



# FEMA

STATEMENT OF

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BEFORE  
THE

U.S. House of Representatives  
Committee on Financial Services  
Subcommittee on National Security, Illicit Finance, and International Financial Institutions

“Mission Critical: Restoring National Security as the Focus of Defense Production Act  
Reauthorization, Part II”

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Chairman Leutkemeyer, Ranking Member Beatty, and Members of the Subcommittee, thank you for this opportunity to discuss reauthorization of the nonpermanent provisions of the Defense Production Act and the importance of reauthorization to the promotion of the Nation's homeland security and emergency preparedness needs.

The Defense Production Act (DPA) is the primary source of Presidential authorities to expedite and expand the supply of materials and services needed to accomplish national defense priorities, including certain civil emergency preparedness and response priorities. Enacted in 1950, the DPA was Congress' response to the production shortages the Nation faced during the Korean War. Specifically, the DPA was intended to ensure that the federal government could efficiently channel industrial resources towards national defense priorities during times of crises. Since its enactment, Congress has consistently acknowledged the evolving importance of the DPA by reauthorizing its nonpermanent provisions over 50 times. Today—in addition to supporting Department of Defense programs—the DPA also affords critical authorities that the Department of Homeland Security and FEMA leverage in executing civil defense efforts that undergird disaster preparedness, disaster response, critical infrastructure protection and restoration, and counterterrorism enterprises.

## **REAUTHORIZATION OF EXPIRING PROVISIONS**

Along with other responsibilities to coordinate federal emergency preparedness and response activities, FEMA provides government-wide coordination and guidance for use of DPA authorities pursuant to Executive Order 13603, as delegated by the Secretary of Homeland Security. FEMA works with all relevant Federal agencies to ensure effective use and proper implementation of the DPA, to include awareness of the ability to incorporate the DPA in planning for emergencies.

Renewing the expiring DPA allows DHS and other Federal agencies to retain authorities critical to building national resilience through prioritizing contracts on resources necessary for emergency preparedness, critical infrastructure restoration or protection, or reducing risks associated with a terrorist attack. Additionally, the DPA provides a key ability to invest in growing the productive capacity of the domestic industrial base to ensure it can meet the needs of the national defense.

As noted, the priorities authority has gained increased importance for homeland security purposes. As with rated orders in support of military programs, rated orders for homeland security programs are used to ensure on-time performance when delays could place lives and property at greater risk. A priority rating is a form of insurance, which, while rarely invoked by the civil departments, is always present to ensure timely delivery of needed resources.

Ongoing or recent use of the priorities authority for various homeland security purposes include:

- Support for Coronavirus disease 2019 (COVID-19) response;
- Activities supporting the U.S. Forest Service Wildland Fire Protection Program;
- Activities supporting the Federal Aviation Administration's operation and regulation of the National Airspace System;
- Aircraft for the Coast Guard and Customs and Border Protection; and

- Activities supporting HHS’s Biodefense and Related Medical Countermeasures.

## HISTORICAL OVERVIEW OF THE DPA

**Origins and Development.** The DPA of 1950 was a response to widely held concern that the Korean conflict could escalate to a third world war with the Soviet Union. Recognizing the slow industrial build-up in the months following the North Korean invasion, the President issued Defense Mobilization Order No. 23 (Nov. 23, 1952) establishing the mobilization base concept. This policy asserted that the ability of the Nation to respond to crisis is directly related to a prepared, ready, and flexible industrial base. **It also emphasized, building upon well-tested policies dating back to World War I, that national mobilization is a civilian-managed enterprise.** Thus from 1952 to 1992 under the mobilization base concept, U.S. government agencies assigned extensive resources and established detailed procedures to maintain a state of domestic industrial preparedness to meet the Nation’s surge and mobilization requirements.

**Post-Cold War Adjustments** In 1992 with the end of the Cold War and the national consensus that there would be a “peace dividend,” the government pivoted to reliance on the competitive, global, commercial marketplace to satisfy its future material requirements over domestic mobilization. Across the interagency, the national mobilization programs dating back to the National Security Act of 1947 that provided a holistic civilian-military answer for harnessing the economic and industrial capacity of the United States for national security, were shuttered. This was further emphasized when Congress eliminated Section 107 of the National Security Act, Emergency Preparedness, in the Fiscal Year 2020 National Defense Authorization Act—the statute that had underpinned the overall coordination of the DPA with all aspects of mobilizing the Nation and was one of the primary authorities provided to FEMA at its creation in 1979.

## FEMA DPA HISTORY

When FEMA was established in 1979, one of its central functions was: “on behalf of the President, coordinate all mobilization activities of the executive branch of the Government, including all such activities relating to production, procurement, manpower, stabilization, and transport.”<sup>1</sup> Executive Order (E.O.) 10480 directed “every officer and agency of the Government having functions under the Defense Production Act of 1950, as amended (DPA)...[to] perform the said functions subject to the direction and control of the Director of the Federal Emergency Management Agency.”<sup>2</sup>

FEMA’s DPA responsibilities began at a time when the “national defense” scope of DPA authorities was limited to support for military, atomic energy, and space programs. Since 1994, several amendments to the DPA definition of “national defense” have expanded to meet emerging threats. The scope of DPA authorities now includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, critical infrastructure protection and restoration, homeland security, and certain energy supply chain applications.

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<sup>1</sup> Sec. 101 of E.O. 10480, as amended by sec. 5-201 of E.O. 12148, revoked by sec. 904 of E.O. 12919.

<sup>2</sup> Id.

FEMA's responsibilities to advise the President regarding DPA issues and to provide Government-wide coordination for DPA plans and programs are rooted in a conference report for the DPA.

“The conferees further assume that if the President makes extensive use of his powers under this title [Title I] he will designate an existing agency, or establish a new agency, to coordinate the activities of all Federal agencies under the bill.”<sup>3</sup>

E.O. 12919, which replaced E.O. 10480 in 1994, ended FEMA's “direction and control” role but reiterated FEMA's responsibilities to coordinate and provide guidance for use of the DPA authorities by federal departments and agencies. It also directed the FEMA Director to serve as an advisor to the National Security Council on issues of national security resource preparedness and on the use of DPA authorities and functions and to report to the President, periodically, regarding all industrial resource preparedness and DPA program activities.

FEMA's DPA responsibilities under E.O. 12919 were transferred to the Secretary of Homeland Security by the Homeland Security Act of 2002 and were delegated back to the FEMA Administrator in DHS Delegation Number 9001.1. These DPA responsibilities are now delegated to the Secretary in E.O. 13603, which replaced E.O. 12919 in 2012, and are re-delegated by the Secretary to the FEMA Administrator in Department of Homeland Security Delegation Number 09052.1.

## **FEMA'S ROLE AND RESPONSIBILITIES**

FEMA has been responsible for coordinating Executive Branch DPA functions since its creation in 1979.

In the current Executive Order 13603, FEMA, pursuant to a delegation from the Secretary, is directed to:

1. Advise the President on national defense resources preparedness;
2. Provide for the central coordination of plans and programs and provide guidance to other agencies;
3. Report to the President on DPA program activities; and
4. Chair the Defense Production Act Committee (DPAC).

The primary mechanism that FEMA uses to exercise the coordination responsibility is the Interagency Working Group (IWG). IWG examples include:

1. Developing a consistent and unified set of regulations to govern the Federal Priorities and Allocations System (FPAS).
2. Preparing for Defense Production Act Committee (DPAC) meetings.

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<sup>3</sup> House Rept. 81-3042 (Conference Report; Aug. 31, 1950) at 27. This responsibility was initially assigned to the Office of Defense Mobilization, which was established in the Executive Office of the President in 1950 and was transferred to the Federal Preparedness Agency before being transferred to FEMA in 1979.

3. Developing the annual reports to Congress for critical infrastructure/key resources and DPAC.
4. Coordinating DPA amendments in support of DPA re-authorization.

The domestic industrial and technological base is the foundation for national defense preparedness. Thus, the DHS Secretary must ensure that DHS can respond to the national defense needs of the United States. This responsibility for DHS plans and programs is amongst the many that have been delegated to the FEMA Administrator,<sup>4</sup> which include:

- (a) identifying requirements for the full spectrum of emergencies, including essential military and civilian demand;
- (b) assessing on an ongoing basis the capability of the domestic industrial and technological base to satisfy requirements in peacetime and times of national emergency, specifically evaluating the availability of the most critical resource and production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;
- (c) being prepared, in the event of a potential threat to the security of the United States, to take actions necessary to ensure the availability of adequate resources and production capability, including services and critical technology, for national defense requirements;
- (d) improving the efficiency and responsiveness of the domestic industrial base to support national defense requirements.

Since its establishment in 1979, FEMA has been at the forefront of administering the DPA, ensuring that the Act's broad and evolving mandates, from military preparedness to comprehensive civil emergency responses are effectively managed. This responsibility was envisaged by Congress in 1950 and has been reaffirmed through successive executive orders and legislative amendments that have expanded the scope of "national defense" beyond traditional military activities. FEMA's continued stewardship of the DPA underscores the necessity of maintaining a central, coordinating body that is adept at navigating the complexities of national crises and mobilizing the nation's industrial and technological base. As threats to national security become increasingly diverse and complex, FEMA's role is more vital than ever, ensuring that the DPA's capabilities are aligned with contemporary security needs and that the Act remains a cornerstone of national resilience and preparedness.

## **CURRENT STATE AND CHALLENGES**

Today, new and complex threats have arisen that could put a significant strain on our industrial response capability. This means that the response time for most contingencies is very short, and the industrial base is not as capable of supplying many critical emergency resource requirements.

The limited U.S manufacturing capacity and magnitude of global demand delayed a rapid industrial base response early in the COVID-19 crisis and revealed that we must continually reevaluate and strengthen our national manufacturing and supply chain strategies. This includes redefining what constitutes "national defense" within the scope of the DPA to encompass a broader range of threats. For example, the priorities and allocations authorities are available

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<sup>4</sup> Sec. 103 of Executive Order 13603 and DHS Delegation 09021.1

when they are deemed necessary or appropriate to promote the national defense, and voluntary agreements can be drafted if conditions exist that may pose a direct threat to the national defense. However, public health emergencies are not explicitly called out within the definition of “national defense.” This experience also emphasizes the need for stockpiles and faster governmental responses through streamlined DPA processes. Without substantive enhancements to the DPA and a commitment to bolstering our domestic production capabilities, we risk being unprepared for future crises of equal or greater magnitude. It is imperative that we learn from this experience and take decisive action to ensure our national resilience and security in an increasingly unpredictable global landscape.

As we consider the strategic direction for the reauthorization of the Defense Production Act, it is crucial to address the evolving landscape of national threats that transcend traditional military boundaries. Over several decades, there has been a logical expansion of the definition of “national defense” within the DPA to include comprehensive emergency preparedness and other national security concerns. Appropriate applications of DPA authorities are central to ensuring that the United States can swiftly mobilize and respond to a diverse array of threats with efficiency and precision. We must also ensure that robust controls and oversight mechanisms are in place to maintain accountability and prevent misuse of the authority.

FEMA stands ready to work with the committee, and our interagency partners, to ensure that the reauthorization of the DPA can meet the changing risk environment and to continue the promotion of the Nation’s homeland security and emergency preparedness needs.

Thank you and I look forward to answering your questions.