

# CRS Report for Congress

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## Organization and Mission of the Emergency Preparedness and Response Directorate: Issues During the 109<sup>th</sup> Congress

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### Summary

The Homeland Security Act of 2002 (P.L. 107-296) vests in the Emergency Preparedness and Response Directorate (EPR) of the Department of Homeland Security (DHS) authority to coordinate specified federal emergency management activities. The law consolidated many, but not all, federal emergency authorities and resources into EPR. This report briefly describes the entities that constitute EPR and identifies issues that may come before the 109<sup>th</sup> Congress. This report will be updated as significant events implementing the legislation occur.

**Overview of Provisions.** The Homeland Security Act of 2002 established the Emergency Preparedness and Response (EPR) Directorate of the Department of Homeland Security (DHS).<sup>1</sup> The mission of EPR is to improve the Nation's capability to reduce losses from all disasters, including terrorist attacks. Specific responsibilities for EPR include the following:

- promotion of the effectiveness of emergency responders;
- support of the Nuclear Incident Response Team through standards, training exercises, and provision of funds to named federal agencies;
- provision of the federal response by managing, directing, overseeing, and coordinating specified federal resources;
- aid recovery;
- creation of an intergovernmental national incident management system to guide responses;
- consolidation of existing federal response plans into one plan; and,

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<sup>1</sup> Section 501, P.L. 107-296, 6 U.S.C. 311.

- development of programs for interoperative communications for emergency responders.<sup>2</sup>

The statute transferred the functions, assets, personnel, and liabilities of the following six entities into EPR —

1. the Federal Emergency Management Agency (FEMA), except terrorism preparedness;<sup>3</sup>
2. the Integrated Hazard Information System (IHIS) previously administered by the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce;<sup>4</sup>
3. the National Domestic Preparedness Office of the Federal Bureau of Investigation and related functions of the Attorney General;<sup>5</sup>
4. the Domestic Emergency Support Teams (DEST) of the Department of Justice and related functions of the Attorney General;<sup>6</sup>
5. the Office of Emergency Preparedness (OEP) and related functions of the Secretary of the Department of Health and Human Services (HHS) and the Assistant Secretary for Public Health Emergency Preparedness; and,
6. the Strategic National Stockpile (SNS) of HHS and related functions of the Secretary.<sup>7</sup>

A seventh entity, the Nuclear Incident Response Team (NIRT) — which is organized, equipped, and trained by the Department of Energy and the Environmental Protection Agency — has not been transferred to EPR but will continue to operate as an organizational unit of EPR at the direction of the Secretary of DHS, as needed.<sup>8</sup> Short profiles of the seven entities begin below.

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<sup>2</sup> Sec. 502, P.L. 107-296, 6 U.S.C. 312.

<sup>3</sup> Section 430 of P.L. 107-296, 6 U.S.C. 238, transferred the terrorism preparedness responsibilities of FEMA's Office of National Preparedness to the Office for Domestic Preparedness (ODP) to be established in the Border and Transportation Security Directorate of DHS. On March 26, 2004, Secretary Ridge of DHS exercised his reorganization authority (Sec. 872 of P.L. 107-296) and transferred ODP to the Office for State and Local Government Coordination and Preparedness (OSLGCP) within the Office of the Secretary.

<sup>4</sup> The act renames the system "FIRESAT." Sec. 503(20), P.L. 107-296, 6 U.S.C. 313(2). Funding for this program has not been authorized since FY2000.

<sup>5</sup> According to one news report, NDPO has not operated since 2001. See Jason Peckenpaugh, "Homeland Security Bill Would Reorganize Federal First Responder Programs," *GovExec.com*, Nov. 14, 2002. For background information see [<http://www.fbi.gov/congress/congress00/dwatson.htm>], visited Jan. 5, 2005.

<sup>6</sup> DEST is a stand-by interagency team of experts that provides an on-scene commander (Special Agent in Charge) with advice and guidance in situations involving a weapon of mass destruction (WMD) or other significant domestic threat. DEST has no permanent staff at the FBI or at any other federal agency.

<sup>7</sup> Sec. 503, P.L. 107-296, 6 U.S.C. 313(6). However, SNS is no longer part of the EPR mission. The Project Bioshield Act of 2004 (Sec. 3, P.L. 108-276) authorizes the Secretary of HHS, "in coordination with the Secretary of Homeland Security," to administer the SNS.

<sup>8</sup> Sec. 504 and 506, P.L. 107-296, 6 U.S.C. 314, 316.

The act also (1) directs the HHS Secretary to set goals and priorities and to collaborate with the Secretary of DHS in developing a coordinated strategy (including benchmarks and outcome measures for evaluating progress) for public health-related activities; (2) summarizes the role of FEMA to include “leading and supporting” a national emergency management program; (3) requires the DHS Secretary to use private sector resources to respond to disasters “to the maximum extent practicable;” and, (4) expresses the sense of Congress that, “to the maximum extent possible”, commercially available technologies should be used by DHS.<sup>9</sup>

**Federal Emergency Management Agency.** The Federal Emergency Management Agency assists individuals, states and localities, and certain non-profit organizations that have been overwhelmed by significant catastrophes, including terrorist attacks.<sup>10</sup> Federal emergency management assistance administered by FEMA includes funding the reconstruction of damaged public facilities, providing cash grants to victims of disasters, and facilitating access to temporary housing, among other types of aid. FEMA also provides disaster planning and preparedness aid to state and local governments, coordinates federal emergency management activities, and takes the lead in planning for the continuity of much of the federal government should national security be threatened. **Figure 1** of this report presents an organizational chart of FEMA. The Undersecretary of EPR also serves as the director of FEMA.

**Office of Emergency Preparedness.** The Office of Emergency Preparedness (OEP), previously part of HHS, is responsible for coordinating the federal government’s emergency medical response to all types of terrorist attacks and natural disasters. This responsibility includes managing the National Disaster Medical System (NDMS).<sup>11</sup> The NDMS is a partnership of four federal agencies (HHS, FEMA, and the Departments of Defense and Veterans Affairs), state and local governments, and the private sector. It consists of more than 8,000 volunteer health professionals and support personnel organized into disaster assistance teams that can be activated and deployed anywhere in the country to assist state and local emergency medical services. OEP also administers the Metropolitan Medical Response System (MMRS) program, which provides funding to cities that upgrade and improve their own planning and preparedness to respond to mass-casualty events. A total of 122 municipalities are now participating in the MMRS program.<sup>12</sup>

**Nuclear Incident Response Team.** The Nuclear Incident Response Team (NIRT) consists of certain radiological and nuclear emergency capabilities of the Department of Energy (DOE) and the Environmental Protection Agency (EPA). The DOE portion of NIRT is the Nuclear Weapons Incident Response program in the National

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<sup>9</sup> Sec. 505- 509, P.L. 107-296.

<sup>10</sup> Primary authority for disaster assistance rests with the President through the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), 42 U.S.C. 5121 et seq. Through Reorganization Plan No. 3 of 1978 and Executive Orders 12127 and 12148, most, but not all, of the President’s authority in the Stafford Act was delegated to the director of FEMA, now the Undersecretary of EPR.

<sup>11</sup> For more information on the NDMS, see [<http://ndms.dhhs.gov>], visited Apr. 1, 2003.

<sup>12</sup> For more information, see [<http://mmrs.hhs.gov>], visited Apr. 1, 2003.

Nuclear Security Administration. This includes the Nuclear Emergency Support Team (NEST)<sup>13</sup> and other elements, including a small component devoted to detection of biological agents. Approximately 900 individuals are involved in the Nuclear Weapons Incident Response program, but only 70 of these are full time, with the remainder drawn as needed from their primary responsibilities in DOE's nuclear weapons program. The EPA portion of NIRT is the Radiological Emergency Response Team (RERT).<sup>14</sup>

## Issue Summary

Members of the 109<sup>th</sup> Congress might examine issues related to EPR such as the following:

**Reconsidering EPR Missions and FEMA's Structure.** Under the Homeland Security Act FEMA retains responsibility for "leading and supporting the Nation in a comprehensive, risk-based emergency management program."<sup>15</sup> The Homeland Security Act, however, transferred terrorism preparedness authority from FEMA to ODP. More recently, EPR/FEMA lost other responsibilities, including:

- management of the Strategic National Stockpile;
- administration of the Assistance to Firefighters program and the Emergency Management Performance Grant program;<sup>16</sup> and,
- coordination of the National Earthquake Hazards Reduction Program.<sup>17</sup>

The transfer of functions from EPR/FEMA indicates that policymakers believe that certain emergency preparedness and response elements should be administered by entities other than EPR. One Member of Congress, questioning this approach, remarked during consideration of FY2005 appropriations legislation that "More and more, FEMA's main responsibilities are being stripped away. Ultimately, this will impact the agency's responsiveness to emergencies across the country, both natural and manmade."<sup>18</sup>

The final report issued by the former Inspector General for DHS (Clark Kent Ervin) included the following assessment: "Integrating its many separate components into a single, effective, efficient, and economical department remains one of DHS' biggest challenges."<sup>19</sup> The transfer of functions from EPR appears to be seen as at least one answer to this finding.

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<sup>13</sup> See [[http://www.nv.doe.gov/news&pubs/dirpdfs/NEST\\_Final\\_June2002.pdf](http://www.nv.doe.gov/news&pubs/dirpdfs/NEST_Final_June2002.pdf)], visited Jan. 5, 2005.

<sup>14</sup> For more information see [<http://www.epa.gov/radiation/rert/>], visited Jan. 5, 2005.

<sup>15</sup> Sec. 507(a)(2), P.L. 107-296.

<sup>16</sup> P.L. 108-334, 118 Stat. 1310.

<sup>17</sup> P.L. 108-360, 118 Stat. 1671.

<sup>18</sup> U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, *Department of Homeland Security Appropriations for 2005*, hearing, Mar. 24, 2004 (Washington: GPO, 2004), p. 116.

<sup>19</sup> Department of Homeland Security, Office of Inspector General, *Major Management Challenges Facing the Department of Homeland Security*, OIG-05-06 (Washington: 2004), p. 1.

Members of the 109<sup>th</sup> Congress might elect to consider reorganization options for EPR, including maintenance of the current structure. One possible alternative, presented in a report on DHS organizational issues, recommends that response missions be consolidated into FEMA, that all preparedness functions be transferred to an Undersecretary for Protection and Preparedness, and that EPR be eliminated.<sup>20</sup> During consideration of the Homeland Security Act of 2002, Congress debated retaining FEMA as an independent agency within DHS. Congress might elect to reconsider that option. To what extent can it be argued that other EPR functions might be considered for migration out of EPR? What criteria should be used to identify which emergency preparedness and response functions should be included in EPR? What factors will be considered in evaluating the most efficient and effective organizational option?

**FBI Coordination.** While the Act transferred the DEST functions from the FBI to the EPR Directorate, some are likely to maintain that the FBI will need to maintain some capabilities along the lines of DEST in order to respond to domestic terrorist incidents as the Nation's lead investigative agency. Congress could be asked to consider the impacts of the transfer of DEST from the FBI and the degree to which EPR has used DEST resources since 2002?

**Disaster Warning Systems.** The incorporation of IHIS into EPR was intended to facilitate collaboration and sharing of federal resources to improve natural disaster monitoring capabilities. The tsunami that struck Southeast Asia at the end of 2004 has raised awareness throughout the world of the need for monitoring systems. Possible issues for Congress include whether IHIS should be reauthorized and funded in FY2006 and is the role of the Domestic Warning Center (DWC) used by the Department of Defense (NORTHCOM) to track disasters?<sup>21</sup> How do those capabilities and resources relate to the systems operated by DHS? Should the mission of EPR be reconsidered in light of this capability?

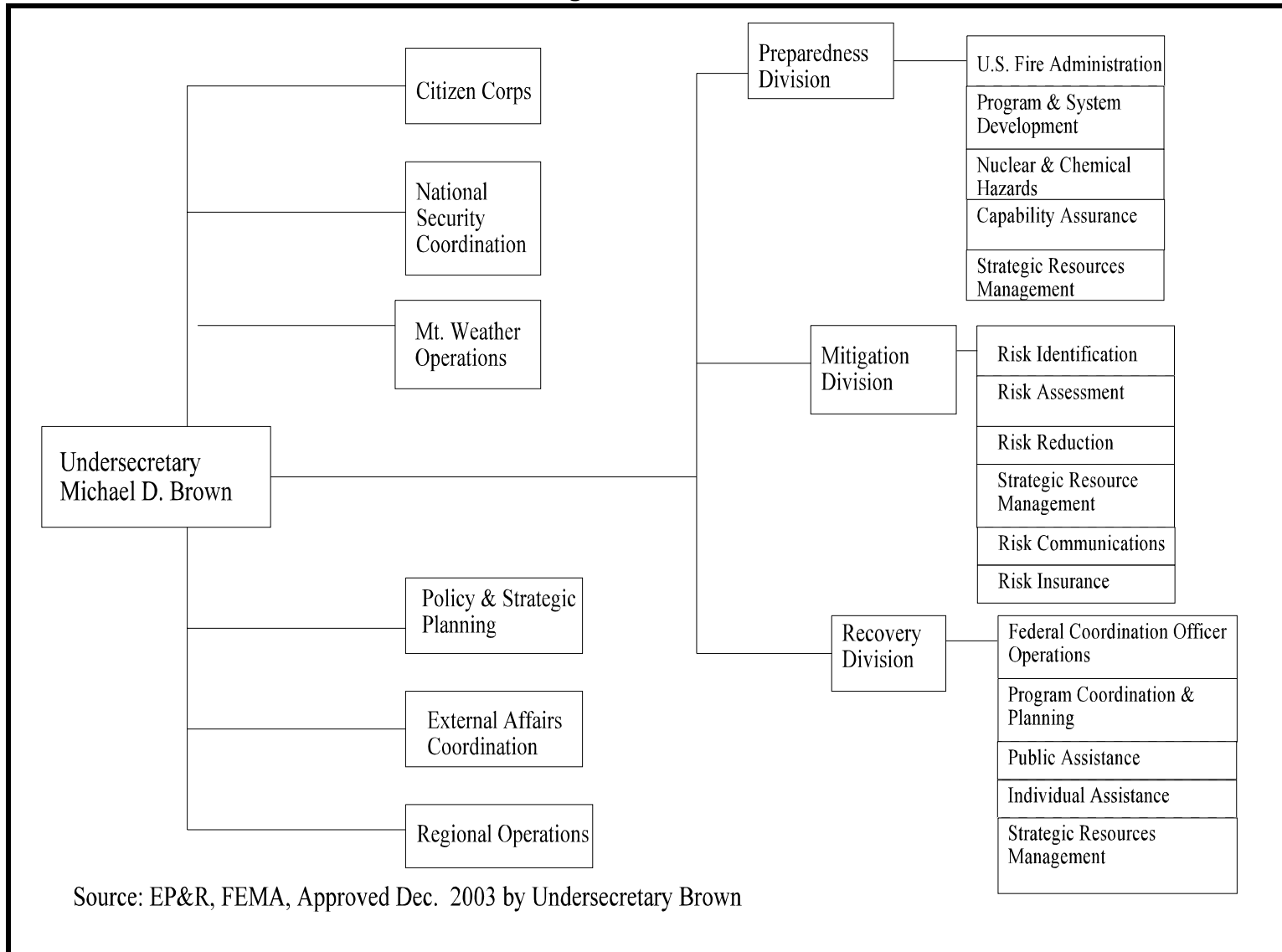
**Public Health.** The transfer of OEP in the Homeland Security Act of 2002 was intended to improve coordination among federal emergency health programs and reduce points of contact for state and local officials. Public health officials stress that it is important for the EPR to develop strong relationships with HHS. Potential issues include the lessons learned over the past two years regarding OEP activities and coordination between DHS and HHS?

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<sup>20</sup> James Jay Carafano and David Heyman, *DHS2.0: Rethinking the Department of Homeland Security* (Washington: The Heritage Foundation, 2004), p. 17.

<sup>21</sup> For information on NORTHCOM, see CRS Report RS21322, *Homeland Security: Establishment and Implementation of Northern Command*, by Christopher Bolcum and Steve Bowman.

**Figure 1. Emergency Preparedness and Response Directorate, Federal Emergency Management Agency Organization Chart**



Source: EP&R, FEMA, Approved Dec. 2003 by Undersecretary Brown