

NATIONAL RESPONSE FRAMEWORK
IMPROVEMENT ACT OF 2020

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4153

TO REQUIRE THE FEDERAL EMERGENCY MANAGEMENT AGENCY
TO EVALUATE THE NATIONAL RESPONSE FRAMEWORK BASED ON
LESSONS LEARNED FROM THE COVID-19 PANDEMIC, AND FOR
OTHER PURPOSES



DECEMBER 14, 2020.—Ordered to be printed

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NATIONAL RESPONSE FRAMEWORK IMPROVEMENT
ACT OF 2020

DECEMBER 14, 2020.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4153]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4153) to require the Federal Emergency Management Agency to evaluate the National Response Framework based on lessons learned from the COVID-19 pandemic, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute), and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 4153, the National Response Framework Improvement Act of 2020, requires the Federal Emergency Management Agency (FEMA) to provide continuous summaries on any gaps and inefficiencies of the Department of Homeland Security’s (DHS or the Department) National Response Framework (NRF) based on any lessons learned from the COVID-19 pandemic. Specifically, as part of the COVID-19 after-action review, FEMA must evaluate the NRF and include updates and recommendations based on the findings. FEMA is required to provide appropriate congressional committees a copy of, and a briefing on, each summary.

This bill also requires DHS to conduct biennial evaluations of the NRF, to assess any gaps and inefficiencies. Specifically, the evalua-

tions must also assess processes for interagency information-sharing and training programs. A notification will be provided to appropriate congressional committees after each evaluation.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Following the attacks on September 11, 2001, Congress passed the Homeland Security Act of 2002, which among other things, required the consolidation of emergency response plans and the development of a single, unified *Federal Response Plan* (FRP) to establish Federal agency guidelines for emergencies.¹ In recognition of the need for a detailed nationwide approach to emergency response efforts, on February 28, 2003, President George W. Bush issued the Homeland Security Presidential Directive 5 (HSPD-5).² The purpose of HSPD-5 was to “enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system.”³ DHS issued a successor to the FRP, called the *National Response Plan* (NRP).

The first time the NRP was used for a major catastrophic incident was immediately following the aftermath of Hurricane Katrina in August 2005.⁴ The implementation of the NRP and the plan itself drew significant criticism during the response to Hurricane Katrina. For example, some officials said the NRP was overly bureaucratic, too technical, and difficult to understand.⁵ Additionally, the name “National Response Plan” proved to be misleading because the NRP was not a step-by-step design or process but rather a report or framework.⁶ The identified challenges with the NRP led Congress to enact the Post-Katrina Management Reform Act in 2006,⁷ which resulted in DHS issuing an enhanced successor plan to the NRP entitled the *National Response Framework* (NRF).⁸

The NRF is intended as a comprehensive doctrine for a unified response from all levels of government to all types of hazards.⁹ The document defines the roles and responsibilities across the Federal, state, and local government for all phases of emergency management.¹⁰ In contrast to the NRP, the NRF uses flexible language that allows Federal agencies to use their discretion for how to respond to specific emergencies or hazards.¹¹ The NRF includes 15 Emergency Support Functions (ESF) Annexes that are more detailed frameworks for specific types of hazards.¹²

Some officials have raised concerns about the implementation and effectiveness of the NRF. For example, during Hurricanes Gustav and Ike, officials claimed they were unaware of responsibilities for the response; signifying the NRF still does not clearly articulate

¹ Homeland Security Act of 2002, Pub. L. No. 107-296 (2002).

² *Homeland Security Presidential Directive-5*, U.S. Dep’t of Homeland Sec. (Feb. 28, 2003), <https://www.dhs.gov/sites/default/files/publications/Homeland%20Security%20Presidential%20Directive%205.pdf>.

³ *Id.*

⁴ Bruce Lindsay, Cong. Research Serv., RL34758, *The National Response Framework: Overview and Possible Issues for Congress 3* (2008), <https://fas.org/sgp/crs/homesecc/RL34758.pdf>.

⁵ *Id.* at 6.

⁶ *Id.*

⁷ *Id.* at 3.

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 6.

roles and responsibilities during hazards or emergencies.¹³ Additionally, a report issued by the Department of Homeland Security’s Office of Inspector General found that FEMA did not adhere to certain principles outlined in the NRF during the response to Hurricane Ike.¹⁴ A report issued by the Congressional Research Service documented additional issues that should be addressed to improve the effectiveness of the NRF, including: 1) clarifying the roles of the Federal Coordinating Officer (FCO) and the Principle Federal Officer (PFO); 2) improving the ability to effectively integrate non-federal stakeholders such as, nonprofits and the private sector, in the response; 3) establishing a process for informing NRF users of modifications or changes to the framework; and 4) focusing on more frequently occurring emergency incidents.¹⁵

S. 4153, the National Response Framework Improvement Act of 2020, addresses potential shortcomings of the NRF amid the COVID–19 pandemic. The NRF has a long history in the emergency response space and has been adjusted for various national emergencies. Specifically, S. 4153 will improve emergency management protocols and help ensure best practices are used during future emergency responses based upon shortcomings identified from COVID–19 response and biennial evaluations of the NRF.

III. LEGISLATIVE HISTORY

Chairman Ron Johnson introduced S. 4153 on July 2, 2020. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4153 at a business meeting on July 22, 2020. Chairman Johnson offered a substitute amendment that required FEMA to provide rolling summaries on any gaps or inefficiencies in the NRF based on the response to the COVID–19 pandemic. Additionally, the substitute amendment requires FEMA to conduct biennial evaluations to assess any potential general gaps or inefficiencies in the NRF.

The substitute amendment and the bill, as amended, were approved by voice vote en bloc and the bill was reported favorably. Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, and Rosen were present for the votes.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section provides the bill’s short title, the “National Response Framework Improvement Act of 2020”.

Section 2. Rolling Summaries of the National Response Framework

Subsection (a) directs the FEMA Administrator to provide at least one summary to the Senate Homeland Security and Governmental Affairs Committee and House Committee on Homeland Se-

¹³*The National Response Framework: Overview and Possible Issues for Congress*, EveryCRSReport.com, [\(https://www.everycrsreport.com/reports/RL34758.html#:~:text=The%20primary%20purpose%20of%20the,\(P.L.%20107%2D296\)](https://www.everycrsreport.com/reports/RL34758.html#:~:text=The%20primary%20purpose%20of%20the,(P.L.%20107%2D296)) (last updated Jan. 21, 2011).

¹⁴*FEMA’s Response to Hurricane Ike*, DHS Office of the Inspector Gen. (June 11, 2009), https://www.dhs.gov/xoig/assets/mgmttrpts/OIG_09_78_June09.pdf.

¹⁵See *supra* note 13.

curity that details any gaps or inefficiencies within the NRF based on the response to COVID–19 within 180 days following this bill’s enactment. Additional summaries of any gaps or inefficiencies identified can also be provided subsequently.

Subsection (b) requires that FEMA’s after-action review process of the COVID–19 pandemic include an evaluation of the NRF to determine gaps and inefficiencies, and must include necessary updates to the NRF that are to be determined by the FEMA Administrator in coordination with emergency support functions based on identified inefficiencies.

Section 3. Required briefings

This section requires the FEMA Administrator to brief the Senate Homeland Security and Governmental Affairs Committee and House Committee on Homeland Security on each of the rolling summaries made pursuant to section 2(a) within one year after the summary is provided.

Section 4. Biennial evaluations

Subsection (a) amends Section 509(b) of the Homeland Security Act of 2002 by requiring that the NRF be evaluated every two years to identify potential gaps and inefficiencies. The evaluations will also assess interagency information sharing processes across emergency support functions during incidents in which emergency support functions are activated under the NRF. The evaluation conducted will also include recommendations on ways to improve information sharing processes and will be provided to heads of emergency support function agencies. Additionally, the FEMA Administrator must determine what modifications are necessary to improve information sharing processes, which will result in updates made to the NRF. The evaluation must also assess training programs for emergency support functions and provide recommendations to the emergency support function agencies for ways to improve training programs. Lastly, Section 509(b) is amended to include congressional notification of the completion of the evaluation in which the Administrator acting through the National Integration Center will provide notice to appropriate congressional committees.

Subsection (b) clarifies that the COVID–19 pandemic response after-action evaluation (as established in section 2(b)(3)) can fulfill the biennial evaluation requirement if the after-action review evaluation is completed within two years following the bill’s enactment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

CBO failed to provide the Committee with a cost estimate in time for the final reporting deadline of the 116th Congress.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

**TITLE V: NATIONAL EMERGENCY
MANAGEMENT**

* * * * *

SEC. 509. NATIONAL INTEGRATION CENTER.

(a) * * *

(b) * * *

(1) * * *

(2) * * *

(A) * * *

(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; **[and]**

(C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident**[.]**; *and*

(D) *not less frequently than once every 2 years—*

(i) evaluating potential gaps and inefficiencies in the National Response Framework, including by evaluating the processes for collecting and sharing information across the emergency support function coordinators, primary agencies, and support agencies during an incident for which the emergency support functions are activated under the National Response Framework;

(ii) providing recommendations to the heads of the emergency support function coordinators, primary agencies, and support agencies for how to improve processes described in clause (i);

(iii) updating the National Response Framework to account for new information collection and sharing processes that result from the evaluation and recommendations under clauses (i) and (ii), including by modifying any previously incorporated processes if the Administrator determines such modifications are necessary to ensure efficient communication and information sharing;

(iv) conducting an assessment of the training programs for emergency support function coordinators, primary agencies, and support agencies; and

(v) providing recommendations to the heads of the emergency support function coordinators, primary agencies, and support agencies of emergency support functions for how to improve the training programs described in clause (iv).

(3) CONGRESSIONAL NOTIFICATION.—Not later than 30 days after the date on which the Administrator, acting through the National Integration Center, completes an evaluation required under paragraph 2(D), the Administrator shall provide written notice to the appropriate congressional committees.

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