



July 8, 2013

Lisa Barr
Office of Strategy and Policy
National Infrastructure Protection and Programs Directorate
U.S. Department of Homeland Security
245 Murray Lane SW
Mail Stop 8530
Washington, DC 20528-0075

RE: DEPARTMENT OF HOMELAND SECURITY/Docket No. DHS-2013-0024 - Comments on the Review and Revision of the National Infrastructure Protection Plan

Dear Ms. Barr:

The National Association of State Energy Officials (NASEO) respectfully submits the following comments in response to the June 6, 2013, Federal Register notice regarding the U.S. Department of Homeland Security's review and revision of the National Infrastructure Protection Plan (NIPP). NASEO - the only national non-profit association for the 56 Governor-designated energy officials from each state and territory - was an active participant in the development of the original NIPP issued in 2006 and the subsequent 2009 update. Following the completion of the original NIPP, NASEO worked closely with the U.S. Department of Energy (DOE) on the development and implementation of the Energy Sector Specific Plan (SSP).

Since its inception in 1986, NASEO has supported the State and Territory Energy Offices' development of energy assurance plans, which address energy emergency preparedness and response, risk and vulnerability assessment and mitigation, and infrastructure protection and resiliency. NASEO appreciates the opportunity to provide comments on the NIPP update and believes this is an important effort that should build on the work and lessons learned since the development of the original NIPP.

General Comment: Incorporate State Expertise and Capability

NASEO has a general comment related to incorporating state sector expertise and capabilities into the NIPP. The genesis of most of the State Energy Offices was the Oil Embargo in 1973, and as such, they have been leading energy supply, disruption, planning, mitigation, and response measures and related policies and programs for nearly 40 years. In 1990, the Energy Policy and Conservation Act, Section 363, 42 U.S.C. 6322(e), was amended by the State Energy Efficiency Programs Improvement Act of 1990 to require the submission of an energy emergency plan as a mandatory criteria for receiving financial assistance for energy conservation planning:

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*“To be eligible for financial assistance to assist in the development and implementation of energy conservation plans, a State must submit to the Secretary of Energy, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption as designated by the State consistent with applicable Federal and State law. The contingency plan ... shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies.”*

In response to this requirement, NASEO has worked with DOE for decades to support state planning efforts through technical assistance, energy assurance exercises, topical workshops, and national conferences. In 2009, the states received energy assurance planning grant funding under the Recovery Act from the DOE’s Office of Electricity Delivery and Energy Reliability. The State Energy Offices administered these grants under a multi-year effort aimed at improving the states’ capabilities to respond to energy supply disruptions and enhance the resiliency of the nation’s energy infrastructure and considerable progress has been made in this area in the last four years.

In order for the NIPP to be effective, NASEO recommends that the partnership between, state, local, territorial, tribal, and federal governments and the private sector be recognized. State policies, programs, and regulatory practices foster public and private investment that enhances the security and resiliency of the nation’s critical infrastructure. When a disaster strikes, states are on the front line and need to be prepared to ensure a coordinated and rapid response to minimize human and economic consequences and return more rapidly to normal, or near normal, conditions. The State Energy Offices and Public Utility Commissions are often responsible for Emergency Support Function (ESF) – 12 Energy. In recent years, this responsibility and related policy and program efforts have expanded to include public and private cybersecurity concerns as well. The states’ expertise and capability must be addressed within the NIPP to ensure a robust plan to ensure a resilient energy system.

#### **Response to the Issues to be Addressed in the Successor to the NIPP**

Changes to the sectors and designated Sector Specific Agencies (SSAs). NASEO supports the changes made by PPD–21 to combine the sectors and stresses the importance of having DOE remain as the SSA for the energy sector. DOE has done an outstanding job of supporting states’ energy assurance efforts and has worked closely with the states to build and expand state capabilities to work with the private energy sector in support of the goals of the NIPP and Energy SSP.

Changes in Terminology and Alignment and with Presidential Policy Directive 8. NASEO supports the changes in terminology and the use of “critical infrastructure security and resilience” in place of “critical infrastructure protection”. NASEO believes this modification places an appropriate emphasis on enhancing the capacity to respond effectively to disruptive events and, in longer-term efforts, to reduce risk through investments that enhance resiliency. Also, the change in terminology clarifies the definition of “security” in this context to apply to all hazards where resiliency was among the overall objectives and not just the threat of terrorism.

Updates to information-sharing tools and mechanisms. NASEO believes that communication in the sharing of information has significantly improved; however, there is room for further progress. The concerns most often expressed by the private sector focus on the importance of ensuring that sensitive information is legally and physically protected both at the federal and state level. The challenges of determining what information is appropriate and actionable to share, and with whom, continues to present challenges. DHS and state fusion centers need to recognize the important role state-level sector specific agencies play in not only providing information, but also improving how information is shared at the state level among state agencies. In many states there is a good working relationship between the homeland

security, emergency management, and energy agencies, while in other states those relationships need to be strengthened. It is important that the successor to the NIPP adequately address the importance of information sharing between local, state, tribal and federal governments and within sector specific state agencies, which have legal and regulatory responsibilities.

Critical infrastructure security and resilience regulatory programs. The federal government's role should be to assure and eliminate any conflicting regulatory requirements that might exist between efforts in support of our national infrastructure security and resiliency and other federal regulatory requirements. The federal government can play an important role to ensure the consistency and coordination among federal agencies in the implementation of the NIPP.

Updates on measurement and reporting and risk-informed resource allocation. NASEO believes metrics are needed, but urges metrics that are not overly burdensome. Metrics should include the ability to quantify and justify the benefits of the investment made in risk reduction to society. For example, the Electric Power Research Institute estimated the cost of power disturbances across all business sectors in the United States at between \$104 billion and \$164 billion a year as a result of outages and another \$15 billion to \$24 billion due to power quality (PQ) phenomena<sup>1</sup>. In the same study, EPRI concluded that beyond the investment to meet electric load growth, the estimated net investment needed to realize the envisioned power delivery system of the future over the next 20 years is between \$338 and \$476 billion with the benefits ranging from \$1.2 to \$2 trillion with a benefit-to-cost ratio range of 2.8 to 6.0. Another independent study shows that “*money spent on reducing the risk of natural hazards is a sound investment. On average, a dollar spent by FEMA on hazard mitigation (actions to reduce disaster losses) saves the nation about \$4 in future benefits.*”<sup>2</sup> There are other examples that broadly demonstrate the value of the actions taken to improve the nation's capacity to build resilient infrastructure that should be considered as part of the discussion around metrics to be developed. Further, the sector annual reports are another valuable resource on progress made, however the details by sector were not always shared publicly or were rolled up to such a high level that the value seen in the details was lost.

Closer integration of physical and cybersecurity. Since 9/11, there has been considerable effort placed on physical systems, and while such efforts should continue, an additional focus on cyber security is critical. NASEO believes that both state energy policy and regulatory agencies (i.e., State Energy Offices and Public Utility Commissions) should be engaged in addressing cyber security threats and working with the private energy sector on mitigation efforts. Consideration of cybersecurity needs to be a standard element in the deployment of computer systems used to support and operate energy delivery systems, renewable energy systems, and energy efficiency initiatives. In fiscal year 2012, companies reported 198 cyber incidents to DHS's Industrial Control Systems Cyber Emergency Response Team, more than 40% of which were directed against companies operating in the energy sector. Efforts to address this in the private sector and at the local, state, tribal, and federal government levels are needed, and the successor to the NIPP should clearly define the roles and responsibilities of both the public and private sector partners.

Review of the risk management approach. The NIPP's risk management framework does not need significant conceptual changes; however, NASEO suggests a shift in how the framework is implemented. Initial efforts by DHS focused on an approach to identify critical infrastructure based on capacity, size, and other similar criteria. Subsequently the effort shifted focus to look at economic and human

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<sup>1</sup> Estimating the Costs and Benefits of the Smart Grid -- A Preliminary Estimate of the Investment Requirements and the Resultant Benefits of a Fully Functioning Smart Grid, EPRI 2011 Technical Report.

<sup>2</sup> NATURAL HAZARD MITIGATION SAVES: An Independent Study to Assess the Future Savings from Mitigation Activities Volume 2 – Study Documentation, The National Institute of Building Sciences through its Multihazard Mitigation Council, 2005. see: [www.nibs.org/resource/resmgr/MMC/hms\\_vol2\\_ch1-7.pdf](http://www.nibs.org/resource/resmgr/MMC/hms_vol2_ch1-7.pdf)

consequence-based approaches that on a national level identified critical infrastructures whose loss or destruction which would have very large economic and loss of life impacts. Other risk assessment methods used over the years, such as the Criticality, Accessibility, Recuperability, Vulnerability, Effect and Recognizability (CARVER), Chemical Facility Anti-Terrorism Standards (CFATS), and FEMA's Threat and Hazard Identification and Risk Assessment (THIRA), resulted in challenging cross-sector infrastructure comparisons, which sometime lacked an "all hazards" perspective, or focused on single point facilities and not complex and interdependent systems (as seen between the energy sector and other related sectors). The evolution of these methods for prioritization has distracted from the more important discussion around the measures and actions that should be undertaken to mitigate risks. Furthermore, it has left states and local governments without clear direction on how to best determine what should be seen as critical infrastructure at the state and local level.

NASEO recommends a more flexible approach that permits the private sector to determine the relative importance to their overall risk profile and subsequently allows the public sector to understand the private sector systems' operations, capacities, supply chains, and interdependencies. This approach will ensure informed decision-making and allocation of resources during energy disruptions and greater investment in risk mitigation over the long term.

*Sector dependencies on energy and communications systems.* The nation's economy is dependent on the energy sector. NASEO compliments DHS for recognizing this critical dependency and the need to address it in the NIPP revisions. NASEO commends the work of the State, Territorial, Tribal, and Local Government Coordinating Council, which has done an excellent job of addressing cross-sector needs.

NASEO encourages DHS to acknowledge the coordination among state agencies in support of the private sector and the important role they collectively play in formulating state energy policies that promote infrastructure protection and resiliency. Many State Energy Offices have developed comprehensive state energy plans that address economic opportunity, as well as aging energy infrastructure, security, and reliability. In many states, investments by local utility companies are subject to regulatory approval of cost recovery by public utility commissions who play an important role in helping assure cost-effective, prudent investments that support our long-term energy needs. These critical state functions in support of infrastructure resiliency should be formally recognized in the successor to the NIPP in the energy sector and other sectors as well.

*Increased regional emphasis of critical infrastructure security and resilience.* NASEO has supported state energy assurance for two decades and supports a focus on regional coordination. Major energy disruptions often affect multiple states. Hurricanes Gustav and Ike caused serious damage in the Gulf Coast and disrupted refinery production and shipment of petroleum products to the Southeast that resulted in petroleum shortages that took weeks to resolve. Recent refinery maintenance and unanticipated refinery shut downs have caused significant gasoline prices spikes in the Midwest and similar events have occurred on the West Coast. The states maintain a coordination structure that can help expedite the private sector's response and recovery to energy disruptions. A coordinated regional approach to enhance communications and situational awareness at the state and local government level will ensure informed decision-making by policymakers and will aid in accelerating the recovery and reduce the consequences of energy supply disruptions.

*Other issues, such as aging infrastructure and climate change adaptation.* A national and comprehensive assessment of aging infrastructure and the necessary policies, programs, and funding will help to ensure cost-effective upgrades and replacement on a public and private sector level. To start, investments in energy efficiency and renewable resources can strengthen the economy, improve global competitiveness, and reduce reliance on imported energy resources, in turn, will enhance the balance of trade payments. The State Energy Offices have focused for decades on electric and transportation efficiency programs in

coordination with other state agencies, utilities, and the Federal government that mitigate the impacts of aging infrastructure and climate change. NASEO encourages DHS to acknowledge the benefits of these programs and incorporate them into the NIPP.

NASEO looks forward to continuing the dialogue on the development of the successor to the NIPP through ongoing participation on the EO-PPD Taskforce Evaluation and Planning Workgroup. If you have any questions regarding these comments or need further information, please contact Jeff Pillon, NASEO's Director of Energy Assurance, at: 517.580.7626 or [jpillon@naseo.org](mailto:jpillon@naseo.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Terry", with a stylized flourish extending from the end.

David Terry  
Executive Director