



Secure the Grid Coalition
A Project of the Center for Security Policy
2020 Pennsylvania Avenue, N.W., Suite 189
Washington, D.C. 20006

Mason Clutter, Chief Privacy Officer/Chief FOIA Officer

October 17, 2023

Privacy Office, Mail Stop 0655
Department of Homeland Security
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065

VIA E-mail: foia@hq.dhs.gov

Subject: Request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552

Dear Mr. Clutter:

We request records under the Freedom of Information Act, which are described below. We also request a fee waiver as we have no commercial interest in the described records, and it is in the public interest for the Department of Homeland Security (DHS) to disclose these records.

Description of records sought:

We seek all records relating to DHS's responsibilities under the below sections of the National Defense Authorization Act for Fiscal Year 2017 (NDAA) and the National Defense Authorization Act (NDAA) for Fiscal Year 2020:

1. NDAA FY2020 Section 1740 "Electromagnetic Pulses and Geomagnetic Disturbances." This section requires several reports and briefings. We request all documents related to these requirements. A copy of Section 1740 of the NDAA for FY2020 is attached for reference.
2. NDAA FY2017 Section 1913 "EMP and GMD Planning, Research and Development, and Protection and Preparedness." This section requires several reports and briefings. We request all documents related to these requirements. A copy of Section 1913 of the NDAA for FY2017 is attached for reference.

Request for Waiver of Fees:

The Secure the Grid Coalition is a project of the Center for Security Policy. The Center for Security Policy is a 501(c)(3) non-profit national security think tank focused on securing America's founding principles and freedom through forthright national security analysis and policy solutions. We accept no funding from the government or any special interest group, nor from advertising on our website. We derive no revenue from writing or posting our research articles. We have no commercial interest in these records and will use these records in research and information dissemination to the public and for the public interest.

A handwritten signature in black ink, appearing to read "Thomas J. Waller Jr.", is written over a light blue horizontal line.

Lt. Col. Thomas J. Waller Jr. (USMC, Ret.)
Co-Director, Secure the Grid Coalition
President & CEO, Center for Security Policy

Attachments:

1. NDAA FY2020 Section 1740
2. NDAA FY2017 Section 1913

Attachment 1. NDAA FY2020 Section 1740

S. 1790—624

SEC. 1740. ELECTROMAGNETIC PULSES AND GEOMAGNETIC DISTURBANCES.

(a) EMP AND GMD MITIGATION RESEARCH AND DEVELOPMENT.—

(1) THREAT ASSESSMENT, RESPONSE, AND RECOVERY.—Section 320 of the Homeland Security Act of 2002 (6 U.S.C. 195f) is amended—

(A) in the section heading, by inserting “AND THREAT ASSESSMENT, RESPONSE, AND RECOVERY” after “DEVELOPMENT”; and

(B) by adding at the end the following:

“(d) THREAT ASSESSMENT, RESPONSE, AND RECOVERY.—

“(1) ROLES AND RESPONSIBILITIES.—

“(A) DISTRIBUTION OF INFORMATION.—

“(i) IN GENERAL.—Beginning not later than June 19, 2020, the Secretary shall provide timely distribution of information on EMPs and GMDs to Federal, State, and local governments, owners and operators of critical infrastructure, and other persons determined appropriate by the Secretary.

“(ii) BRIEFING.—The Secretary shall brief the appropriate congressional committees on the effectiveness of the distribution of information under clause (i).

“(B) RESPONSE AND RECOVERY.—

“(i) IN GENERAL.—The Administrator of the Federal Emergency Management Agency shall—

“(I) coordinate the response to and recovery from the effects of EMPs and GMDs on critical infrastructure, in coordination with the heads of appropriate Sector-Specific Agencies, and on matters related to the bulk power system, in consultation with the Secretary of Energy and the Federal Energy Regulatory Commission; and

“(II) to the extent practicable, incorporate events that include EMPs and extreme GMDs as a factor in preparedness scenarios and exercises.

“(ii) IMPLEMENTATION.—The Administrator of the Federal Emergency Management Agency, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, and on matters related to the bulk power system, the Secretary of Energy and the Federal Energy Regulatory Commission, shall—

“(I) not later than June 19, 2020, develop plans and procedures to coordinate the response to and recovery from EMP and GMD events; and

“(II) not later than December 21, 2020, conduct a national exercise to test the preparedness and response of the Nation to the effect of an EMP or extreme GMD event.

“(C) RESEARCH AND DEVELOPMENT.—

“(i) IN GENERAL.—The Secretary, in coordination with the heads of relevant Sector-Specific Agencies, shall—

“(I) without duplication of existing or ongoing efforts, conduct research and development to better understand and more effectively model the effects

of EMPs and GMDs on critical infrastructure (which shall not include any system or infrastructure of the Department of Defense or any system or infrastructure of the Department of Energy associated with nuclear weapons activities); and

“(II) develop technologies to enhance the resilience of and better protect critical infrastructure.

“(ii) PLAN.—Not later than March 26, 2020, and in coordination with the heads of relevant Sector-Specific Agencies, the Secretary shall submit to the appropriate congressional committees a research and development action plan to rapidly address modeling shortfall and technology development.

“(D) EMERGENCY INFORMATION SYSTEM.—

“(i) IN GENERAL.—The Administrator of the Federal Emergency Management Agency, in coordination with relevant stakeholders, shall maintain a network of systems, such as the alerting capabilities of the integrated public alert and warning system authorized under section 526, that are capable of providing appropriate emergency information to the public before (if possible), during, and in the aftermath of an EMP or GMD.

“(ii) BRIEFING.—Not later than December 21, 2020, the Administrator of the Federal Emergency Management Agency, shall brief the appropriate congressional committees regarding the maintenance of systems, including the alerting capabilities of the integrated public alert and warning system authorized under section 526.

“(E) QUADRENNIAL RISK ASSESSMENTS.—

“(i) IN GENERAL.—The Secretary, in coordination with the Secretary of Defense, the Secretary of Energy, and the Secretary of Commerce, and informed by intelligence-based threat assessments, shall conduct a quadrennial EMP and GMD risk assessment.

“(ii) BRIEFINGS.—Not later than March 26, 2020, and every four years thereafter until 2032, the Secretary, the Secretary of Defense, the Secretary of Energy, and the Secretary of Commerce shall provide a briefing to the appropriate congressional committees regarding the quadrennial EMP and GMD risk assessment.

“(iii) ENHANCING RESILIENCE.—The Secretary, in coordination with the Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, and the heads of other relevant Sector-Specific Agencies, shall use the results of the quadrennial EMP and GMD risk assessments to better understand and to improve resilience to the effects of EMPs and GMDs across all critical infrastructure sectors, including coordinating the prioritization of critical infrastructure at greatest risk to the effects of EMPs and GMDs.

“(2) COORDINATION.—

“(A) REPORT ON TECHNOLOGICAL OPTIONS.—Not later than December 21, 2020, and every four years thereafter until 2032, the Secretary, in coordination with the Secretary of Defense, the Secretary of Energy, the heads of

other appropriate agencies, and, as appropriate, private-sector partners, shall submit to the appropriate congressional committees, a report that—

“(i) assesses the technological options available to improve the resilience of critical infrastructure to the effects of EMPs and GMDs; and

“(ii) identifies gaps in available technologies and opportunities for technological developments to inform research and development activities.

“(B) TEST DATA.—

“(i) IN GENERAL.—Not later than December 20, 2020, the Secretary, in coordination with the heads of Sector-Specific Agencies, the Secretary of Defense, and the Secretary of Energy, shall—

“(I) review test data regarding the effects of EMPs and GMDs on critical infrastructure systems, networks, and assets representative of those throughout the Nation; and

“(II) identify any gaps in the test data.

“(ii) PLAN.—Not later than 180 days after identifying gaps in test data under clause (i), the Secretary, in coordination with the heads of Sector-Specific Agencies and in consultation with the Secretary of Defense and the Secretary of Energy, shall use the sector partnership structure identified in the National Infrastructure Protection Plan to develop an integrated cross-sector plan to address the identified gaps.

“(iii) IMPLEMENTATION.—The heads of each agency identified in the plan developed under clause (ii) shall implement the plan in collaboration with the voluntary efforts of the private sector, as appropriate.

“(3) DEFINITIONS.—In this subsection:

“(A) The term ‘appropriate congressional committees’ means—

“(i) the Committee on Homeland Security and Governmental Affairs, the Committee on Armed Services, the Committee on Energy and Natural Resources, and the Committee on Commerce, Science, and Transportation of the Senate; and

“(ii) the Committee on Transportation and Infrastructure, the Committee on Homeland Security, the Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Science, Space and Technology of the House of Representatives.

“(B) The terms ‘prepare’ and ‘preparedness’ mean the actions taken to plan, organize, equip, train, and exercise to build and sustain the capabilities necessary to prevent, protect against, mitigate the effects of, respond to, and recover from those threats that pose the greatest risk to the security of the homeland, including the prediction and notification of impending EMPs and GMDs.

“(C) The term ‘Sector-Specific Agency’ has the meaning given that term in section 2201.

“(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed—

“(1) to affect in any manner the authority of the executive branch to implement Executive Order 13865, dated March 26,

2019, and entitled ‘Coordinating National Resilience to Electromagnetic Pulses’, or any other authority existing on the day before the date of enactment of this subsection of any other component of the Department or any other Federal department or agency, including the authority provided to the Sector-Specific Agency specified in section 61003(c) of division F of the Fixing America’s Surface Transportation Act (6 U.S.C. 121 note), including the authority under section 215 of the Federal Power Act (16 U.S.C. 824o), and including the authority of independent agencies to be independent; or

“(2) as diminishing or transferring any authorities vested in the Administrator of the Federal Emergency Management Agency or in the Agency prior to the date of the enactment of this subsection.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections in section 1(b) of the Homeland Security Act of 2002 is amended by striking the item relating to section 320 and inserting the following:

“Sec. 320. EMP and GMD mitigation research and development and threat assessment, response, and recovery.”.

(b) CONSULTATION WITH SECRETARY OF ENERGY IN PREPARATION OF QUADRENNIAL HOMELAND SECURITY REVIEW.—Section 707 of the Homeland Security Act of 2002 (6 U.S.C. 347) is amended—

(1) in subsection (a)(3)(A), by inserting “the Secretary of Energy,” after “the Secretary of Agriculture”; and

(2) in subsection (c)(2)(B), by inserting after review the following “or for purposes of the quadrennial EMP and GMD risk assessment under section 320(d)(1)(E)”.

(c) NATIONAL ESSENTIAL FUNCTIONS.—

(1) UPDATED OPERATIONAL PLANS.—Not later than March 20, 2020, each agency that supports a national essential function shall prepare updated operational plans documenting the procedures and responsibilities of the agency relating to preparing for, protecting against, and mitigating the effects of EMPs and GMDs.

(2) DEFINITION OF NATIONAL ESSENTIAL FUNCTION.—In this subsection, the term “national essential functions” means the overarching responsibilities of the Federal Government to lead and sustain the Nation before, during, and in the aftermath of a catastrophic emergency, such as an EMP or GMD that adversely affects the performance of the Federal Government.

(d) BENCHMARKS.—Not later than March 26, 2020, and as appropriate thereafter, the Secretary of Energy, in consultation with the Secretary of Defense, the Secretary of Homeland Security, and, as appropriate, the private sector, may develop or update, as necessary, quantitative and voluntary benchmarks that sufficiently describe the physical characteristics of EMPs, including waveform and intensity, in a form that is useful to and can be shared with owners and operators of critical infrastructure. Nothing in this subsection shall affect the authority of the Electric Reliability Organization to develop and enforce, or the authority of the Federal Energy Regulatory Commission to approve, reliability standards.

(e) PILOT TEST BY DHS TO EVALUATE ENGINEERING APPROACHES.—

(1) IN GENERAL.—Not later than September 22, 2020, the Secretary of Homeland Security, acting through the Under

Secretary for Science and Technology of the Department of Homeland Security, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency and the Administrator of the Federal Emergency Management Agency, the Secretary of Defense, and the Secretary of Energy, and in consultation with the private sector, as appropriate, shall develop and implement a pilot test to evaluate available engineering approaches for mitigating the effects of EMPs and GMDs on the most vulnerable critical infrastructure systems, networks, and assets.

(2) BRIEFING.—Not later than 90 days after the date on which the pilot test described in paragraph (1) is completed, the Secretary of Homeland Security, acting through the Under Secretary for Science and Technology of the Department of Homeland Security, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency and the Administrator of the Federal Emergency Management Agency, the Secretary of Defense, and the Secretary of Energy, shall jointly brief the appropriate congressional committees on the cost and effectiveness of the evaluated approaches.

(f) PILOT TEST BY DOD TO EVALUATE ENGINEERING APPROACHES.—

(1) IN GENERAL.—Not later than September 22, 2020, the Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Energy, shall conduct a pilot test to evaluate engineering approaches for hardening a strategic military installation, including infrastructure that is critical to supporting that installation, against the effects of EMPs and GMDs.

(2) REPORT.—Not later than 180 days after completing the pilot test described in paragraph (1), the Secretary of Defense shall submit to the appropriate congressional committees a report regarding the cost and effectiveness of the evaluated approaches.

(g) COMMUNICATIONS OPERATIONAL PLANS.—Not later than December 21, 2020, the Secretary of Homeland Security, after holding a series of joint meetings with the Administrator of the Federal Emergency Management Agency, the Director of the Cybersecurity and Infrastructure Security Agency, the Secretary of Defense, the Under Secretary of Commerce for Standards and Technology, the Assistant Secretary of Commerce for Communications and Information, the Federal Communications Commission, and the Secretary of Transportation, shall submit to the appropriate congressional committees a report—

(1) assessing the effects of EMPs and GMDs on critical communications infrastructure; and

(2) recommending any necessary changes to operational plans to enhance national response and recovery efforts after an EMP or GMD.

(h) DEFINITIONS.—In this section:

(1) The term “appropriate congressional committees” has the meaning given that term in subsection (d) of section 320 of the Homeland Security Act of 2002, as added by subsection (a) of this section; and

(2) The terms “critical infrastructure”, “EMP”, and “GMD” have the meanings given such terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

- “(D) Engagement with international cybersecurity partners.
- “(c) CONSIDERATIONS.—In developing the strategy required under subsection (a), the Secretary shall—
- “(1) consider—
- “(A) the cybersecurity strategy for the Homeland Security Enterprise published by the Secretary in November 2011;
- “(B) the Department of Homeland Security Fiscal Years 2014–2018 Strategic Plan; and
- “(C) the most recent Quadrennial Homeland Security Review issued pursuant to section 707; and
- “(2) include information on the roles and responsibilities of components and offices of the Department, to the extent practicable, to carry out such strategy.
- “(d) IMPLEMENTATION PLAN.—Not later than 90 days after the development of the strategy required under subsection (a), the Secretary shall issue an implementation plan for the strategy that includes the following:
- “(1) Strategic objectives and corresponding tasks.
- “(2) Projected timelines and costs for such tasks.
- “(3) Metrics to evaluate performance of such tasks.
- “(e) CONGRESSIONAL OVERSIGHT.—The Secretary shall submit to Congress for assessment the following:
- “(1) A copy of the strategy required under subsection (a) upon issuance.
- “(2) A copy of the implementation plan required under subsection (d) upon issuance, together with detailed information on any associated legislative or budgetary proposals.
- “(f) CLASSIFIED INFORMATION.—The strategy required under subsection (a) shall be in an unclassified form but may contain a classified annex.
- “(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed as permitting the Department to engage in monitoring, surveillance, exfiltration, or other collection activities for the purpose of tracking an individual’s personally identifiable information.
- “(h) DEFINITION.—In this section, the term ‘Homeland Security Enterprise’ means relevant governmental and nongovernmental entities involved in homeland security, including Federal, State, local, and tribal government officials, private sector representatives, academics, and other policy experts.”
- (b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 228 the following new item:
- “Sec. 228A. Cybersecurity strategy.”.

SEC. 1913. EMP AND GMD PLANNING, RESEARCH AND DEVELOPMENT, AND PROTECTION AND PREPAREDNESS.

- (a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—
- (1) in section 2 (6 U.S.C. 101)—
- (A) by redesignating paragraphs (9) through (18) as paragraphs (11) through (20), respectively;
- (B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively;
- (C) by inserting after paragraph (6) the following new paragraph:

“(7) The term ‘EMP’ means an electromagnetic pulse caused by a nuclear device or nonnuclear device, including such a pulse caused by an act of terrorism.”; and

(D) by inserting after paragraph (9), as so redesignated, the following new paragraph:

“(10) The term ‘GMD’ means a geomagnetic disturbance caused by a solar storm or another naturally occurring phenomenon.”;

(2) in subsection (d) of section 201 (6 U.S.C. 121), by adding at the end the following new paragraph:

“(26)(A) Not later than six months after the date of the enactment of this paragraph, to conduct an intelligence-based review and comparison of the risks and consequences of EMP and GMD facing critical infrastructure, and submit to the Committee on Homeland Security and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate—

“(i) a recommended strategy to protect and prepare the critical infrastructure of the homeland against threats of EMP and GMD; and

“(ii) not less frequently than every two years thereafter for the next six years, updates of the recommended strategy.

(B) The recommended strategy under subparagraph (A) shall—

“(i) be based on findings of the research and development conducted under section 319;

“(ii) be developed in consultation with the relevant Federal sector-specific agencies (as defined under Presidential Policy Directive-21) for critical infrastructure;

“(iii) be developed in consultation with the relevant sector coordinating councils for critical infrastructure;

“(iv) be informed, to the extent practicable, by the findings of the intelligence-based review and comparison of the risks and consequences of EMP and GMD facing critical infrastructure conducted under subparagraph (A); and

“(v) be submitted in unclassified form, but may include a classified annex.

(C) The Secretary may, if appropriate, incorporate the recommended strategy into a broader recommendation developed by the Department to help protect and prepare critical infrastructure from terrorism, cyber attacks, and other threats if, as incorporated, the recommended strategy complies with subparagraph (B).”;

(3) in title III (6 U.S.C. 181 et seq.), by adding at the end the following new section:

“SEC. 319. EMP AND GMD MITIGATION RESEARCH AND DEVELOPMENT. 6 USC 195f.

“(a) IN GENERAL.—In furtherance of domestic preparedness and response, the Secretary, acting through the Under Secretary for Science and Technology, and in consultation with other relevant executive agencies, relevant State, local, and tribal governments, and relevant owners and operators of critical infrastructure, shall,

to the extent practicable, conduct research and development to mitigate the consequences of threats of EMP and GMD.

“(b) SCOPE.—The scope of the research and development under subsection (a) shall include the following:

“(1) An objective scientific analysis—

“(A) evaluating the risks to critical infrastructure from a range of threats of EMP and GMD; and

“(B) which shall—

“(i) be conducted in conjunction with the Office of Intelligence and Analysis; and

“(ii) include a review and comparison of the range of threats and hazards facing critical infrastructure of the electrical grid.

“(2) Determination of the critical utilities and national security assets and infrastructure that are at risk from threats of EMP and GMD.

“(3) An evaluation of emergency planning and response technologies that would address the findings and recommendations of experts, including those of the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack, which shall include a review of the feasibility of rapidly isolating one or more portions of the electrical grid from the main electrical grid.

“(4) An analysis of technology options that are available to improve the resiliency of critical infrastructure to threats of EMP and GMD, including an analysis of neutral current blocking devices that may protect high-voltage transmission lines.

“(5) The restoration and recovery capabilities of critical infrastructure under differing levels of damage and disruption from various threats of EMP and GMD, as informed by the objective scientific analysis conducted under paragraph (1).

“(6) An analysis of the feasibility of a real-time alert system to inform electrical grid operators and other stakeholders within milliseconds of a high-altitude nuclear explosion.

“(c) EXEMPTION FROM DISCLOSURE.—

“(1) INFORMATION SHARED WITH THE FEDERAL GOVERNMENT.—Section 214, and any regulations issued pursuant to such section, shall apply to any information shared with the Federal Government under this section.

“(2) INFORMATION SHARED BY THE FEDERAL GOVERNMENT.—Information shared by the Federal Government with a State, local, or tribal government under this section shall be exempt from disclosure under any provision of State, local, or tribal freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring the disclosure of information or records.”; and

(4) in title V (6 U.S.C. 311 et seq.), by adding at the end the following new section:

6 USC 321p.

“SEC. 527. NATIONAL PLANNING AND EDUCATION.

“The Secretary shall, to the extent practicable—

“(1) include in national planning frameworks the threat of an EMP or GMD event; and

“(2) conduct outreach to educate owners and operators of critical infrastructure, emergency planners, and emergency

response providers at all levels of government regarding threats of EMP and GMD.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended—

(A) by inserting after the item relating to section 317 the following new item:

“Sec. 319. EMP and GMD mitigation research and development.”; and

(B) by inserting after the item relating to section 525 the following:

“Sec. 526. Integrated Public Alert and Warning System modernization.

“Sec. 527. National planning and education.”.

(2) Section 501(13) of the Homeland Security Act of 2002 (6 U.S.C. 311(13)) is amended by striking “section 2(11)(B)” and inserting “section 2(13)(B)”.

(3) Section 712(a) of title 14, United States Code, is amended by striking “section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))” and inserting “section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)”.

(c) DEADLINE FOR INITIAL RECOMMENDED STRATEGY.—Not later than one year after the date of the enactment of this section, the Secretary of Homeland Security shall submit the recommended strategy required under paragraph (26) of section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)), as added by this section.

6 USC 121 note.

(d) REPORT.—Not later than 180 days after the date of the enactment of this section, the Secretary of Homeland Security shall submit to Congress a report describing the progress made in, and an estimated date by which the Department of Homeland Security will have completed—

(1) including threats of EMP and GMD (as those terms are defined in section 2 of the Homeland Security Act of 2002, as amended by this section) in national planning, as described in section 527 of the Homeland Security Act of 2002, as added by this section;

(2) research and development described in section 319 of the Homeland Security Act of 2002, as added by this section;

(3) development of the recommended strategy required under paragraph (26) of section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)), as added by this section; and

(4) beginning to conduct outreach to educate emergency planners and emergency response providers at all levels of government regarding threats of EMP and GMD events.

(e) NO REGULATORY AUTHORITY.—Nothing in this section, including the amendments made by this section, shall be construed to grant any regulatory authority.

6 USC 101 note.

(f) NO NEW AUTHORIZATION OF APPROPRIATIONS.—This section, including the amendments made by this section, may be carried out only by using funds appropriated under the authority of other laws.