 8: “National Preparedness,”* p. 6.

<sup>27</sup> U.S. Department of Homeland Security, Office of State and Local Government Coordination and Preparedness, Office for Domestic Preparedness, *Fiscal Year 2005 Homeland Security Grant Program, Program Guidelines and Application Kit*, p. 38, available at [<http://www.ojp.usdoj.gov/odp/docs/fy05hsgp.pdf>], visited March 2, 2005.

after the collapse of the World Trade Center towers represent new areas of concern to responders. If the scenarios, and the tasks and capabilities associated with the scenarios, are viewed solely from the “all-hazards” perspective, agencies may not recognize the differential elements that must be used in saving lives.

- Should the “all-hazards” preparedness goals be modified to include “some differences” in response needs?
- How could the scenarios, and non-federal preparedness efforts, be used by Congress to evaluate the need for federal policy modifications?

The hypothetical results presented in the planning scenarios appear to project non-specific impacts (e.g. economic impacts in the billions, indeterminate recovery time-lines, general contamination statements). The unique circumstances of each locality, local weather conditions, the mitigation efforts undertaken by the area which suffers the catastrophe, and other factors will be key determinants of the actual losses incurred.

- How can communities, tribal organizations, and state agencies present their capabilities and test their preparedness when measured against such non-specific estimates of losses?
- Should an event similar to that described in the scenario occur, questions may still remain about capabilities, as the magnitude of the disaster will dictate whether a unit of government is overwhelmed. To what extent might the scenarios be adjusted to more specifically identify impacts and losses to enable state and local governments to better consider their preparedness level?
- How will DHS evaluate non-federal capabilities when local conditions vary, and uncertain effects are the basis for measurement?

The FY2006 DHS budget justification submitted to Congress advocates the distribution of federal preparedness funding according to risk and threat assessments. DHS has yet to release information on its assessment of risks and vulnerabilities, relying instead on state assessments that reflect priorities set by non-federal officials without federal guidance. In testimony before Congress, one DHS official summarized that “we’re far from finished” when asked about the identification of threats and vulnerabilities.<sup>28</sup> The planning scenarios are described as “key risk scenarios.”<sup>29</sup>

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<sup>28</sup> Testimony of General Pat Hughes, Acting Under Secretary of the Information Analysis and Infrastructure Protection Directorate of DHS before the House Homeland Security Committee, Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment, Feb. 16, 2005, transcript available on a subscription basis from CQ.com.

<sup>29</sup> U.S. Department of Homeland Security, Office for Domestic Preparedness, *Universal Task List 2.0* (Washington: 2005), p. iii.

- What relationship do the planning scenarios developed by the Homeland Security Council bear to the threat and vulnerability assessment process underway within DHS?

Tanker rail cars and trucks that carry hazardous material might be targets of opportunity for terrorist attacks because the contents of the containers are marked. Some advocate removal of the signs that identify the load as being a hazardous material to reduce the threat of attack. Emergency responders, however, have long sought to have such identifying information on the vehicles so they can respond appropriately in a safe manner.

- Can the scenarios, and the experiences of state and local responders in addressing the scenarios, be used to fully assess the competing challenges of this and similar situations? Is congressional action required to resolve this point of contention between two public safety concerns?

DHS may exercise primary responsibility for coordinating the response efforts if an event presented in the scenarios occurs. Such responsibility for an outbreak of the pandemic influenza scenario, however, would likely fall primarily to the Department of Health and Human Services (HHS).<sup>30</sup>

- To what extent was HHS involved in the development of the scenario, and will HHS officials be included in the assessment of state and local capabilities to respond to such an event?
- Have HHS assessments of the capability of state public health systems been coordinated with DHS assessment efforts?

**Universal Task List.** State and local governments must be deemed able to implement certain tasks involving the delivery of services, needs assessments, organizational requirements, and other requirements in order to receive federal preparedness funding in FY2006. These tasks are set out in the *Universal Task List* (UTL) prepared by the Office for Domestic Preparedness within DHS.

The UTL identifies the operations and tasks expected to be performed in order to meet these needs should events similar to those set out in the planning scenarios occur. Four categories organize the tasks in the UTL — National Strategic Tasks; Planning, Coordination and Support; Incident Management; and Incident Prevention and Response. According to the UTL, tasks set out in the first two levels generally are expected to be performed by federal agencies. Tasks in the second and third levels generally are performed by state agencies, and those in the second, third and

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<sup>30</sup> For information on public health threats and response needs see U.S. Department of Health and Human Services, “Office of Public Health Emergency Preparedness,” at [<http://www.hhs.gov/ophep>], visited March 9, 2005. For information on pandemic influenza threats see U.S. Department of Health and Human Services, “National Vaccine Program Office,” at [<http://www.hhs.gov/nvpo>], visited March 8, 2005, and University of Minnesota, Center for Infectious Disease Research & Policy, “Pandemic Influenza,” at [<http://www.cidrap.umn.edu/cidrap/content/influenza/panflu/biofacts/panflu.html>], visited March 3, 2005.

fourth levels fall to local governments. Examples of the tasks and functions within each of the four levels follow to illustrate the information included in the UTL.

- I. National Strategic Tasks
  - A. Develop national strategic intelligence and surveillance
    1. Plan and direct strategic intelligence and surveillance activities
      - a. Determine national strategic intelligence and surveillance issues
      - b. Determine and prioritize national strategic intelligence and surveillance requirements
- II. Planning, Coordination, and Support Tasks
  - A. Conduct Regional, state, and local intelligence and surveillance operations
    1. Manage intelligence and surveillance activities
      - a. Determine intelligence and surveillance issues
      - b. Determine and prioritize intelligence and surveillance requirements
  - III. Incident Management Tasks
    - A. Coordinate transportation operations
      1. Develop transportation infrastructure incident response plan
        - a. Identify potential transportation targets
        - b. Develop staging areas plan
    - IV. Incident Prevention and Response Tasks
      - A. Provide transportation
        1. Activate approved traffic control plan
          - a. Provide evacuation routes from affected area
          - b. Identify detours and other alternate routes

***Issues for Congressional Consideration.*** All communities are not expected to be capable of accomplishing every task. Incidents of National Significance require coordinated intergovernmental and interjurisdictional responses. The UTL identifies the range of tasks that responding agencies, in mutual aid arrangements, are expected to accomplish. Issues that might be explored in considering the impact of the UTL include the following.

The UTL will be used to assess the capabilities of state and local governments to meet the needs expected to result from an Incident of National Significance.

- If DHS does not expect individual communities to accomplish all of the tasks, how will individual communities and states be considered “capable” if they do not have to comply with the entire list?
- How will ODP determine which communities in a region must be responsible for certain tasks?

- To what extent will federal capabilities (generally listed in the “National Strategic Tasks” section) supplement or possibly replace state or local resources?
- How will mutual aid agreements that facilitate the sharing of resources and information across political boundaries be evaluated? Would the experiences gained by the DHS Office of National Capital Region Coordination serve as a pilot for other interstate regions?

Training and exercise programs are expected to be based upon the UTL and related mission requirements.<sup>31</sup> The enumeration of “standard” tasks will enable administrators to focus curricula and training components on perceived gaps in capabilities.

- Will DHS or state agencies have primary responsibility for identifying the areas that require priority in training efforts?<sup>32</sup>

One researcher has posited that responses to events such as terrorists attacks are best managed through flexible management structures that allow or emphasize participants to gain new information, evaluate developing needs, and reconsider “normal” responses to meet different challenges. “For threats of unbounded certainty, such as terrorism, the preferred type of adaptation is an auto-adaptive system that is able to learn from incoming information, reallocate its resources and attention, reorder its relationships with other entities, and act promptly to reduce the threat or respond to destructive acts.”<sup>33</sup> Many of the tasks in the UTL center on coordinating activities and improving information flows among levels of government.

- As the UTL is revised and reconsidered, what tasks might be added or modified to enable federal and non-federal agencies to work with systems and plans that facilitate auto-adaptive decisionmaking; rather than forcing existing practices on an evolving and disastrous situation?
- How might training and exercise programs built upon the UTL be modified to encourage officials to build auto-adaptive capabilities?

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<sup>31</sup> *Universal Task List 2.0*, p. iv.

<sup>32</sup> One publication urged that state strategies and assessments, within the context of “a nationwide plan,” be used to ensure coordination of homeland security functions, including the improvement of response capabilities. See Donald F. Kettl, *The States and Homeland Security: Building the Missing Link* (The Century Foundation: New York, 2003). Others may contend that the federal government should prioritize training needs as federal funds are the primary means of funding such training programs.

<sup>33</sup> Louise K. Comfort, “Managing Intergovernmental Responses to Terrorism,” *Publius*, vol. 32, Fall 2002, p. 37.



**Target Capabilities List.** State and local governments seeking to accomplish the tasks set out in the UTL should have the capability to do so. The Target Capabilities List (TCL) identifies and describes the “critical” capabilities that must be performed during Incidents of National Significance in order to reduce losses and successfully respond to a disaster, regardless of cause.<sup>34</sup> Like the UTL, the TCL document is based upon the 15 planning scenarios discussed previously in this report. The capabilities, however, are expected to be used for all catastrophes, not just those identified in the scenarios.

Version 1.0 of the TCL identifies 36 target capabilities, each of which is associated with the tasks set out in the UTL. As stated in the UTL, each unit of government is not expected to exercise all components of the 36 target capabilities. Instead, responsibility for the capabilities is assigned (at least initially) based on the size of the units of local government, according to the following breakdown.

*Larger jurisdictions (those counties or contiguous counties with over a million people, an urban core of at least 50,000, and a population density of more than 1,000 per square mile).*

*Medium jurisdictions (those counties or contiguous counties with less than a million people and with a large urban core).*

*Small jurisdictions (counties or contiguous counties that do not meet the thresholds for medium or larger jurisdictions).*

Responsibility for capabilities are also made within the TCL for tribal and state governments and the federal government. The labels for the 36 target capabilities and their description (excerpted from the TCL) are provided in **Table 2**, below.

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<sup>34</sup> U.S. Department of Homeland Security, Office of State and Local Government Coordination and Preparedness, *Target Capabilities List: Version 1.0* (Washington: 2005).

**Table 2. Target Capabilities and Descriptions**

Capability	Description
All hazards planning	“...develop integrated plans, policies, and procedures to coordinate response and prevention activities across jurisdictions, and to allocate resources to match priorities identified in plans to maximize the effectiveness of prevention and response activities.”
Animal health emergency support	“...identify and eradicate outbreaks of animal diseases ... includes the prompt response to animal related illnesses as a result of ... emergencies ...”
Criminal investigation and intervention	“...represents the broad range of activities undertaken by law enforcement and related entities ... with a special emphasis on ... antiterrorism activities ...”
Critical infrastructure protection and risk management	“...involves public and private entities preparing and protecting those systems and assets, whether physical or virtual, so vital to the U.S. that the incapacity or destruction of such systems and assets would have a debilitating impact across infrastructure sectors.”
Critical resource logistics and distribution	“...identify, dispatch, mobilize and demobilize available resources throughout all emergency management phases of an incident.”
Economic and community recovery	“...implement short-term and long-term recovery processes after an incident ...”
Emergency evacuation	“...plan for and execute an organized movement, and relocation of the at-risk population ...”
Emergency operations center	“...provide multi-agency coordination (MAC) for incident management through the activation and operation of the emergency operations center (EOC).”
Emergency public education	“...develop and implement a public education program that provides consistent and coordinated threat-related information to the public prior to an emergency.”
Emergency public information	“...develop and coordinate the release of accurate alerts, warnings, and other emergency information to the public ... includes being able to respond to public inquiries in an appropriate manner.”
Emergency response communications	“...provide uninterrupted flow of critical information among responding multi-disciplinary and multi-jurisdictional agencies ...”

Capability	Description
Engineering	“...conduct situation and damage assessment, perform mitigation activities, and provide technical assistance ...”
Environmental health and vector control	“...provide ground and aerial vector control and environmental health services in support of public health protection.”
Explosive device detection and response operations	“...coordinate, direct, and conduct explosive device operations.”
Fatality management	“...perform recovery, identification, isolation, decontamination, transport, storage, determination of cause and manner of death, process and return human remains and personal belongings, as well as interact with families of deceased.”
Firefighting operations/support	“...support and conduct fire suppression operations ... establishing an incident command system consistent with NIMS.”
Food and agriculture safety and security	“...ensure food safety and security through the development and adoption of agriculture and food safety programs ...”
Hazard and vulnerability analysis	“identify and prioritize hazards, assess vulnerabilities, and determine risks prior to and during an emergency.”
Hazardous materials (HAZMAT)	“assess the incident, including testing and identifying all likely hazardous substances onsite; provide protective clothing ...; conduct rescue operations ...; manage site restoration operations ...”
Information collection and threat recognition	“gathering, consolidation, and retention of raw data from sources including human-source intelligence, observation ... see in this data the potential indications and/or warnings of terrorist activities ...”
Information sharing and collaboration	“...exchange and dissemination of information and intelligence among the federal, state, local and tribal layers of government, the private sector, and citizens.”
Intelligence fusion and analysis	“...merger of data and information for the purpose of analyzing, linking, and disseminating timely and actionable intelligence.”
Isolation and quarantine	“...protect the health of the population through the use of isolation and/or quarantine measures ... require that sufficient legal, logistical and information support exists to maintain these measures.”
Mass care	“...provide mass care services, to include shelter, feeding, basic first aid, bulk distribution of needed items and related services to incident victims.”

Capability	Description
Mass prophylaxis and vaccination	“...protect the health of the population through a mass prophylaxis and vaccination campaign following an event.”
Medical supplies management and distribution	“...securely transport, manage, and distribute medical supplies during an incident.”
Medical surge	“...provide triage and adequate medical care.... The capabilities apply to an event resulting in a number or type of patients that outstrip the day-to-day acute-care medical capacity in a given area.”
On-site incident management	“...direct and control the incident site through the use of Incident Command System (ICS)/Unified Command (UC) system consistent with the National Incident Management System (NIMS).”
Pre-hospital triage and treatment	“...provide care to casualties prior to arrival at treatment hospital or facility through triage, stabilization, and rapid/safe transportation from the incident scene to treatment facilities.”
Public health epidemiological investigation and laboratory testing	“...conduct epidemiological investigations and public health laboratory testing.”
Public safety and security response	“...reduce the impact and consequences of an incident or major event by securing the affected area in coordination with HAZMAT, fire/rescue, and law enforcement disciplines.”
Restoration of lifelines	“...manage clearing and restoration activities ... includes the removal and disposal of debris.”
Urban search and rescue	“...coordinate and conduct urban search and rescue (USAR) response efforts for all hazards including locating, extricating, and providing on-site medical treatment to victims trapped in damaged or collapsed structures.”
Volunteer management and donations	“...manage volunteers and donations in support of domestic incident management ... includes verification of volunteer credentials ... and management of delayed health and behavioral consequences.”
Water search and rescue	“...provide water search and rescue response, including monitoring distress calls ...”
Worker health and safety	“...protect the health of on-scene first responders ... and other emergency workers through effective medical care ... adequate work schedule relief, psychological support ... and follow-up assessments.”

**Source:** U.S. Department of Homeland Security, Office of State and Local Government Coordination and Preparedness, *Target Capabilities List: Version 1.0* (Washington: 2005).

**Issues for Congressional Consideration.** The TCL establishes expected qualifications to be possessed by state and local governments. For some, these federal standards may be among the more controversial aspects of the NPS. Related issues are discussed below.

The TCL document notes that “The UTL and TCL will be enhanced, revised, and strengthened with periodic input from all levels of government...”<sup>35</sup> This statement indicates that the expected levels of attainment may shift and be subject to negotiation.

- To what degree is the “initial” assignment of capabilities in the 1.0 version of the TCL suggestive rather than mandatory?
- To what extent will jurisdictions be expected to be competent in specific capabilities?
- On what basis will states and communities be deemed eligible for FY2006 preparedness funding if the target capabilities and task list are part of a dynamic process?

The TCL document notes that a “detailed training analysis for the target capabilities” will be conducted.<sup>36</sup>

- To what extent will such an analysis consider the existence of seemingly redundant training programs?
- Which training programs will be considered acceptable in order for a jurisdiction to be deemed “capable” in a target area?

The grouping of jurisdictions by size may be crucial factors in developing judgments on whether communities meet the TCL requirements.

- On what basis is population size the determinant factor in assessing responsibility for certain capabilities? What other indicators or characteristics were considered?

The introductory section of the TCL notes as follows: “The UTL and TCL provide an improved means of determining required levels of task proficiency and the resources required for each capability. They identify levels and measures against which the quality, level, or degree of preparedness can be measured.”<sup>37</sup> Many, but not all, of the capability measures in the TCL are evaluated in a dichotomous framework, “yes” or “no.” The criteria used to determine whether a capability exists are not clearly stated. Many of the capabilities will likely be addressed by state and local governments to degrees of completion, some better and some marginal.

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<sup>35</sup> *Target Capabilities List: Version 1.0*, p. 5.

<sup>36</sup> *Ibid.*, p. 6.

<sup>37</sup> *Ibid.*, p. 4-5.

- How will “marginally” compliant jurisdictions be rated? Will the TCL be revised to include criteria for measurement?

**National Incident Management System.** The absence of standardized procedures, operating systems, and terminology complicated response efforts at the World Trade Center on September 11, 2001.<sup>38</sup> In response to calls for a standardized system that would speed and not impede response efforts, Congress required development of such a system in the Homeland Security Act.<sup>39</sup> In February, 2003, President Bush set out details to this requirement through HSPD 5, which required the Secretary of DHS to develop the National Incident Management System (NIMS), pursuant to the following mandate.

To provide for interoperability and compatibility among federal, state, and local capabilities, the NIMS will include a core set of concepts, principles, terminology, and technologies covering the incident command system; multi-agency coordination systems; unified command; training; identification and management of resources (including systems for classifying types of resources); qualifications and certification; and the collection, tracking, and reporting of incident information and incident resources.<sup>40</sup>

On March 1, 2004, then-DHS Secretary Tom Ridge announced the release of the framework to be followed by federal and non-federal entities in responding to emergencies of all types and sizes. The NIMS document presents standard operational components and procedures to ensure that emergency responders communicate and cooperate to achieve the best response to disasters.<sup>41</sup> Responsibility to implement NIMS has been assigned to the National Incident Management System Integration Center (NIC) within the Emergency Preparedness and Response Directorate (EPR) of DHS.

The major components of NIMS include five topics: (1) command and management; (2) preparedness; (3) resource management, communications, and information management; (4) supporting technologies; and (5) ongoing management and maintenance.<sup>42</sup> Regardless of the type of disaster, its location, or complexity,

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<sup>38</sup> National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington: 2004), pp. 278-323.

<sup>39</sup> The statute required that the Secretary of DHS build “a comprehensive national incident management system with federal, state, and local government personnel, agencies, and authorities, to respond to such attacks and disasters ... See Section 502(5), P.L. 107-296, 6 U.S.C. 312(5).

<sup>40</sup> See [<http://www.whitehouse.gov/news/releases/2003/02/20030228-9.html>], visited Dec. 29, 2004.

<sup>41</sup> The NIMS document is available at [[http://www.nimsonline.com/nims\\_3\\_04/index.htm](http://www.nimsonline.com/nims_3_04/index.htm)], visited December 29, 2004. A range of information on NIMS is available online at [<http://www.nimsonline.com/>], visited Dec. 29, 2004. An on-line course on NIMS is available at [<http://training.fema.gov/emiweb/IS/is700.asp>], visited Feb. 28, 2005.

<sup>42</sup> Testimony of Gil Jamieson, Acting Director, NIMS Integration Center, DHS, before: U.S. Congress, House Select Committee on Homeland Security, Subcommittee on Emergency (continued...)

NIMS is intended to minimize operational failures at large events that require commitments from multiple agencies and levels of government.

A key element of NIMS is the Incident Command System (ICS). The ICS concept reportedly was first developed in the 1970s by firefighting officials who recognized that responding to wildfires required flexibility as well as standard operating procedures and common language. ICS was created to enable responding agencies to shift and adapt to such environments. For example, a wildfire that begins in one jurisdiction might defy control efforts and spread to a multi-state area. A terrorist attack that begins with a conventional explosion may subsequently involve weapons of mass destruction or complex response assignments.

ICS operates in the framework of five functional areas: (1) command (either single command involving one jurisdiction or agency, or area command involving multiple agencies and jurisdictions); (2) operations; (3) planning; (4) logistics; and (5) finance/administration. By adopting and training on ICS standards, agencies use a system that ideally facilitates communication, consolidates information and intelligence analysis operations, and eliminates inefficient management practices. ICS requires the identification of responsible officers and staff prior to the occurrence of a disaster to ensure that functions and assignments are carried out during the response.

**Issues for Congressional Consideration.** NIMS was the first NPS document issued by the Administration. Some questions have been raised, but there is general agreement that the establishment of a standard operational framework is necessary. Some of the issues related to the NIMS document follow.

HSPD 5 requires that states and localities use the NIMS structure and procedures in order to be eligible to receive funds in FY2005.<sup>43</sup> This requirement was echoed and supported by the members of the 9/11 Commission.<sup>44</sup> Many communities and emergency response agencies are familiar with the ICS framework and other NIMS components, particularly fire departments involved in suppressing wildfires and emergency management agencies. However, law enforcement agencies, small, rural emergency response departments, private health care facilities,

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<sup>42</sup> (...continued)

Preparedness and Response, *The National Incident Management System: Enhancing Response to Terrorist Attacks*, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., hearing, Sept. 29, 2004 (Washington: not yet printed).

<sup>43</sup> “Beginning in Fiscal Year 2005, federal departments and agencies shall make adoption of the NIMS a requirement, to the extent permitted by law, for providing federal preparedness assistance through grants, contracts, or other activities. The Secretary shall develop standards and guidelines for determining whether a state or local entity has adopted the NIMS.” Section 20 of HSPD-5.

<sup>44</sup> National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington: GPO, 2004), p. 397.

or public health and emergency medicine agencies, reportedly have less experience with ICS.<sup>45</sup>

- Is legislation or other congressional action needed to forestall the deadline for NIMS compliance or ease the fiscal condition requirements set out in HSPD 5?

According to the Acting Director of the NIMS Integration Center (NIC), all federal agencies must have submitted a NIMS implementation plan to DHS. Each plan “must reflect full NIMS implementation within the department or agency by September 30, 2005.”<sup>46</sup> It may be argued that state and local government efforts to meet NIMS standards should not be confounded by a lack of support by all relevant federal agencies, particularly those in the National Capital Region.

- To what extent have federal agencies met this requirement?
- Do federal agency plans truly reflect indicators of commitment and capabilities?
- Is there a need for Congress to oversee agency implementation of the plans?

HSPD 5, “pursuant to the Homeland Security Act of 2002,” directs the Secretary of DHS to coordinate federal operations concerning “terrorist attacks, major disasters, and other emergencies.”<sup>47</sup> Four conditions specify the grounds upon which the Secretary is to coordinate federal resources: (1) a request from a federal agency “acting under its own authority;” (2) overwhelmed state and local authorities have requested federal assistance; (3) more than one federal agency is responding to an “incident”; and (4) the President directs the Secretary to assume management responsibility. Implementation of this directive through NIMS standards, under the conditions specified in HSPD 5, might result in an increase in federal responses to disasters, attacks or catastrophes that might be addressed without federal involvement.

- Under what conditions would federal officials invoke this authority?
- Does sufficient statutory authority exist for the obligation of federal funds under all four of these conditions?

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<sup>45</sup> See, for example, testimony of Steve Lenkart, International Brotherhood of Police Officers and Dr. Joseph A. Barbera, The Institute for Crisis, Disaster, and Risk Management, The George Washington University, before: U.S. Congress, House Select Committee on Homeland Security, Subcommittee on Emergency Preparedness and Response, *The National Incident Management System: Enhancing Response to Terrorist Attacks*, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., hearing, Sept. 29, 2004 (Washington: not yet printed).

<sup>46</sup> Testimony of Gil Jamieson, p. 6, Ibid.

<sup>47</sup> Section (4) of HSPD-5.



- Are existing federal emergency response authorities sufficient to enable officials to legally take such action?<sup>48</sup>

The health and safety of workers (paid and volunteer) at the site of the World Trade Center collapse in 2001 has been an issue of debate.<sup>49</sup>

- Should NIMS be revised to clearly enunciate the responsibility for, and limits of, worker protection at the site of future terrorist attacks or other disasters that pose health risks to responders?

According to the FY2006 budget justification for DHS, plans are underway to establish a unified set of regional offices. Ten Federal Emergency Management Agency (FEMA) regional offices have operated for years building relationships with state and local governments. Other legacy components of DHS have built similar relationships through regional offices that support different combinations of states.

- To what extent will state and local efforts to incorporate ICS and NIMS requirements be affected by the DHS regional office plan?

Conferees on the FY2005 appropriation for DHS directed that DHS “implement a program concept for [NIC] that is anchored in multiple locations serving regional interests. As part of the NIMS mission the conferees strongly encourage the Department to establish regional centers to facilitate the development and deployment of NIMS training, education, and publications.”<sup>50</sup>

- Will the new regional office configuration be consistent with the congressional requirement?

**National Response Plan.** Section 502(6) of the Homeland Security Act of 2002 authorizes the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness and Response, to “consolidat[e] existing Federal Government emergency response plans into a single, coordinated national response plan.” Section 16 of HSPD-5 requires the Secretary of Homeland Security to “develop, submit for review to the Homeland Security Council, and administer a National Response Plan (NRP).” This plan must integrate federal domestic

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<sup>48</sup> Congress has authorized the President to exercise certain emergency authority “with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority.” See 42 U.S.C. 5191(b). By comparison, the President cannot issue a “major disaster” declaration unless the governor requests federal assistance and meets indicators of need. See 42 U.S.C. 5170.

<sup>49</sup> This issue is also discussed in the National Response Plan section, below.

<sup>50</sup> U.S. Congress, Conference Committees, 2004, *Making Appropriations for the Department of Homeland Security for the Fiscal Year Ending September 30, 2005, and for Other Purposes*, conference report to accompany H.R. 4567, H.Rept. 108-774, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: 2004).

prevention, preparedness, response, and recovery plans into one all-discipline, all-hazard plan.

On January 6, 2005, then-DHS Secretary Tom Ridge released the NRP.<sup>51</sup> The structure of the NRP is similar in some respects to the *Federal Response Plan* (FRP) which it supersedes. Both include emergency support functions assigned to federal agencies (and the American Red Cross), interagency organizational frameworks, and annexes for certain types of catastrophes. The NRP differs from the FRP in that it includes additional emergency support functions, support annexes, and incident annexes. **Table 3**, below, presents summary comparisons of the NRP to the FRP.

**Table 3. Major Components of the National Response Plan and the Federal Response Plan**

Federal Response Plan components	National Response Plan components
<b>Relationship to other federal plans</b>	
Did not supplant other federal plans, but was used to supplement other plans and authorities.	The NRP serves as the core plan always used for Incidents of National Significance. Other federal plans (see Appendix 4 of the NRP) provide detailed guidances on responses to specific situations and, if the NRP is invoked, are subordinate to the NRP.
<b>Selected organizational elements and officials</b>	
1. Catastrophic Disaster Response Group	1. Interagency Incident Management Group
2. Emergency Support Team	2. Federal Incident Response Support Team
3. Federal Coordinating Officer	3. Federal Coordinating Officer
4. Emergency Response Team	4. Emergency Response Team
5. Regional Operations Center	5. Regional Response Coordination Center
6. Disaster Field Office	6. Joint Field Office
	7. Homeland Security Council
	8. National Security Council
	9. Homeland Security Operations Center
	10. White House Policy Coordinating Committees
	11. Strategic Information and Operations Center
	12. National Counterterrorism Center
	13. National Response Coordination Center
	14. Principal Federal Official

<sup>51</sup> The text of the NRP is available at “Emergencies & Disasters, National Response Plan,” [<http://www.dhs.gov/dhspublic/display?theme=14&content=4264>], visited March 1, 2005.

<b>Federal Response Plan components</b>	<b>National Response Plan components</b>
<b>Emergency Support Functions</b>	
Transportation	Transportation
Communications	Communications
Public works and engineering	Public works and engineering
Firefighting	Firefighting
no similar function	Emergency management
Mass care	Mass care, housing, and human services
Resource support	Resource support
Health and medical services	Public health and medical services
Urban search and rescue	Urban search and rescue
Hazardous materials	Oil and hazardous materials response
Food	Agriculture and natural resources
Energy	Energy
no similar function	Public safety and security
no similar function	Long-term community recovery and mitigation
Information and planning	External affairs
<b>Support annexes</b>	
Financial management	Financial management
no similar annex	International coordination
Logistics management	Logistics management
no similar annex	Private-sector coordination
Public affairs, community relations and congressional affairs annexes	Public affairs
no similar annex	Science and technology
no similar annex	Tribal relations
Donations management	Volunteer and donations management
Occupational safety and health	Worker safety and health

Federal Response Plan components	National Response Plan components
<b>Incident annexes</b>	
no similar annex	Biological incident
no similar annex	Catastrophic incident
no similar annex	Cyber incident
no similar annex	Food and agriculture incident
no similar annex	Nuclear/radiological incident
no similar annex	Oil and hazardous materials incident
Terrorism	Terrorism incident and law enforcement and investigation

**Sources:** U.S. Department of Homeland Security, *National Response Plan* (Washington: 2004). Federal Emergency Management Agency, *Federal Response Plan: Interim*, 9230.1-PL (Washington: 2003).

**Issues for Congressional Consideration.** The National Response Plan has generated little, if any, debate since its release on January 6, 2005. This may be due to the fortunate circumstance that no Incidents of National Significance have occurred since its release. Issues that might be discussed by Members of Congress include the following.

The absence of a unified set of regional offices within DHS could complicate efforts to implement the NRP should a massive catastrophe occur.

- To what extent have DHS officials considered how state, local, and tribal organizations will implement the NRP while the regional office framework is being developed?

The NRP notes that it is “applicable to incidents that may occur at sites under the control of the legislative or judicial branches of the federal government.”<sup>52</sup> The application of the NRP, and the presence of executive branch officials at legislative and judicial branch office sites, might raise concerns regarding the protection and access to information and facilities normally outside the jurisdiction of executive branch staff.

- What understandings have been reached between executive branch officials and those responsible for legislative and judicial branch facilities? What are the concerns that have to be addressed to preserve the separation of powers among the branches of federal government?

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<sup>52</sup> U.S. Department of Homeland Security, *National Response Plan* (Washington: 2005), p. 3.

The NRP notes that Defense Department (DoD) resources “may be available to support the federal response to an Incident of National Significance.”<sup>53</sup> According to the *Joint Doctrine for Homeland Security*, DoD is the “lead federal agency” for homeland defense (defined as the “protection of U.S. territory, sovereignty, domestic population and critical infrastructure against external threats and aggression.”)<sup>54</sup>

- What steps have been taken by DHS and DoD to ensure that coordination, and not conflict, occurs when a terrorist attack results in a determination that an Incident of National Significance has occurred?

The NRP “incorporates relevant portions of” and supersedes the *Federal Response Plan*, the *Federal Radiological Emergency Response Plan*, and the *Interagency Domestic Terrorism Concept of Operations Plan* (referred to as the CONPLAN). The NRP does not supersede the National Contingency Plan (NCP) and other federal plans specific to certain regions or threats.<sup>55</sup> According to the NRP, national interagency plans “are incorporated as supporting and/or operational plans” when the NRP is activated.<sup>56</sup>

- What mechanisms have been established to integrate NRP operations and assumptions into situations that require the implementation of the other interagency plans?

DHS officials, notably then-Secretary Ridge, have stressed that state and local government officials have been consulted throughout the process of developing the NRP. The preface to the NRP includes a summary statement concerning the effort by DHS to reach all stakeholders, as follows.

The NRP represents a true “national” framework in terms of both product and process. The NRP development process included extensive vetting and coordination with federal, state, local, and tribal agencies, nongovernmental organizations, private-sector entities, and the first-responder and emergency management communities across the country.<sup>57</sup>

While this statement indicates that widespread consultation occurred, a finding by the authors of a Government Accountability Office report noted that other perspectives have been found among stakeholders from one sector (agriculture), as noted in the following excerpt.

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<sup>53</sup> *Ibid.*, p. 10.

<sup>54</sup> U.S. Department of Defense, *Joint Doctrine for Homeland Security* (Washington: 2005), p. vi.

<sup>55</sup> *National Response Plan*, p. 1. See Appendix 4 of the *National Response Plan* for a compendium of interagency plans.

<sup>56</sup> *National Response Plan*, p. 61.

<sup>57</sup> *Ibid.*, p. i.

While efforts have been made to include agricultural stakeholders in the development of national guidance through various working groups, state and industry officials told us they were not given sufficient time to review and comment on key draft national guidance from DHS pertaining to protecting infrastructure and preparing for emergencies. Specifically, officials said that they had as little as three days to review and submit comments on both the draft National Response Plan and the draft National Infrastructure Protection Plan, even though they will be expected to implement critical sections of these plans. As a result, state and industry officials we spoke with are concerned that these plans may set unrealistic expectations. Although we asked, DHS officials did not explain to us how they distributed the National Response Plan to stakeholders.<sup>58</sup>

- If questions remain about the consultation process used by DHS in developing the NRP, what actions might Members of Congress consider in evaluating whether a sufficient cross section of parties in the homeland security arena have been included? Is additional information required by Congress in assessing whether the NRP, and other NPS components, are sufficiently developed to use in determining the eligibility of units of government for federal funding?

## Conclusion

The development of the six documents, which comprise the essential elements of the national preparedness system, increases federal involvement in emergency preparedness and response. State, tribal, and units of local government will have to increase training, dedicate resources, and possibly shift priorities as they work to comply with the standards. The NPS, still under development, constitutes the most formal effort to date to fully integrate the emergency preparedness and response operations and policy in the nation.

Members of the 109<sup>th</sup> Congress might elect to monitor the degree to which adoption of the NPS helps or aggravates problems in their constituent homeland security agencies. In addition to the specific issues noted previously in this report some of the broad issues that might be explored by the 109<sup>th</sup> Congress include the following.

- State standards generally guide preparedness and training efforts at the non-federal level. The establishment of federal standards will likely result in a reconsideration of the state standards, possibly their preemption, and an increase in costs associated with training and education. Such expectations will likely pose most difficult burdens on rural and poor communities with few resources. How will the national needs be balanced against the new demands to be placed upon state and local agencies? What issues, other than funding, are most pertinent to state and local agencies?

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<sup>58</sup> U.S. Government Accountability Office, *Homeland Security: Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain*, (GAO report GAO-05-214 (Washington: March 8, 2005), p. 47-48.

- Many emergency response units in rural areas depend upon volunteers or part-time employees to provide the necessary services on emergency medical squads, fire department staffs, or other public safety units. In order to receive federal funds and meet the standards set out in the NPS some communities may impose requirements and duties on volunteer or part-time staff that might discourage the participation of such individuals.
- Historically, state, local and tribal emergency response agencies have been recognized as the primary resources in the event of a catastrophe. The creation of the NPS documents, and the establishment of federal standards, will have a positive impact on the ability of these agencies to work together and with federal agencies. However, since the standards and operations procedures have been developed at the federal level (albeit with considerable input from non-federal entities), will a “national corps” of emergency responders grow from this effort? To what extent will the model presented by the Urban Search and Rescue teams (local government units subject to call-up by a federal agency) be carried into other emergency response units?
- To what extent is the NPG goal, and the associated activities and objectives, consistent with those established in the strategic plan for DHS? The strategic plan, issued in 2004, identified six goals, each associated with specific objectives.<sup>59</sup> The six goals are as follows.
  1. **Awareness.** Identify and understand threats, assess vulnerabilities, determine potential impacts and disseminate timely information to our homeland security partners and the American public.
  2. **Prevention.** Detect, deter and mitigate threats to our homeland.
  3. **Protection.** Safeguard our people and their freedoms, critical infrastructure, property and the economy of our nation from acts of terrorism, natural disasters, or other emergencies.
  4. **Response.** Lead, manage and coordinate the national response to acts of terrorism, natural disasters, or other emergencies.
  5. **Recovery.** Lead national, state, local and private sector efforts to restore services and rebuild communities after acts of terrorism, natural disasters, or other emergencies.
  6. **Service.** Serve the public effectively by facilitating lawful trade, travel and immigration.

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<sup>59</sup> U.S. Department of Homeland Security, *Securing Our Homeland* (Washington: 2004), p. 9.

7. **Organizational excellence.** Value our most important resource, our people. Create a culture that promotes a common identity, innovation, mutual respect, accountability and teamwork to achieve efficiencies, effectiveness and operational synergies.