Appendix 3

Authorities and References

The principal authorities that guide the structure, development, and implementation of the NRP are statutes, Executive orders, and Presidential directives. Congress has provided the broad statutory authority necessary for the NRP, and the President has issued Executive orders and Presidential directives to supply authority and policy direction to departments and agencies of the Executive Branch. Among the major statutes, orders, and directives relevant to the NRP are those summarized below.

A. Statutes and Regulations

1. The **Homeland Security Act of 2002,** Pub. Law 107-296, 116 Stat. 2135 (2002) (codified predominantly at 6 U.S.C. §§ 101-557 and in other scattered sections of the U.S.C.), established the Department of Homeland Security with the mandate and legal authority to protect the American people from the continuing threat of terrorism. In the act, Congress assigned DHS the primary missions to:
   - Prevent terrorist attacks within the United States;
   - Reduce the vulnerability of the United States to terrorism at home;
   - Minimize the damage and assist in the recovery from terrorist attacks that occur; and
   - Act as the focal point regarding natural and manmade crises and emergency planning.

   The Homeland Security Act gives the Secretary of Homeland Security full authority and control over the Department and the duties and activities performed by its personnel, and it vests the Secretary with the broad authority necessary to fulfill the Department's statutory mission to protect the American homeland. This statutory authority, combined with the President's direction in HSPD-5, supports the NRP's unified, effective approach to domestic prevention, preparedness, response, and recovery activities.

   Responsibilities in the Homeland Security Act of particular relevance to the development and execution of the NRP include the following:

   a. Preparedness of the United States for acts of terrorism. Executed through the DHS OSLGCP, this responsibility includes coordinating preparedness efforts at the Federal level, and working with State, local, tribal, parish, and private-sector emergency response providers on matters pertaining to combating terrorism.

   b. Response to terrorist attacks, major disasters, and other emergencies. Executed through the Directorate of Emergency Preparedness and Response, this responsibility includes:
      - Consolidating existing Federal emergency response plans into a single, coordinated national response plan;
      - Building a comprehensive national incident management system to respond to such attacks and disasters;
      - Ensuring the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;
      - Providing the Federal Government's response to terrorist attacks, major disasters, and emergencies, including managing such response; and
      - Coordinating Federal response resources in the event of a terrorist attack, major disaster, or emergency.

   c. Coordination of homeland security programs with State and local government personnel, agencies, and authorities and with the private sector. Executed through the DHS OSLGCP and the Private Sector Office, this responsibility includes:
      - Coordinating to ensure adequate planning, training, and exercise activities;
      - Coordinating and consolidating appropriate Federal Government communications and systems of communications; and
      - Distributing or coordinating the distribution of warnings and information.

   d. Risk analysis and risk management. DHS/IAIP has primary authority for threat and event risk analysis and risk management within DHS, although other DHS organizations—such as the U.S. Secret Service, the OSLGCP, and the Border and Transportation Security Directorate—also engage in risk management. DHS/IAIP responsibilities include:

- Analyzing and integrating information from all available sources to identify, assess, detect, and understand terrorist threats against the United States;
- Carrying out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure, including risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;
- Identifying priorities for and recommending protective and support measures for such infrastructure by all concerned;
- Developing a comprehensive national plan (the National Infrastructure Protection Plan (NIPP)) for securing critical infrastructure and key resources, such as telecommunications and power; and
- Conducting risk assessments and vulnerability assessments after other agencies have conducted those studies and ranked top items based on those studies.

e. Preventing the entry of terrorists and the instruments of terrorism into the United States. Executed through the Border and Transportation Security Directorate, this responsibility includes:
   - Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States; and
   - Carrying out immigration enforcement functions.

2. The **Robert T. Stafford Disaster Relief and Emergency Assistance Act,** 93 Pub. L. No. 288, 88 Stat. 143 (1974) (codified as amended at 42 U.S.C. §§ 5121-5206, and scattered sections of 12 U.S.C., 16 U.S.C., 20 U.S.C., 26 U.S.C., 38 U.S.C. (2002)), establishes the programs and processes for the Federal Government to provide disaster and emergency assistance to States, local governments, tribal nations, individuals, and qualified private nonprofit organizations. The provisions of the Stafford Act cover all hazards including natural disasters and terrorist events. Relevant provisions of the Stafford Act include a process for Governors to request Federal disaster and emergency assistance from the President. The President may declare a major disaster or emergency:
   - If an event is beyond the combined response capabilities of the State and affected local governments; and
   - If, based on the findings of a joint Federal-State-local PDA, the damages are of sufficient severity and magnitude to warrant assistance under the act. (Note: In a particularly fast-moving or clearly devastating disaster, DHS/EPR/FEMA may defer the PDA process until after the declaration.)

a. If an emergency involves a subject area for which the Federal Government exercises exclusive or preeminent responsibility and authority, the President may unilaterally direct the provision of emergency assistance under the Stafford Act. The Governor of the affected State will be consulted if practicable.

b. DHS/EPR/FEMA can pre-deploy personnel and equipment in advance of an imminent Stafford Act declaration to reduce immediate threats to life, property, and public health and safety, and to improve the timeliness of disaster response.

c. During the immediate aftermath of an incident which may ultimately qualify for assistance under the Stafford Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the DOD for the purpose of performing on public and private lands any emergency work that is made necessary by such incident and that is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practical. Such emergency work may only be carried out for a period not to exceed 10 days.

d. The Stafford Act directs appointment of an FCO by the President. The FCO is designated by the DHS Under Secretary for Emergency Preparedness and Response to coordinate the delivery of Federal assistance to the affected State, local, and tribal governments and disaster victims.

e. Federal agencies must avoid duplicating resources and benefits for disaster victims. Disaster victims are responsible for repayment of Federal assistance duplicated by private insurance, or other Federal programs, or when they have been otherwise compensated for their disaster-related losses.

f. All authorities under the Stafford Act granted to the Secretary of Homeland Security in the Homeland Security Act have been redelegated to the Under Secretary of EPR through Delegation No. 9001.

3. The **Public Health Security and Bioterrorism Preparedness and Response Act of 2002,** Pub. L. No. 107-188, 116 Stat. 294 (2002) (codified in scattered sections of 7 U.S.C., 18 U.S.C., 21 U.S.C., 29 U.S.C., 38 U.S.C., 42 U.S.C., and 47 U.S.C. (2002)), is designed to improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies. Key provisions of the act, 42 U.S.C. § 247d and § 300hh among others, address the development of a national preparedness plan by HHS designed to provide effective assistance to State and local governments in the event of bioterrorism or other public health emergencies; operation of the National Disaster Medical System to mobilize and address public health emergencies; grant programs for the education and training of public health professionals and improving State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies; streamlining and clarifying communicable disease quarantine provisions; enhancing controls on dangerous biological agents and toxins; and protecting the safety and security of food and drug supplies.

4. The **Defense Production Act of 1950,** 64 Stat. 798 (1950) (codified as amended by the **Defense Production Act Reauthorization of 2003,** Pub. L. 108-195, 117 Stat. 2892 (2003) at 50 U.S.C. app. §§ 2061-2170 (2002)), is the primary authority to ensure the timely availability of resources for national defense and civil emergency preparedness and response. Among other things, the DPA authorizes the President to demand that companies accept and give priority to government contracts that the President "deems necessary or appropriate to promote the national defense." The DPA defines "national defense" to include critical infrastructure protection and restoration, as well as activities authorized by the emergency preparedness sections of the Stafford Act. Consequently, DPA authorities are available for activities and measures undertaken in preparation for, during, or following a natural disaster or accidental or man-caused event. The Department of Commerce has redelegated DPA authority under Executive Order 12919, National Defense Industrial Resource Preparedness, June 7, 1994, as amended, to the Secretary of Homeland Security to place and, upon application, to authorize State and local governments to place priority-rated contracts in support of Federal, State, and local emergency preparedness activities.

5. The **Economy Act,** 31 U.S.C. §§ 1535-1536 (2002), authorizes Federal agencies to provide goods or services on a reimbursable basis to other Federal agencies when more specific statutory authority to do so does not exist.

6. The **Posse Comitatus Act,** 18 U.S.C. § 1385 (2002), prohibits the use of the Army or the Air Force for law enforcement purposes, except as otherwise authorized by the Constitution or statute. This prohibition applies to Navy and Marine Corps personnel as a matter of DOD policy. The primary prohibition of the Posse Comitatus Act is against direct involvement by active duty military personnel (to include Reservists on active duty and National Guard personnel in Federal service) in traditional law enforcement activities (to include interdiction of vehicle, vessel, aircraft, or other similar activity; directing traffic; search or seizure; an arrest, apprehension, stop and frisk, or similar activity). **(Note exception under the Insurrection Statutes.)** Exceptions to the Posse Comitatus Act are found in 10 U.S.C. §§ 331-335 (2002) and other statutes.

7. The **National Emergencies Act,** 50 U.S.C. §§ 1601-1651 (2003), establishes procedures for Presidential declaration and termination of national emergencies. The act requires the President to identify the specific provision of law under which he or she will act in dealing with a declared national emergency and contains a sunset provision requiring the President to renew a declaration of national emergency to prevent its automatic expiration. The Presidential declaration of a national emergency under the act is a prerequisite to exercising any special or extraordinary powers authorized by statute for use in the event of national emergency.

8. The **Comprehensive Environmental Response, Compensation, and Liability Act,** 42 U.S.C. §§ 9601-9675 (2002), and the **Federal Water Pollution Control Act (Clean Water Act),** 33 U.S.C.

§§ 1251-1387 (2002), established broad Federal authority to respond to releases or threats of releases of hazardous substances and pollutants or contaminants that may present an imminent and substantial danger to public health or welfare and to discharges of oil. **The National Oil and Hazardous Substances Pollution Contingency Plan,** 40 CFR Part 300 (2003), was developed to ensure coordinated and integrated response by departments and agencies of the Federal Government to prevent, minimize, or mitigate a threat to public health or welfare posed by discharges of oil and releases of hazardous substances, pollutants, and contaminants.

9. The **Cooperative Forestry Assistance Act of 1978,** 16 U.S.C. §§ 2101-2114 (2002), authorizes the Secretary of Agriculture to assist in the prevention and control of rural fires, and to provide prompt assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capabilities of the affected State or rural area.

10. The **Communications Act of 1934,** 47 U.S.C. §§ 151-615b (2002), provides the authority to grant special temporary authority on an expedited basis to operate radio frequency devices. It would serve as the basis for obtaining a temporary permit to establish a radio station to be run by a Federal agency and broadcast public service announcements during the immediate aftermath of an emergency or major disaster. 47 U.S.C. § 606 (2002) provides the authority for the NCS to engage in emergency response, restoration, and recovery of the telecommunications infrastructure.

11. The **Insurrection Act,** 10 U.S.C. §§ 331-335 (2002). Recognizing that the primary responsibility for protecting life and property and maintaining law and order in the civilian community is vested in State and local governments, the Insurrection Statutes authorize the President to direct the armed forces to enforce the law to suppress insurrections and domestic violence. Military forces may be used to restore order, prevent looting, and engage in other law enforcement activities.

12. The **Defense Against Weapons of Mass Destruction Act,** 50 U.S.C. §§ 2301-2368 (2003), is intended to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving WMD. Congress has directed that DOD provide certain expert advice to Federal, State, and local agencies with regard to WMD, to include domestic terrorism rapid response teams, training in emergency response to the use or threat of use of WMD, and a program of testing and improving the response of civil agencies to biological and chemical emergencies.

13. **Emergencies Involving Chemical or Biological Weapons.** Pursuant to 10 U.S.C. § 382 (2002), in response to an emergency involving biological or chemical WMD that is beyond the capabilities of civilian authorities to handle, the Attorney General may request DOD assistance directly. Assistance that may be provided includes identifying, monitoring, containing, disabling, and disposing of the weapon. Direct law enforcement assistance—such as conducting an arrest, searching or seizing evidence of criminal violations, or direct participation in the collection of intelligence for law enforcement purposes—is not authorized unless such assistance is necessary for the immediate protection of human life and civilian law enforcement officials are not capable of taking the action, and the action is otherwise authorized.

14. **Emergencies Involving Nuclear Materials.** In emergencies involving nuclear materials, 18 U.S.C. § 831(e)(2002) authorizes the Attorney General to request DOD law enforcement assistance—including the authority to arrest and conduct searches, without violating the Posse Comitatus Act—when both the Attorney General and Secretary of Defense agree that an "emergency situation" exists and the Secretary of Defense determines that the requested assistance will not impede military readiness. An emergency situation is defined as a circumstance that poses a serious threat to the United States in which (1) enforcement of the law would be seriously impaired if the assistance were not provided, and (2) civilian law enforcement personnel are not capable of enforcing the law. In addition, the statute authorizes DOD personnel to engage in "such other activity as is incident to the enforcement of this section, or to the protection of persons or property from conduct that violates this section."

15. **Volunteer Services.** There are statutory exceptions to the general statutory prohibition against accepting voluntary services under 31 U.S.C. § 1342 (2002)

that can be used to accept the assistance of volunteer workers. Such services may be accepted in "emergencies involving the safety of human life or the protection of property." Additionally, provisions of the Stafford Act, 42 U.S.C. §§ 5152(a), 5170a(2) (2002), authorize the President to, with their consent, use the personnel of private disaster relief organizations and to coordinate their activities.

Under the Congressional Charter of 1905, 36 U.S.C. §§ 300101-300111 (2002), the American Red Cross and its chapters are a single national corporation. The Charter mandates that the American Red Cross maintain a system of domestic and international disaster relief. The American Red Cross qualifies as a nonprofit organization under section 501(c)(3) of the Internal Revenue code.

16. The **Public Health Service Act,** 42 U.S.C. §§ 201 et seq. Among other things, this act provides that the Secretary of HHS may declare a public health emergency under certain circumstances (see 42 U.S.C. § 247d), and that the Secretary is authorized to develop and take such action as may be necessary to implement a plan under which the personnel, equipment, medical supplies, and other resources of the Department may be effectively used to control epidemics of any disease or condition and to meet other health emergencies and problems. (See 42 U.S.C. § 243.) The Public Health Service Act authorizes the Secretary to declare a public health emergency (42 U.S.C. 247d) and to prepare for and respond to public health emergencies (42 U.S.C. 300hh). The Secretary is further empowered to extend temporary assistance to States or localities to meet health emergencies. During an emergency proclaimed by the President, the President has broad authority to direct the services of the Public Health Service (42 U.S.C. § 217). Under that section, the President is authorized to "utilize the [Public Health] Service to such extent and in such manner as shall in his judgment promote the public interest." Additionally, under 42 U.S.C. § 264, the Secretary is authorized to make and enforce quarantine regulations "necessary to prevent the introduction, transmission, or spread of communicable diseases" from foreign countries into the States or possessions, or from one State or possession to another. The diseases for which a person may be subject to quarantine must be specified by the President through an Executive order.

17. The **Veterans Affairs Emergency Preparedness Act of 2002,** Pub. L. No. 107-287, 116 Stat. 2024 (2002) (amending and codifying various sections of 38 U.S.C.). 38 U.S.C. § 1785 (2003), if funded, directs the VA and DOD to develop training programs for current health-care personnel and those emergency/medical personnel in training in the containment of nuclear, biological, and chemical attacks and treatment of casualties. It authorizes the Secretary of Veterans Affairs to furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by a disaster or emergency during and immediately following a disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or a disaster or emergency in which the NDMS is activated.

18. The **Atomic Energy Act of 1954,** 42 U.S.C. §§ 2011-2297 (2003), and the **Energy Reorganization Act of 1974,** 5 U.S.C. §§ 5313-5316, 42 U.S.C. §§ 5801-5891 (2002), provide the statutory authority for both the DOE and the NRC, and the foundation for NRC regulation of the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, to promote the common defense and security, and to protect the environment.

19. The **Price-Anderson Amendments Act of 1988,** Pub. L. No. 100-408, 102 Stat. 1066 (1988) (amending the Atomic Energy Act of 1954 and codified at 42 U.S.C. §§ 2014, 2210, 2273, 2282a (2003)), provides for indemnification of governments and individuals affected by nuclear incidents.

20. **Furnishing of Health-Care Services to Members of the Armed Forces during a War or National Emergency,** 38 U.S.C. § 8111A (2002). During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Secretary of Veterans Affairs may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty. The Secretary may give a higher priority to the furnishing of care and services to active duty Armed Forces than others in medical facilities for the Department with the exception of veterans with service-connected disabilities.

21. The **Resource Conservation and Recovery Act of 1976,** 42 U.S.C. §§ 6901-6986 (2002), which was passed as an amendment of the Solid Waste Disposal Act of 1965, Pub. L. 89-272, 79 Stat. 997 (1965), gave the EPA the authority to control hazardous waste from "cradle to grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of nonhazardous wastes.

22. The **Occupational Safety and Health Act,** 29 U.S.C. §§ 651-678 (2002), among other things, assures safe and healthful working conditions for working men and women by authorizing enforcement of the standards developed under the act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; and by providing for research, information, education, and training in the field of occupational safety and health.

23. The **Maritime Transportation Security Act,** Pub. L. No. 107-295, 116 Stat. 2064 (2002) (codified at 46 U.S.C. §§ 70102-70117 and scattered sections of the U.S.C.), requires sectors of the maritime industry to implement measures designed to protect America's ports and waterways from a terrorist attack.

24. **Flood Control and Coastal Emergencies,** 33 U.S.C. § 701n (2002) (commonly referred to as Public Law 84-99), authorizes the USACE an emergency fund for preparation for emergency response to natural disasters, flood fighting and rescue operations, rehabilitation of flood control and hurricane protection structures, temporary restoration of essential public facilities and services, advance protective measures, and provision of emergency supplies of water. The USACE receives funding for such activities under this authority from the Energy and Water Development Appropriation.

25. The **Oil Pollution Act of 1990,** Pub. L. No. 101-380, 104 Stat. 484 (1990) (codified as amended at 33 U.S.C. §§ 1203, 1223, 1321, 2701-2761 and various other sections of the U.S.C. (2002)), improves the Nation's ability to prevent and respond to oil spills by establishing provisions that expand the Federal Government's ability and provides the money and personnel necessary to respond to oil spills. The act also created the national Oil Spill Liability Trust Fund.

26. The **Clean Air Act,** 42 U.S.C. §§ 7401-7671q (2002) and 40 CFR § 80.73 (2003). The EPA may temporarily permit a refiner, importer, or blender to distribute nonconforming gasoline in appropriate extreme or unusual circumstances (e.g., an Act of God) that could not have been avoided. EPA may seek DOE's advice on fuel supply situations when deciding whether to grant a request to distribute nonconforming gasoline.

27. The **Public Utilities Regulatory Policies Act of 1978,** Pub. L. No. 95-617, 92 Stat. 3117 (1978) (codified at scattered sections of 15 U.S.C., 16 U.S.C., 30 U.S.C., 42 U.S.C., 43 U.S.C. (2002)), and the **Powerplant and Industrial Fuel Use Act of 1978,** Pub. L. No. 95-620, 92 Stat. 3289 (1978) (codified as amended at 42 U.S.C. §§ 8301-8484 (2002)). The President has authority to prohibit any powerplant or major fuel-burning installation from using natural gas or petroleum as a primary fuel during an emergency.

28. The **Federal Power Act,** 16 U.S.C. §§ 791a-828c, 824a(c) (2002), 10 CFR § 205.370 (2003). The Secretary of Energy has authority in an emergency to order temporary interconnections of facilities and/or the generation and delivery of electric power.

29. The **Department of Energy Organization Act,** Pub. L. No. 95-91, 91 Stat. 567 (1977) (codified predominantly at 42 U.S.C. §§ 7101-7385o (2002)), and the **Federal Power Act,** 16 U.S.C. §§ 791a-828c (2002), 10 CFR §§ 205.350, 205.353 (2003). DOE has authority to obtain current information regarding emergency situations on the electric supply systems in the United States.

30. The **Department of Energy Organization Act,** Pub. L. No. 95-91, 91 Stat. 567 (1977) (codified predominantly at 42 U.S.C. §§ 7101-7385o (2002)), 10 CFR §§ 205.350, 205.353 (2003), and the **Federal Energy Administration Act of 1974,** 15 U.S.C. §§ 761-790h (2002). DOE and the National Association of State Energy Officials (NASEO) have agreed that DOE will develop, maintain, and distribute a contact list of State and Federal individuals responsible for energy market assessment and energy emergency responses, and that the States will participate in the effort by providing timely assessments of energy markets to DOE and other States in the event of an energy supply disruption.

31. The **Energy Policy and Conservation Act,** 42 U.S.C. §§ 6201-6422 (2002), as amended by the **Energy Policy Act of 1992,** Pub. L. No. 102-486, 106 Stat. 2776 (1992) (as amended and codified in scattered sections of the U.S.C.). The President may, in an emergency, order Federal buildings to close and/or conserve energy.

32. **Transportation of Hazardous Material,** 49 U.S.C. §§ 5101-5127 (2002). Improves the regulatory and enforcement authority of the Secretary of Transportation to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce.

33. The **Ports and Waterways Safety Act of 1978,** Pub. L. No. 95-474, 92 Stat. 1471 (1978) (amending Pub. L. No. 92-340 and codified at 33 U.S.C. §§ 1222-1232 and 46 U.S.C. §§ 214, 391a (2002)). The Secretary of Homeland Security has authority to establish vessel traffic systems for ports, harbors, and other navigable waterways, and to control vessel traffic in areas determined to be hazardous (e.g., due to vessel congestion). In such emergency situations, DOE may be asked to advise the U.S. Coast Guard on "priority" vessel movements to expedite delivery of needed energy supplies.

34. The **Energy Policy and Conservation Act,** 42 U.S.C. §§ 6231-6247 (2002). DOE is authorized to create and maintain a Strategic Petroleum Reserve (SPR) and the President is authorized to order a drawdown of the Reserve in emergency circumstances defined in the act.

35. The **Energy Policy and Conservation Act,** 42 U.S.C. §§ 6250c (2002). DOE is authorized to create and maintain a Northeast Home Heating Oil Reserve and the President is authorized to order a drawdown of the reserve in emergency circumstances defined in the act.

36. The **Natural Gas Policy Act of 1978,** 15 U.S.C. §§ 3301-3432 (2002). DOE can order any interstate pipeline or local distribution company served by an interstate pipeline to allocate natural gas in order to assist in meeting the needs of high-priority consumers during a natural gas emergency.

37. The **Powerplant and Industrial Fuel Use Act of 1978,** 42 U.S.C. §§ 8301-8484 (2002). The President has authority to allocate coal (and require the transportation of coal) for the use of any powerplant or major fuel-burning installation during an energy emergency.

38. The **Low Income Home Energy Assistance Act of 1981,** 42 U.S.C. §§ 8621-8629 (2002). HHS has discretionary funds available for distribution under the Low Income Home Energy Assistance Program (LIHEAP), according to the criteria that relate to the type of emergency that precipitates their need. DOE may advise HHS on the fuel supply situation for such emergency funding.

39. The **Small Business Act,** 15 U.S.C. §§ 631-651e (2002). The mission of the Small Business Administration is to maintain and strengthen the Nation's economy by aiding, counseling, assisting, and protecting the interests of small businesses and by helping families and businesses recover from incidents such as major disasters, emergencies, and catastrophes.

40. The **Immigration Emergency Fund (IEF)** was created by section 404(b)(1) of the Immigration and Nationality Act. The IEF can be drawn upon to increase INS's enforcement activities, and to reimburse States and localities in providing assistance as requested by the Secretary of the DHS in meeting an immigration emergency declared by the President.

41. The **Animal Health Protection Act of 2002,** 7 U.S.C. 8310, consolidates all of the animal quarantine and related laws and replaces them with one flexible statutory framework. This act allows APHIS Veterinary Services to act swiftly and decisively to protect U.S. animal health from a foreign pest or disease.

42. **28 CFR § 0.85** designates the FBI as the agency with primary responsibility for investigating all crimes for which it has primary or concurrent jurisdiction and which involve terrorist activities or acts in preparation of terrorist activities within the statutory jurisdiction of the United States. This would include the collection, coordination, analysis, management, and dissemination of intelligence and criminal information as appropriate.

B. Executive Orders

1. **Executive Order 12148,** 44 Fed. Reg. 43239 (1979), as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003), designates DHS as the primary agency for coordination of Federal disaster relief, emergency assistance, and emergency preparedness. The order also delegates the President's relief and assistance functions under the Stafford Act to the Secretary of Homeland Security, with the exception of the declaration of a major disaster or emergency.

2. **Executive Order 12656,** 53 Fed. Reg. 47491 (1988), Assignment of Emergency Preparedness Responsibilities, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003), assigns lead and support responsibilities to each of the Federal agencies for national security emergency preparedness. The amendment designates DHS as the principal agency for coordinating programs and plans among all Federal departments and agencies.

3. **Executive Order 13354,** 69 Fed. Reg. 53589 (2004), National Counterterrorism Center, establishes policy to enhance the interchange of terrorism information among agencies and creates the National Counterterrorism Center to serve as the primary Federal organization in the U.S. Government for analyzing and integrating all intelligence information posed by the United States pertaining to terrorism and counterterrorism.

4. **Executive Order 13356,** 69 Fed. Reg. 53599 (2004), Strengthening the Sharing of Terrorism Information to Protect Americans, requires the Director of Central Intelligence, in consultation with the Attorney General and the other intelligence agency heads, to develop common standards for the sharing of terrorism information by agencies within the Intelligence Community with 1) other agencies within the Intelligence Community, 2) other agencies having counterterrorism functions, and 3) through or in coordination with the Department of Homeland Security, appropriate authorities of State and local governments.

5. **Executive Order 12580,** 52 Fed. Reg. 2923 (1987), Superfund Implementation, as amended by numerous Executive orders, delegates to a number of Federal departments and agencies the authority and responsibility to implement certain provisions of CERCLA. The policy and procedures for implementing these provisions are spelled out in the NCP and are overseen by the NRT.

6. **Executive Order 12382,** 47 Fed. Reg. 40531 (1982), as amended by numerous Executive orders, President's National Security Telecommunications Advisory Committee (NSTAC). This order provides the President with technical information and advice on national security telecommunications policy. Up to 30 members from the telecommunications and information technology industries may hold seats on the NSTAC.

7. **Executive Order 12472,** 49 Fed. Reg. 13471 (1984), Assignment of National Security and Emergency Preparedness Telecommunications Functions, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). This order consolidated several directives covering NSEP telecommunications into a comprehensive document explaining the assignment of responsibilities to Federal agencies for coordinating the planning and provision of NSEP telecommunications. The fundamental NSEP objective is to ensure that the Federal Government has telecommunications services that will function under all conditions, including emergency situations.

8. **Executive Order 12742,** 56 Fed. Reg. 1079 (1991), National Security Industrial Responsiveness, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). This order states that the United States must have the capability to rapidly mobilize its resources in the interest of national security. Therefore, to achieve prompt delivery of articles, products, and materials to meet national security requirements, the Government may place orders and require priority performance of these orders.

9. **Executive Order 13284,** 68 Fed. Reg. 4075 (2003), Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security. This order amended previous Executive orders in order to make provisions for the establishment of DHS.

10. **Executive Order 13286,** 68 Fed. Reg. 10619 (2003), Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security. This order reflects the transfer of certain functions

to, and other responsibilities vested in, the Secretary of Homeland Security, as well as the transfer of certain agencies and agency components to DHS, and the delegation of appropriate responsibilities to the Secretary of Homeland Security.

11. **Executive Order 12333,** 46 Fed. Reg. 59941 (1981), United States Intelligence Activities, designates DOE as part of the Intelligence Community. It further defines counterintelligence as information gathered and activities conducted to protect against espionage, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities. This order specifically excludes personnel, physical, document, or communications security programs from the definition of counterintelligence.

12. **Executive Order 12919,** 59 Fed. Reg. 29625 (1994), National Defense Industrial Resources Preparedness, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). This order delegates authorities and addresses national defense industrial resource policies and programs under the Defense Production Act of 1950, as amended, except for the amendments to Title III of the act in the Energy Security Act of 1980 and telecommunication authorities under Exec. Order 12472, 49 Fed. Reg. 13471 (1984).

13. **Executive Order 12777,** 56 Fed. Reg. 54757 (1991), Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as amended, and the Oil Pollution Act of 1990, as amended by Exec. Order 13286, 68 Fed. Reg. 10619 (2003). Implemented section 311 of the FWPCA as amended by OPA 90.

14. **Executive Order 13295,** 68 Fed. Reg. 17255 (2003), Revised List of Quarantinable Communicable Diseases. Specifies certain communicable diseases for regulations providing for the apprehension, detention, or conditional release of individuals to prevent the introduction, transmission, or spread of suspected communicable diseases.

15. **Executive Order 12196,** 45 Fed. Reg. 12769 (1980), Occupational Safety and Health Programs for Federal Employees. This order sets the OSHA program guidelines for all agencies in the Executive Branch except military personnel and uniquely military equipment, systems, and operations.

C. Presidential Directives

1. **Presidential Decision Directive 39:** U.S. Policy on Counterterrorism, June 21, 1995, establishes policy to reduce the Nation's vulnerability to terrorism, deter and respond to terrorism, and strengthen capabilities to detect, prevent, defeat, and manage the consequences of terrorist use of WMD; and assigns agency responsibilities.

2. **Presidential Decision Directive 62:** Combating Terrorism, May 22, 1998, reinforces the missions of Federal departments and agencies charged with roles in defeating terrorism.

3. **Homeland Security Presidential Directive-1:** Organization and Operation of the Homeland Security Council, Oct. 29, 2001. This directive establishes policies for the creation of the HSC, which shall ensure the coordination of all homeland security-related activities among executive departments and agencies and promote the effective development and implementation of all homeland security policies.

4. **Homeland Security Presidential Directive-2:** Combating Terrorism Through Immigration Policies, Oct. 29, 2001. This directive mandates that, by November 1, 2001, the Attorney General shall create the Foreign Terrorist Tracking Task Force, with assistance from the Secretary of State, the Director of Central Intelligence, and other officers of the Government, as appropriate. The Task Force shall ensure that, to the maximum extent permitted by law, Federal agencies coordinate programs to accomplish the following: 1) deny entry into the United States of aliens associated with, suspected of being engaged in, or supporting terrorist activity; and 2) locate, detain, prosecute, or deport any such aliens already present in the United States.

5. **Homeland Security Presidential Directive-3:** Homeland Security Advisory System, Mar. 11, 2002. This directive establishes policy for the creation of a Homeland Security Advisory System, which shall provide a comprehensive and effective means to

disseminate information regarding the risk of terrorist acts to Federal, State, and local authorities and to the American people. Such a system would provide warnings in the form of a set of graduated "Threat Conditions" that would increase as the risk of the threat increases. At each Threat Condition, Federal departments and agencies would implement a corresponding set of "Protective Measures" to further reduce vulnerability or increase response capability during a period of heightened alert.

6. **Homeland Security Presidential Directive-4:** National Strategy to Combat Weapons of Mass Destruction, Dec. 2002. Sets forth the National Strategy to Combat Weapons of Mass Destruction based on three principal pillars: (1) Counterproliferation to Combat WMD Use, (2) Strengthened Nonproliferation to Combat WMD Proliferation, and (3) Consequence Management to Respond to WMD Use. The three pillars of the U.S. national strategy to combat WMD are seamless elements of a comprehensive approach. Serving to integrate the pillars are four cross-cutting enabling functions that need to be pursued on a priority basis: intelligence collection and analysis on WMD, delivery systems, and related technologies; research and development to improve our ability to address evolving threats; bilateral and multilateral cooperation; and targeted strategies against hostile states and terrorists.

7. **Homeland Security Presidential Directive-5:** Management of Domestic Incidents, February 28, 2003, is intended to enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system. In HSPD-5 the President designates the Secretary of Homeland Security as the PFO for domestic incident management and empowers the Secretary to coordinate Federal resources used in response to or recovery from terrorist attacks, major disasters, or other emergencies in specific cases. The directive assigns specific responsibilities to the Attorney General, Secretary of Defense, Secretary of State, and the Assistants to the President for Homeland Security and National Security Affairs, and directs the heads of all Federal departments and agencies to provide their "full and prompt cooperation, resources, and support," as appropriate and consistent with their own responsibilities for protecting national security, to the Secretary of Homeland Security, Attorney General, Secretary of Defense, and Secretary of State in the exercise of leadership responsibilities and missions assigned in HSPD-5. The directive also notes that it does not alter, or impede the ability to carry out, the authorities of Federal departments and agencies to perform their responsibilities under law.

8. **Homeland Security Presidential Directive-6:** Integration and Use of Screening Information, Sept. 16, 2003. In order to protect against terrorism, this directive establishes the national policy to: (1) develop, integrate, and maintain thorough, accurate, and current information about individuals known or appropriately suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism (Terrorist Information); and (2) use that information as appropriate and to the full extent permitted by law to support (a) Federal, State, local, territorial, tribal, foreign-government, and private-sector screening processes, and (b) diplomatic, military, intelligence, law enforcement, immigration, visa, and protective processes.

9. **Homeland Security Presidential Directive-7:** Critical Infrastructure Identification, Prioritization, and Protection, Dec. 17, 2003. This directive establishes a national policy for Federal departments and agencies to identify and prioritize U.S. critical infrastructure and key resources and to protect them from terrorist attacks.

10. **Homeland Security Presidential Directive-8:** National Preparedness, Dec. 17, 2003. This directive establishes policies to strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies by requiring a national domestic all-hazards preparedness goal, establishing mechanisms for improved delivery of Federal preparedness assistance to State and local governments, and outlining actions to strengthen preparedness capabilities of Federal, State, and local entities.

11. **Homeland Security Presidential Directive-9:** Defense of United States Agriculture and Food, Jan. 30, 2004. This directive establishes a national policy to defend the agriculture and food system

against terrorist attacks, major disasters, and other emergencies.

12. **Homeland Security Presidential Directive-10:** Biodefense for the 21st Century, April 28, 2004. This directive provides a comprehensive framework for the Nation's biodefense and, among other things, delineates the roles and responsibilities of Federal agencies and departments in continuing their important work in this area.

13. **National Security Directive 42:** National Policy for the Security of National Security Telecommunications and Information Systems, July 5, 1990. This directive establishes initial objectives of policies, and an organizational structure to guide the conduct of activities to secure national security systems from exploitation; establishes a mechanism for policy development and dissemination; and assigns responsibilities for implementation.