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**TESTIMONY**  
**BEFORE THE**

**SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE**

**ON**

**HURRICANE KATRINA : RECOMMENDATIONS FOR REFORM**

**THE UNITED STATES SENATE**

**MARCH 8, 2006**

**Introduction**

Thank you Chairwoman Collins, Ranking Member Lieberman, and distinguished members of the Committee for allowing me the opportunity to provide you with a statement for the record on FEMA's ability to lead the recovery mission after Hurricane Katrina. I am Bruce Baughman, the Director of the Alabama Emergency Management Agency. In my statement, I am representing the National Emergency Management Association (NEMA), whose members are the state directors of emergency management in the states, territories, and the District of Columbia. Currently, I am the President of NEMA and prior to my appointment in Alabama, I served in various positions at the Federal Emergency Management Agency (FEMA) for almost thirty years. This includes service as the Director of the now dissolved Office for National Preparedness and as Director of Operations on over 100 disasters including Oklahoma City, the Pentagon, and World Trade Center in 2001. I also worked on the development of the initial Federal Response Plan, which is the precursor to the new National Response Plan, and the U.S. Government Interagency Domestic Terrorism Concept of Operation Plan (CONPlan) during my tenure at FEMA. I bring over 32 years of experience in emergency management and I understand how emergency management is intended to work.

**Strong Reform Needed**

We have all heard blame being spread from federal to state to local governments as a result of the aftermath of Hurricane Katrina. At this point, our nation has to move forward to chart a course for improvement that is not only immediate, but provides thoughtful and real reform. We have to include federal, state, and local governments as partners working together to address our nation's preparedness, response, and recovery from disasters. This collaboration cannot be hamstrung by unfunded mandates and federal strings tied to funding aimed at state and local governments – every community and state needs the ability to prepare for disasters and to build the capabilities to respond. Every decade or so the nation experiences a large scale disaster that causes us to reevaluate how prepared we really are to handle catastrophic events like hurricanes, earthquakes and acts of terrorism. Yet, emergency management officials who have been around for over a decade see the same issues emerging from Hurricane Katrina that have been experienced before with little progress being made from one catastrophic disaster to another. Our nation's emergency management officials feel like they are trapped without the tools to make the changes necessary to address immediate needs, similar to Bill

Murray's character in "Groundhog Day". Except instead of waking up to the same song and dance every day, we are waking to the same findings and recommendations that we heard after Hurricane Andrew. We question the ability to implement these changes without a solid national strategy and consistent federal support. I hope my appearance before the Committee today will help to remedy this situation as we move ahead.

The National Academy of Public Administration (NAPA) published a report, "Coping with Catastrophe: Building an Emergency Management System to Meet People's Needs in Natural and Manmade Disaster" in February 1993, post- Hurricane Andrew that still resonates the messages we are discussing today. Some of the key issues have been recycled and must be addressed once and for all so we don't have to repeat history. These issues from the 1993 report relevant today include:

- "Americans have not yet developed an appreciation for their need in protecting citizens from hazards that can befall them at home";<sup>1</sup>
- "Emergency management agencies are generally underfunded for planning, training, and exercises, even though these activities are every bit as essential for their effectiveness as they are for military organizations";<sup>2</sup>
- "Emergency management has almost no natural constituency base until an emergency or disaster occurs";<sup>3</sup>
- "FEMA has been ill-served by Congressional and White House neglect, a fragmented statutory charter, irregular funding, and the uneven quality of political executives appointed by (past) presidents";<sup>4</sup>
- The federal government cannot become the nation's "911" first responder;<sup>5</sup> and
- "The federal government needs to do more to help enhance the capacity and consistency of emergency management efforts at the state and local levels, especially in areas vulnerable to catastrophic events".<sup>6</sup>

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<sup>1</sup> *Executive Summary of Coping With Catastrophe: Building and Emergency Management System to Meet People's Needs in Natural and Manmade Disaster*, **National Academy of Public Administration** for the U.S. Congress and the Federal Emergency Management Agency, February 1993, page vii.

<sup>2</sup> *Executive Summary of Coping With Catastrophe: Building and Emergency Management System to Meet People's Needs in Natural and Manmade Disaster*, **National Academy of Public Administration** for the U.S. Congress and the Federal Emergency Management Agency, February 1993, page viii.

<sup>3</sup> *Executive Summary of Coping With Catastrophe: Building and Emergency Management System to Meet People's Needs in Natural and Manmade Disaster*, **National Academy of Public Administration** for the U.S. Congress and the Federal Emergency Management Agency, February 1993, page viii.

<sup>4</sup> *Executive Summary of Coping With Catastrophe: Building and Emergency Management System to Meet People's Needs in Natural and Manmade Disaster*, **National Academy of Public Administration** for the U.S. Congress and the Federal Emergency Management Agency, February 1993, page ix.

<sup>5</sup> *Executive Summary of Coping With Catastrophe: Building and Emergency Management System to Meet People's Needs in Natural and Manmade Disaster*, **National Academy of Public Administration** for the U.S. Congress and the Federal Emergency Management Agency, February 1993, page xi.

<sup>6</sup> *Executive Summary of Coping With Catastrophe: Building and Emergency Management System to Meet People's Needs in Natural and Manmade Disaster*, **National Academy of Public Administration** for the U.S. Congress and the Federal Emergency Management Agency, February 1993, page xii.

### **FEMA Must lead the Task**

Unfortunately, the Administration, Congress, and all of us have stood by and watched as FEMA has become a shell of its former self. We are at the same point as the nation was after Hurricane Andrew in 1992, questioning organizational structures, leadership, the roles of federal, state, and local government, and even citizen preparedness.

No federal agency is more qualified structurally and statutorily than FEMA to help our nation respond to and recover from disasters. FEMA has the direct relationships with state and local governments because of the grant programs and the disaster relief programs authorized through the Stafford Act. FEMA is the only federal agency authorized under the Robert T. Stafford Disaster Relief and Emergency Relief Act (42 U.S.C. 5121 et seq.) to carry out duties on behalf of the President. The 1978 Reorganization Plan 3, which created FEMA, also gives FEMA the responsibility for all of the functions of emergency preparedness and response. The plan states:

“This reorganization rests on several fundamental principles. First, Federal authorities to anticipate, prepare for, and respond to major civil emergencies should be supervised by one official responsible to the President and given attention by other officials at the highest levels. The new agency would be in this position.”

**FEMA is and should be the agency of choice to coordinate the functions of the federal government in response to disasters, regardless of their cause.**

FEMA has the ability to tap into the emergency responder community to build relationships through training and exercises. FEMA also has the skills to work cooperatively with state and local elected and appointed officials to work towards comprehensive recovery. FEMA has the coordinating function in the federal government and should have the ability to tap all the resources at the federal level to respond to a disaster. However, all these areas need to be strengthened with an all-hazards focus to ensure that federal, state, and local governments are building relationships before a disaster and understand how to work together cohesively. Leadership is not a matter of one person in the agency, but requires systematic understanding and vision on how to assist state and local governments to undertake the recovery process.

The time to stop the cycle of degradation of emergency management functions by reorganization after reorganization is now and we must systematically improve our nation’s emergency response system through verified lessons learned and not reactionary decisions. We hope that Congress will partner with NEMA as they move forward to consider changes to DHS organizational functions and the role of FEMA.

### **FEMA Director Criteria and Roles**

In any organization, leadership is a critical ingredient for success. However, when we are talking about FEMA, several reforms must be made to ensure that the FEMA Director is successful. Regardless of where FEMA is located, NEMA recommends that the FEMA Director has a direct reporting relationship to the President of the United States. The relationship could be structured like that of the Chairman of the Joint Chiefs of Staff reporting to the President in times of war or crisis. Criteria and a recommended knowledge base should be established for the FEMA Director position, to include:

- Emergency management or similar related career at the federal, state or local government level;
- Executive level management experience, governmental administration and budgeting;
- Understanding of fundamental principles of population protection, disaster preparedness, mitigation, response and recovery, and command and control;
- Understanding of the legislative process; and
- Demonstrated leadership including the ability to exert authority and execute decisions in crisis situations.

The President should continue to nominate and the Senate should continue to confirm the Director of FEMA, but more Congressional consideration and scrutiny should be given to the nomination to ensure the appointed official meets established criteria. Further, a fixed term appointment for not less than five years should be considered, so the nomination is not political. This would be similar to the model for the FBI Director. Finally, a vetting process should be established that includes a role for input by emergency management constituency groups similar to the American Bar Association role in judicial nominations. In order to attract candidates who can meet these criteria, salaries must be considered, as the Second Stage Review changes made modifications reducing the FEMA Director salary.

Most importantly, consideration needs to also be given to the connectivity between FEMA and the Preparedness Directorate within DHS, since all FEMA's preparedness functions were moved out into this new Directorate. When the Second Stage Review proposal was announced, NEMA articulated grave concern in a July 27, 2005 letter to the Department of Homeland Security regarding the Second Stage Review (2SR) creating a Preparedness Directorate that would be primarily focused on terrorism. The letter to Congress highlighted the lack of the Department's focus on natural-hazards preparedness and the inability to connect response and recovery operations to preparedness functions, as any unnecessary separation of these functions could result in a disjointed response and adversely impact the effectiveness of Departmental operations. Nevertheless, we understand that the 2SR is moving ahead and look forward to finding ways to connect the new Preparedness Directorate with FEMA.

Further, I personally believe that true all-hazards grants related to preparing for, responding to, and recovering from disasters belong back within FEMA in order to ensure the programmatic mission of the organization and maintenance of relationships at the state and local levels. Restoring these grants will also ensure that FEMA can effectively measure state and local government capabilities so they better understand where the federal government needs to play a role.

### **Role of the Military and DOD in a Disaster**

NEMA does not support an increased role for the active duty military in disaster response. The nation's governors have direct and legal responsibility for the protection and safety of their citizens. The appropriate role for the active duty military is to provide assistance in support of civil authorities. The National Response Plan identifies the Department of Defense (DoD) as a support agency. NEMA's position is in line with National Governors' Association policy. The same issue was raised following Hurricane Andrew and the aforementioned NAPA report also did not support an increased role for the military stating that the primary mission for the Armed Forces is to prepare for war and to fight if necessary.

### **Roles of Federal, State, and Local Governments**

The federal government must never become a first responder, but should remain focused on providing stronger funding for preparedness, emergency response, maintaining capabilities, and extraordinary resources that can be drawn on in a catastrophic event. The federal role is a support and coordination function that assists with resources, expertise, and response capabilities when state and local governments are overwhelmed or do not have the resources to respond. Federal efforts should only augment state and local operations and never supersede the authorities given to the Governor in the Stafford Act.

The most important and critical component for reform is federal funding. We are making multi-billion dollar investments in homeland security grants every year, however the proposal for state and local emergency management funding is only funded at \$170 million in FY 2007. After modest increases, EMPG's growth rate has not kept pace with inflation, despite the fact that in the last five years federal government requirements have grown. Some of these mandates include: updating state and local plans to reflect the new National Response Plan, training and adoption of the new National Incident Management System (NIMS), requirements in the National Preparedness Goal and Target Capabilities List, and updates of emergency evacuation plans. This year, of all years, the Administration is proposing to cut EMPG by \$13.1 million, despite the \$260 million shortfall identified by NEMA in a 2004 study.

State and local governments should develop the capabilities to respond through strong emergency operations plans and tying the use of federal funds to established standards. For example, in Alabama as we allocate EMPG funding locally, we require local governments to tie their funding to building performance capabilities in the Emergency Management Accreditation Program and if local governments don't perform with the funds given, we don't continue the funding streams and implement corrective actions. State and local governments must have the capacity to develop their own plans and execute these plans when it comes to distribution of resources and emergency supplies. State and local governments understand the unique needs of their communities and the threats they face. One of the things we ask our locals to do with EMPG funding is to create plans for receiving and distributing of ice, water, food, and other commodities from the federal government in the event of a disaster. In addition, emergency contracts should continue to be permitted, since state and local governments know who best can meet their needs after a disaster.

### **National Response Plan Revisions**

I recently sent the Chair and Ranking Member a letter regarding the need for changes to the National Response Plan and some suggestions that should be considered for the upcoming report. As you know, NEMA participated in the state and local working group that was consulted during the drafting of the NRP. NEMA provided comment throughout the process, however not all of the suggestions of state and local governments were always taken into account. As we move forward to find the lessons learned from Hurricane Katrina, we strongly support revisiting the NRP with vigorous input from representatives of the state and local emergency response community. Many of the concepts of the NRP, such as Incident Command System (ICS) and the Emergency Support Functions (ESFs) are representative of the systems and plans used successfully at the state and local government level. Any revisions of the plan must draw from the expertise built from the ground up. The NRP is a national plan and not a federal plan and all national players must be included in the review process to foster

partnership and cooperation. Additionally, state and local input to the process must be followed up upon and incorporated or explanations must be given if suggestions are not included.

While the letter included many recommendations, I offer three critical recommendations for your consideration today:

1. The Federal Coordinating Officer (FCO) must have the authority in the field to carry out the responsibilities of the position. The FCO's authority and responsibilities are clearly delineated in the Robert T. Stafford Disaster Relief and Emergency Relief Act (41 U.S.C. 5143 Section 302). The statute outlines the functions and appointment of the FCO and the NRP must follow the Stafford Act authorities that empower the FCO to serve on behalf of the President in a declared disaster area;
2. The role of the Principle Federal Official (PFO) must be made clearer to federal, state, and local authorities with responsibility over disasters. In NEMA's view, the position is duplicative and the differences in the PFO and FCO position must be outlined if the PFO position is maintained. NEMA opposed the creation of this position in the drafting process for the NRP. Initially, the PFO was included in the NRP to address an incident prior to a formal disaster or emergency declaration; and
3. The NRP must continue to include Emergency Support Functions (ESFs) as a means to integrate all disciplines into the command and control structure and the emergency operations center. State and local governments have been using this system for many years with success to represent various government agencies and areas that function under the unified command. Eliminating ESFs could inadvertently cut out critical functions in a disaster such as transportation and also would cause significant plan revisions at the state and local level.

### **Adequate Personnel**

The mutual aid assistance provided during these hurricanes vividly exposes the interdependencies of the nation's emergency management system. For Hurricane Katrina and Rita, the Emergency Management Assistance Compact (EMAC) has currently fulfilled over 2100 missions with 48 states, the District of Columbia, the U.S. Virgin Islands and Puerto Rico providing assistance in the form of more than 65,000 civilian and military personnel and equipment assets to support the impacted states. The estimated costs of this assistance may exceed \$829 million. The missions and request for aid continue and are expected to continue for the next several months.

FEMA is vastly understaffed at both the headquarters and regional offices. Currently, 4 of the 10 regional offices are led by Acting-Directors. The constant strain of placing civil service employees in an acting capacity takes away from the work-load in the office, since decisions have to be made about what tasks to put aside because of staffing shortages. I would estimate that, regional offices are staffed to about 70 percent of the level that they were three years ago. This increased strain, with a more significant work load, has made it difficult to retain employees. Regional offices are the direct line of communication for state and local governments to tap into federal resources and need to have adequate personnel to assist with all stages of emergency management from preparedness, to response and recovery, and mitigation from the next disaster. Additionally, all four division directors (response, recovery, mitigation and the National Incident Management Systems Integration Center) at FEMA are in an acting capacity, as well as the Director, and the Chief Operating Officer. The Chief of Staff position also remains vacant.

FEMA must be adequately staffed at both the headquarters and regional levels to be able to fulfill their congressionally mandated mission. Outside of EMAC, the NEMA headquarters received several requests from representatives of the Principal Federal Official in the response to Hurricane Katrina and Rita. The requestors sought for states to provide direct support to the federal government for help in meeting the federal work-force demand to respond to the disasters. FEMA was seeking state and local personnel versed in Stafford Act assistance programs like individual assistance and public assistance to serve as temporary FEMA employees in the response to the disaster. They were also seeking state personnel to replace ERT (Emergency Response Team)-A team members in the field who needed rest before the next hurricane. More and more, FEMA is forced to rely on state and local governments to support their own activities because they just do not have the volume of personnel and institutional knowledge within the agency anymore. One suggestion that may go a long way to resolving these issues is to allow FEMA to create an institutional immersion program led by former employees and experts who now reside outside the agency. These experts could lead comprehensive training before disasters, thus developing a knowledge base within the agency.

### **Stafford Act and Response and Recovery Issues**

NEMA has long been working to protect and improve the functions of the Robert T. Stafford Disaster Relief and Emergency Relief Act. In our current environment, I have asked each of the NEMA Committee Chairs to join together to compile a comprehensive list of necessary changes to the Stafford Act that we hope to share with the Committee before the end of March. I firmly believe that the Stafford Act is nimble enough to address catastrophic disasters, ordinary emergencies, and major disasters and that some minor housekeeping changes are needed, rather than a wholesale rewrite of the Act. The focus area for major change must be training, plans, policy, and regulations rather than making big changes to the law. For example, we need a national housing strategy for catastrophic disasters that should be developed concurrently with federal, state, and local governments.

NEMA has specifically looked at some changes necessary that do not require changes to the law. These post- 9/11 catastrophic disasters changes were suggested in August 2005 and include:

- Uniform, written, national guidance in a clear, timely and meaningful manner that does not vary from region to region;
- Providing ongoing and timely training to field personnel on guidance and policies;
- Implementing a process to approve state management cost funding within 60 days of a request;
- Developing clear concise guidance on submission content and evaluation criteria specific to management costs;
- Following federal law regarding the statutory administrative allowance for the public assistance program;
- Administering the Other Needs Assistance Program to address ethnic and cultural diversity issues in accordance with the approved state plan for Other Needs Assistance;
- Utilizing the State disaster Mental Health plans as the basis for approving the immediate services grant; and

- Including state emergency management representatives on the FEMA Individual Assistance Steering Committee, which is influential in directing interim policy decisions.

Many of these recommendations have yet to be implemented, but as you can see significant need exists for streamlining and simplifying national policy decisions on response and recovery. These policy decisions must be made by educated and enlightened federal experts in a timely manner during the response and recovery phases and such expertise needs to be built and maintained at the federal level in support of the state and local activities for recovery.

Further, there are issues that Congress must address to simplify the response and recovery process for this disaster and future disasters:

- Fix the cap on disaster home repair for the Individual Assistance Program to \$25,000 and allow that for both repair or replacement for lost or damaged personal property;
- Allow for rental assistance to be paid up to a maximum of 18 months at the Fair Market Value of the jurisdiction affected, and give FEMA the ability to administratively extend this period as necessary;
- Reinstate the FEMA Mortgage and Rental Assistance Program to the pre-Disaster Mitigation Act of 2000 status; and
- Restore the post-disaster Hazard Mitigation Grant Program (HMGP) to 15 percent from the current 7.5 percent to allow for more lessons learned from disasters to be implemented in order to save funding on future disasters.

This is not the first time that NEMA has raised these issues with Congress. The time is now to address these critical policy and legislative issues, and we need to fix them once and for all.

## **CONCLUSION**

Congress must look at innovative ways to address emergency management needs in this post-9/11 environment. We must immediately influx the system with resources and innovation in order to face the challenges of the day. I leave you with another statement from the 1993 NAPA report, "Without bold action, America's frustration with the timeliness and quality of the governmental response to natural disasters will very likely continue." Federal, State and local governments must have adequate funding for baseline emergency preparedness so exercises and training can ensure that plans and systems are effective before a disaster. I thank you for the opportunity to testify on behalf of NEMA and appreciate your partnership. I hope we can work together to implement the lessons of Hurricane Katrina and Rita and ensure that the nation is adequately prepared for any disaster, regardless of cause.