# READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EXAMINATION OF THE NEW NATIONAL RESPONSE FRAMEWORK

**(110–68)**

## HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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# U.S. House of Representatives
## Committee on Transportation and Infrastructure

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September 10, 2007

**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

**FROM:** Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

**SUBJECT:** Hearing on "Readiness in the Post-Katrina and Post-9/11 world: An Evaluation of the New National Response Framework"

### PURPOSE OF THE HEARING

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Tuesday September 11, 2007, at 10 a.m., in room 2167 Rayburn House Office Building to receive testimony on the contents of the new National Response Framework released today by the Department of Homeland Security ("DHS") and the process for its development. Witnesses will also testify about what this framework indicates, six years after 9/11 and two years after hurricane Katrina, about our Nation's preparedness for and ability to effectively respond to all hazards, including natural disasters and terrorist threats.

### BACKGROUND

After the poor Federal response to Hurricane Andrew in 1992, the Federal Emergency Management Agency ("FEMA") developed the Federal Response Plan ("FRP"). The FRP served as the Federal Government's first coordinated plan for responding to disasters, particularly disasters declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"). This plan served as the blueprint for the Federal Government's widely-acknowledged successful response under FEMA's leadership to a number of disasters in the mid to late 1990s including the Northridge Earthquake in 1994, Hurricane Fran in 1996, Hurricane Floyd in 1999, and the attacks of September 11, 2001.

In response to the terrorist attacks of 9/11, Congress passed the Homeland Security Act of 2002 (P.L. 107-296), which established DHS. FEMA was incorporated into DHS effective March 1, 2003. Under the Homeland Security Act, FEMA was explicitly given continued responsibility for the FRP[1]. Notwithstanding the clear language of the statute, the Secretary of Homeland Security initially removed responsibility from FEMA for drafting the FRP and changed the name of this document to the National Response Plan (NRP).

The initial version of the DHS National Response Plan was criticized as too bureaucratic, overly complicated, and as confusing the Federal chain of command. The defects in this plan became clear after the inadequate response by the Federal government to Hurricane Katrina, and even DHS acknowledged the shortcomings.

In response to Hurricane Katrina, Congress passed the Post-Katrina Emergency Management Reform Act of 2006 (the FEMA reform bill; P.L. 109-295). This legislation made several pertinent amendments to the Homeland Security Act, including a requirement for FEMA to revise the NRP to reflect the changes mandated by Congress and to clarify the Federal chain of command during disasters. The FEMA reform bill required the NRP to reflect the responsibilities of the Administrator of FEMA for managing disasters, to reflect his role as the principal emergency management advisor to the President, and to provide a role for the Federal Coordinating Officer consistent with the Stafford Act[2]. The FEMA reform bill required significant state and local input in the revision to the NRP to ensure that the new document reflected the expertise and professional wisdom of emergency management practitioners[3].

In response to this legislation, DHS began a process to amend the NRP, including convening a steering committee to provide input. This committee was co-chaired by an official from FEMA and an official from DHS's National Protection and Programs Directorate, even though Congress explicitly gave responsibility to FEMA for the NRP in statute.

While the FEMA reform bill did not require these changes to be made by a particular date, DHS made a number of pronouncements, including in testimony before this Subcommittee on April 26, 2007, that a revised National Response Plan would be issued by the beginning of hurricane Season on June 1, 2007. The beginning of hurricane season passed without a new National Response Plan. In August 2007, a draft of a new "National Response Framework", dated July 2007, was obtained by the press, and was subsequently widely circulated. DHS released an embargoed copy of the new National Response Framework to the Subcommittee in preparation for this hearing. This revised version is substantially similar to the July 2007 draft.

According to press accounts, a draft NRP was sent to DHS headquarters for approval, but DHS rejected the draft and the Department began a rewrite without seeking input from state and local officials, counter to the statute[4]. Additional media reports have highlighted sharp criticism of the contents of the July 2007 draft by state and local emergency managers and first responders for

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[1] Section 507(b), P.L. 107-296
[2] 6 USC 319(c)(1)(B)
[3] 6 USC 318(b)
[4] "States Feel Left Out of Disaster Planning," *Washington Post*, August 8, 2007 p A1; "DHS Achieves Target Weight for National Response Guidelines" CQ Homeland Security, Aug 1, 2007.

lacking meaningful detail, for abandoning processes at the state and local level that worked well prior to 9/11, and for failing to define the roles, responsibilities and relationships among the various levels of government.[5]

In addition to revising the NRP, a goal of the Post-Katrina Emergency Management Reform Act was to create a new FEMA, a professional organization that has the expertise, responsibility, authority, and capability to prepare for and manage all aspects of disasters and emergencies. This goal and the provisions of the FEMA reform bill were supported by nearly every major group representing emergency responders. Specifically, the Post-Katrina Emergency Management Reform Act made the following reforms to FEMA:

- Expertise: The bill required the FEMA Administrator and Regional Administrators to have professional emergency management qualifications, and it established the FEMA Administrator as the principal emergency management advisor to the President.
- Responsibility: The bill granted FEMA primary responsibility for the National Preparedness System and the four phases of comprehensive emergency management, which includes preparedness, response, recovery, and mitigation.
- Authority: The bill granted the FEMA Administrator the authority to manage all four aspects of comprehensive emergency management. It specifically made the Administrator responsible for managing the federal response to disasters and emergencies.
- Capability: The bill placed the necessary tools for managing disasters in FEMA, including a professional workforce, operations centers, and response teams.

The National Response Framework appears to conflict with most of these reforms. Specifically, the Administrator of FEMA is only mentioned in the framework as an advisor to the Secretary, not the President (as required by the Post Katrina Act[6]), and he has no operational role mentioned in the new document. Further, key elements of the National Preparedness System and core emergency management functions are delegated outside of FEMA by DHS. Preparedness functions outside of FEMA include the development of the 15 national planning scenarios and detailed preparedness planning, placed in the Office of Operations Coordination. Response functions outside of FEMA include key incident management functions, detailed to the National Operations Center, and incident management functions, assigned to a Principal Federal Official.

At the hearing, the Subcommittee will hear from witnesses on the content of the National Response Framework, the process for its development, and what that document indicates about the Nation's readiness for all hazards. This hearing will also provide an update on the implementation of the reform of FEMA as mandated by the Post Katrina Emergency Management Reform Act of 2006.

## PRIOR OVERSIGHT ACTIVITY

The Subcommittee has not held legislative hearings specifically dedicated to the National Response Framework. In the 110th Congress, however, the Committee has held numerous hearings related to FEMA, including:

[5] "Emergency Plan Deemed a Disaster-in-Waiting," *CQ Weekly*, Sept. 10, 2007, p 2606.
[6] 6 USC 313

- "Post-Katrina Temporary Housing: Dilemmas and Solutions" (March 2007)
- "FEMA's Emergency Food Supply System" (April 2007)
- "FEMA's Preparedness and Response to All Hazards" (April 2007)
- "National Levee Safety and Dam Safety Programs" (May 2007)
- "Legislative Fixes for Lingering Problems that Hinder Katrina Recovery" (May 2007)
- "Assuring the National Guard is as Ready at Home as It is Abroad" (May 2007)

In the 110th Congress, the Committee has taken action on the following related bills:

- H.R. 1144, Hurricanes Katrina and Rita Federal Match Relief Act); incorporated into H.R. 2206; signed into law on May 25 (PL 110-28).
- H.R. 2775, To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize funding for emergency management performance grants, and for other purposes
- H.R. 3224, Dam Rehabilitation and Repair Act of 2007
- H.R. 3247, Hurricanes Katrina and Rita Recovery Facilitation Act of 2007

During the109th Congress, the Committee enacted the following related bills:

- Community Disaster Loan Act of 2005 (P.L. 109-88)
- Predisaster Mitigation Program Reauthorization Act of 2005 (P.L. 109-139)
- Katrina Emergency Assistance Act of 2006 (P.L. 109-176)
- Local Community Recovery Act of 2006 (P.L. 109- 218)
- Post-Katrina Emergency Management Reform Act of 2006 (P.L. 109-295)
- Rural Disaster Assistance Fairness Act of 2005 (P.L. 109-295)
- Disaster Relief Equity Act of 2005 (P.L. 109-295)

## WITNESS LIST

### Panel I

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Response and Recovery Committee
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Director
New Mexico Department of Homeland Security and Emergency Management

**Mr. Robert C. Bohlman**
Chairman
U.S. Government Affairs Committee
International Association of Emergency Managers
And
Director
York County Maine Emergency Management Agency

# READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK

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**Tuesday, September 11, 2007**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT,
*Washington, DC.*

The Subcommittee met, pursuant to call, at 10:10 a.m., in Room 2167, Rayburn House Office Building, Hon. Eleanor Holmes Norton [Chairman of the Subcommittee] Presiding.

Ms. NORTON. Good morning, and welcome to today's hearing. We are pleased to welcome our Federal guests and the panel of experts, and I look forward to their testimony on the National Response Framework, the NRF. We are holding the first hearing on the NRF on the anniversary of 9/11 because our Committee holds primary jurisdiction over the Federal Emergency Management Agency, or FEMA, the primary agency implemented in the most serious terrorist and natural disaster events in U.S. history, 2 years after Hurricane Katrina and 6 years after the 9/11 attack on the United States.

After months of delay, we gave FEMA and the Department of Homeland Security, or DHS, a deadline of September 5th to supply the National Response Framework. We thank the officials for meeting this deadline and for giving the Subcommittee the time to analyze the NRF. They have agreed that, on this 9/11 anniversary, the American people must be assured in the midst of, yet, another hurricane season and the administration's own warning about a reorganized and a strengthened al Qaeda that the country is ready for a catastrophic attack of any kind.

To address issues of accountability that were on stark display during the administration's response to Katrina, the last Congress passed the Post-Katrina Emergency Management Reform Act of 2006, which prescribed several directives that Congress felt were essential to prepare the Nation for any new disasters, whether a natural event or a terrorist attack. The Post-Katrina Act requires the Administrator of FEMA to ensure that the National Response Plan provides for a clear chain of command that is consistent with the role of the Administrator as the principal emergency management advisor to the President of the United States. Perhaps most important, the new Act requires FEMA to coordinate with State

and local officials when developing the National Response Framework.

To ensure that these mandates were met and that the Subcommittee could objectively evaluate the administration's submission, the Subcommittee sent prehearing questions to our expert witnesses to get their assessment of the draft plan. They were asked, one, ″Do you believe the draft National Response Framework reflects the role and responsibility of the FEMA administrator as required by law?″ two, ″Do you believe the President will receive the professional advice he needs during a catastrophic disaster?″ three, ″The law requires that FEMA and the Department of Homeland Security coordinate and confer with State and local emergency managers in developing the National Response Framework. In your opinion, did FEMA and DHS comply with the law in this regard?″

The answers we received were candid and, I must say, troubling. One of today's witnesses will testify, ″The draft framework overlooks the concerns that help shape the legislation Congress enacted and would put the Nation at risk to some of the same systemic failures that hobbled the Federal response to Katrina.″

According to the testimony of another of today's experts, the National Response Framework, ″ignores the role of the counties and parishes in disaster response and early recovery, which, in many States, is very significant.″

Such criticism of missing-on-the-ground involvement from first responders, who alone are familiar with local conditions and who must implement any plan go to the heart of a response to disasters and would amount to noncompliance with requirements of cooperation and coordinations set forth in the Post Katrina Act. Remembering the plain and painful confusions between the roles of FEMA and the Department of Homeland Security during Katrina, we are left concerned that, as another witness notes, and I am quoting him, ″it is not clear in the NRF who will be in charge of coordinating the Federal response. In fact, it contradicts the Post Katrina Act.″

This year, this Subcommittee has already had occasion to examine the chain of command issue as it relates to the Federal Coordinating Officer, that is a FEMA official, and the Principal Federal Officer. That is the PFO or a person who works for the Department of Homeland Security.

Now, explain this dichotomy for those of you who are not familiar with bureaucracies because what you have are two officers—one who works for FEMA, which is in the Department of Homeland Security, and the other, the PFO, who works for the Department of Homeland Security. Now, remember what this hearing is, in part, about. It is about avoiding some of the confusion on the ground that accounted for the Katrina disaster response.

We concluded in this Subcommittee that the PFO position in DHS was duplicative, here we go again, and caused confusion in the field. That is this year. Just a few months ago we concluded that. This Subcommittee was so concerned that we subsequently asked the Appropriations Committee to prevent funds from being used for the PFO positions, and the House did so. The Senate DHS appropriation is, as yet, unfinished.

When Congress enacted the Post Katrina Act, it wrote in by statute, by law, my friends, one coordinating Federal officer—that is in plain language in the statute—who must, we wrote, this Post Katrina, understand, must have emergency management experience and must be the disaster response official. That is how we tried to clear out the confusion that existed in Katrina. This provision was written with a clear intent to provide the President of the United States through the FEMA administrator with direct emergency management consultation directly to him, not through anybody else but through him, to avoid delay in responding to a disaster, cutting out the bureaucracy that the whole world saw was responsible, in no small part, for the response to Katrina.

If the PFO, the person who works for the Department of Homeland Security, is not required to have emergency management background—and he is not—and is the representative of the Secretary of the Department of Homeland Security and if this person is to be the advisor to the Secretary in a disaster as the draft National Response Plan now states, then the plan in this respect clearly contravenes the plain language of the Act.

We are mindful of the difficulty of putting together a document so ambitious in its mandate that it is named a ″national response framework.″ We must expect that any such document would incur some criticism. However, we are deeply troubled that the critiques of the plan we are receiving go to the Congressional mandate of the Post Katrina Act, itself, suggesting that the Department, as some would say, just does not get it or, worse, that it does not want to get it.

We will listen carefully and objectively to testimony from the administration and particularly to their defense against the caustic criticism of the experts. However, we are a democratic Nation of laws, and no executive branch agency, including the Department of Homeland Security, gets to pick and choose which laws to follow. We do not intend to forget that the reason Hurricane Katrina's response was such a disaster was, in no small part, because of a lack of a coherent plan for martialing the resources available locally, at the State and at the Federal levels. Katrina was a dress rehearsal for the next disaster that this country may face, whether manmade or natural.

This Subcommittee in its role of oversight intends to work closely with FEMA and with the Department of Homeland Security to do whatever proves necessary to ensure that the Congressional mandates of the Post-Katrina Management Act of 2006 are implemented as written into law. Under no circumstances will this Subcommittee abrogate its responsibility to ensure that, in the event of another disaster response, there is insufficient accountability.

Again, we appreciate the time and the effort that went into the National Response Framework and look forward to the testimony of the government and of the expert panel. I am pleased to hear the comments, such that he may have, from our ranking Member, Mr. Graves.

Mr. GRAVES. Thank you, Madam Chair, and thank you for holding today's hearing on the Federal Government's disaster readiness and the revised National Response Plan.

Madam Chair, today's hearing is important for a couple of reasons. First, we need to know if the experts believe the Department has produced a good plan. Will it work? If not, how should it be improved? We saw during Hurricane Katrina a confusing response plan or a plan that was poorly implemented that can have tragic consequences for those struck by the disaster. The House of Representatives Katrina Committee, on which Chairman Bill Shuster served, identified a few serious problems with the National Response Plan.

Most significantly, the plan did not enable the President to get the professional disaster advice he needed during the disaster. It created new positions which confused the chain of command, and it did not result in a proactive Federal response when one was clearly needed.

The second important reason for today's hearing is the National Response Framework is the most major document produced by the Department since Congress passed the FEMA Reform Bill last year. It is our first opportunity to see how well the Department is implementing the near unanimous reforms recommended by the major stakeholders.

The FEMA Reform Bill required several changes to the National Response Plan that were based on the Katrina Committee's findings and the professional recommendations of almost every first responder association. Most importantly, the reform bill placed the responsibility and authority for managing all aspects of an incident under FEMA and required the administrator to have professional emergency management and homeland security qualifications. This means the administrator has primary responsibility for, one, preparedness, including planning, training and exercises; two, for response, including managing and coordinating the Federal response; three, recovery, including individual assistance and infrastructure reconstruction; and four, mitigation, including reducing the consequences of future disasters.

The FEMA Reform Bill also made the administrator the principal emergency management advisor to the President and the primary Federal official responsible for managing and coordinating the Federal response to disasters. As far as the National Response Framework allocates roles and responsibilities within the government, it provides an insight into the actual role DHS has assigned to FEMA after enactment of the FEMA Reform Bill.

With respect to the National Response Plan, the FEMA Reform Bill specifically required the plan to be changed to reflect the operational role of the administrator, to account for the unique requirements of a catastrophic disaster and to clarify that the Federal Coordinating Officer, FCO, and not the Principal Federal Official, PFO, is responsible for coordinating the Federal response in the field.

Given the specific changes to the National Response Plan mandated by law, I find it particularly surprising the new plan does not mention the FEMA Reform Bill at all. Perhaps that helps explain why FEMA and the FEMA administrator are barely mentioned, and the administrator is given no operational role in the plan. I am not raising this issue because the FEMA Reform Bill came from this Committee or that it has to be done our way. I say this be-

cause these aspects of the bill were key recommendations of the major first responder and stakeholder groups. We have letters from the emergency management, fire services, law enforcement, city, county, State, and other professional associations calling for the specific reforms. These are the reforms the professionals thought necessary to fix a broken system at DHS.

A properly constructed response plan should define the roles and responsibilities of the agencies involved, explain how decisions will be made and clarify who is in charge. Given the critical testimony of our expert witnesses and our Committee's own review, it appears the Department has a lot more work to develop an effective National Response Plan.

Thank you again, Madam Chairman, for holding today's hearing. I look forward to the testimony and, obviously, the testimony from our distinguished visitors.

Ms. NORTON. Thank you, Mr. Graves.

Does any other Member have comments he decides to make? Mr. Cohen?

Mr. COHEN. Thank you, Madam Chair. I appreciate your having this hearing as well for I live in Memphis, Tennessee, which is a sister city to New Orleans, which suffered greatly 2 years ago and which is on the grid fall, the New Madras Fall, which gives it certain possibilities of earthquakes in the future. We have had other problems with what we call ″Hurricane Elvis,″ but that was a wind shear that came through 2 years ago and caused one of the greatest urban disasters that went unnoticed by the national media. Utilities were out for over a week.

I went down to New Orleans on my own time for the second anniversary of Katrina. This Committee was going to meet there, and for reasons, it cancelled the meeting, but I went on my own and visited. There is still much to be done in New Orleans, and of course, your plan today is to show what you have done since then to prepare. I saw a television show, I think it was Sunday. It might have been 60 Minutes but one of those type shows, and they said that less than 10 percent of the cities are prepared presently to respond to a disaster and to have an adequate disaster response plan and evacuation. There might have been an evacuation route. That is shocking, only 10 percent of the cities, and they mentioned D.C. had some type of little, red and white insignia on the street signs.

Most people do not know what they are. When I went to dinner last night on Pennsylvania Avenue, I thought I know what they are now. I do not know how good the ratings were for that show, though. So FEMA and other folks need to make people aware of what is already out there, but also the 90-plus percent of the cities that do not have a plan.

I think I will wait a bit on my questioning, Madam Chairman, but there was some time ago that I had an issue with FEMA concerning ice.

After writing you on July 18 and 19 and, among other things, being concerned about your lack of response to my inquiries, I received a response to my concern about your lack of response to my inquiries concerning the $70 million waste of ice that went on around this country. The response was on September 10. So, in responding to my inquiry about your lack of responsiveness, it took

you 2 months and Chairman Norton's Committee hearing on the anniversary of 9/11 to thank me for my being patient.

Well, I do not know that I was patient, but when you cannot respond to a Member of Congress about a $70 million boondoggle for 2 months, it makes me very concerned about every American cities' future when they are subject to some disaster whether caused by wind, rain, an act of God, or a misfeasance or a malfeasance by some Federal agency.

What happened with that ice—and I still will wait for my questions—but as to the idea that you could not drink that ice, I drank that ice. I am fine. I want to hear the scientific evidence about the ice. It will be news to people in Alaska. I drank glacier ice. It was over 2,000 years old. I am fine. Now, maybe it was not wrapped in that bag, and I know that your response to say why it was not good is because the International Packaged Ice Association said it is not good after a year. Do you think the International Packaged Ice Association wants to sell you some more ice?

Thank you, Madam Chairman.

Ms. NORTON. Thank you very much, Mr. Cohen.

Mr. Walz of Minnesota.

Mr. WALZ. Well, thank you Chairwoman Norton for holding this hearing. I would also like to thank Ranking Member Graves and a special "thank you" to him for the attention he paid to the care on the I-35W bridge collapse in Minnesota. I thank you for that.

I thank you, Administrator, for being with us today.

We are here today to evaluate the National Response Framework, and many of us know a lot of this came out of the response to 9/11 on the 6th anniversary, which we are observing today. The earlier version had some glitches in it. It was looked at. We are back here today in the post-Katrina, I guess, era to take a look at this and, I think, in the right spirit, and that is why I thank the Chairwoman for being here, and I thank the director for being here to work this thing out for what is best for America to find where the weaknesses are and where the strengths are in doing so, and I want to say I am particularly looking forward to the administrator's testimony, and I say that not out—this is not an academic exercise for me.

Three weeks ago, my district in southeast Minnesota was devastated by flash floods. We saw over 17 inches of rainfall in a 24-hour period in the community of Hokah, Minnesota. Damages to public businesses, private businesses and homes have already run into the tens of millions of dollars. I toured these areas, and I know that the administrator was there—Administrator Paulison was there—and I know you were in Rushford, Minnesota, a town of about 2,400, that was literally almost wiped off the map in a matter of a few minutes.

When we went into that town and saw it, there was a little island a church, part of a school and a city building where the emergency management was gathering and where the headquarters and the response team were gathering, and both were shuttling in and out of that city right on downtown. There were people climbing out of the second floor windows of those homes to get into those boats.

I say this because I want to thank the administrator for being there. I said you took this job—if I am not mistaken, it is about

your 2-year anniversary that you took this job, and quite honestly, it is not a very enviable one, but it is one that someone needed to step up and do, being fully aware that there were severe glitches and knowing that what happened in Katrina simply could not be replicated again.

At this point, I am cautiously optimistic that what I witnessed in southeast Minnesota is what we would hope. I am noticing that, as to the framework here and things like engaged partnership, the unity of effort through a unified command, those types of things seemed to happen, and the people in Minnesota were—quite honestly, there were a couple of things that they were afraid of. They were afraid FEMA would not show up, and when FEMA did show up in a timely manner, led by the administrator and fulfilled the obligation that the people thought they were going to, there was a sense of real relief. There was a sense of, wow, this is fantastic. We need to get this to the point that no matter where it is at that people come to expect that, not hope that they got the lucky end of a straw or something. So I truly appreciate that.

At this point, I am proud to say that I think Federal, State and local officials handled this incredibly well. We have got a lot of work to do yet. It is yet to be seen. The judgment on southeast Minnesota will come as we kick in many of the other agencies, but as to this initial response in understanding how it works and putting these things into play—obviously, the Southeast Minnesota floods were devastating. There were seven individuals who lost their lives, thousands of homes, tens of millions of dollars in damage. It was not on the scale of Katrina, but the principals of leadership and the framework that underlie that can be the same, so I look forward to that.

I thank you, Administrator, for being here. I thank you for your personal attention to my district and to what has happened so far.

With that, I yield back, Madam Chair.

Ms. NORTON. Thank you very much, Mr. Walz.

**TESTIMONIES OF R. DAVID PAULISON, ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY; AND ROGER T. RUFE, JR., DIRECTOR, OFFICE OF OPERATIONS COORDINATION, DEPARTMENT OF HOMELAND SECURITY**

Ms. NORTON. Now we are pleased to hear from our Federal Government witnesses.

Mr. Paulison.

Mr. PAULISON. Thank you, Chairwoman Norton, Ranking Member Graves, Congressman Walz, and Congressman Cohen. I appreciate the opportunity to come in front of the Committee.

I am pleased to be here to discuss the draft National Response Framework, known as the NRF, which was recently released, just yesterday, for additional public comment. The NRF is the next generation document that FEMA, the Department of Homeland Security and our Federal, State and local partners will use when responding both to natural and manmade disasters. When adopted, it will replace the existing National Response Plan that has been in place and active since 2004.

I think, Chairwoman Norton, it is altogether fitting that you call this hearing on September 11th as we honor those, as we did this morning, who lost their lives on that terrible day. It reminds those of us in emergency management and in the first responder communities why we come to work every day. Despite the risks, despite the long hours, men and women involved in every level of response across this country are dedicated to saving lives and to protecting our Nation. On that fateful September day, many of our colleagues and, quite frankly, several of my good friends lost their lives rushing into danger, not away from it.

As the Bible teaches, ″greater love hath no man than this that a man lay down his life for his friends.″ Truly, truly, these men and women showed their love for their fellow Americans on that day.

It is important to note that, even as we work to streamline and update this document, we have robust and effective plans in place, and they have worked. While we are always working to improve our ability to serve the wider community and to address hazards of all shapes and sizes, our existing system was sufficient for the events that we faced this past year. In our response to the first storms of the hurricane season, most notably Hurricane Dean, and our response to the flooding in the Heartland, storms in the Northeast, tornadoes around the country, and other events, our existing plans and the implementation of changes based on lessons learned from Hurricane Katrina resulted in a very strong response, as you noted, Congressman Walz.

This is not the FEMA of just a year ago. We are leaning forward. We are working hand in hand with our partners at every level of government as well as in the nonprofit and private sectors, and are providing improved services for the American people. This new framework will help us institutionalize those reforms and improvements. The draft NRF incorporates numerous comments we received through the process, and is based on real world experience of thousands of Americans involved in emergency management. Many comments addressed these same key issues and are addressed in this document.

The result is an NRF that is user-friendly. It is focused on the basic facts that you need available at your fingertips while providing additional materials needed as companions. Still available but not overwhelming to the average user, it is a framework that is accessible to everyone involved in a crisis and easily referenced when time is of the essence. The ease of use is critical as the NRF is designed to guide all hazard response across America. It is built on the flexible, scalable and adaptable coordinating structure of the National Incident Management System, or NIMS. The NRF aligns key roles and responsibilities across jurisdictions. It links all levels of government, private sector business and nongovernmental organization. It is intended to capture specific authorities and best practices for managing incidents that range from serious but purely local to large-scale terrorist attacks or catastrophic natural disasters as we saw in Hurricane Katrina.

But keep in mind that the National Response Framework is written for two distinct, vital audiences—senior leaders and day-to-day practitioners. Its clear, simple style makes serious work for the in-

cident management, understandable to those who provide executive directions, including Federal department or agency heads, governors, mayors, tribal leaders, and city managers, who are not the day-to-day operators. Meanwhile, its annexes and related documents, including the new online or national resource center, provide added resources to emergency management practitioners, such as first responders and health officials, explaining the structures and tools routinely used at all levels of government.

The NRF also identifies and clarifies the National Incident Response Doctrine and not just at the Federal level. It retains the same core principles in the National Incident Management System of which first responders from different jurisdictions and disciplines can work together to better respond to natural disasters and emergencies, including acts of terrorism. The National Response Framework presents core principles more clearly and includes them in a newly-described response doctrine that lays out how we respond. There are several core principles laid out here. One is engaged partnerships; a tiered response; scalable, flexible and adaptable operational capabilities; a unity of effort through unified command; and a readiness to act.

Additionally, the NRF draws focus on preparedness. Effective preparedness is crucial, a crucial precondition for a successful response. The NRF draws a sharper focus on the value of preparedness, activities that improve response across all jurisdictions.

In conclusion, let me simply state that a draft of the NRF is at a stage where additional review and comment is needed by the stakeholders at all levels of government and in the public and private sectors. These comments will be taken to heart so that, when the final NRF is released, it will truly assist in guiding and conducting all of those involved in all hazards/incident management.

Thank you very much.

Ms. NORTON. Thank you very much, Mr. Paulison, for your testimony.

We go now to Admiral Rufe.

Admiral RUFE. Good morning, Madam Chairman, Ranking Member Graves, Mr. Walz, and Mr. Cohen.

I am Roger Rufe, Director of Operations Coordination at the Department of Homeland Security, and I am pleased to appear today alongside Administrator Paulison and the other witnesses later on. Thank you for inviting me to provide to you and your Subcommittee my evaluation of the development of the National Response Framework as it relates to the Office of Operations Coordination.

The NRF, I believe, is an important step forward for DHS and for interagency coordination in that it captures and formalizes critical structures and processes we are now using to provide situational awareness and to manage a broad spectrum of events. Since Hurricanes Katrina and Rita, DHS has undertaken a systematic effort to ensure that there are more robust and coordinated preparedness and response structures in place to deal with all manners of incidents. We have taken the post-Katrina recommendations provided by the White House, the Congress, the GAO, and others very seriously, and are making enhancements to DHS oper-

ations. Let me highlight for you this morning just three of these post-Katrina enhancements that are a part of the NRF.

One of the recommendations from the Katrina Lessons Learned Report was that a National Operations Center be established and that it act as a single information reporting system for all departments and agencies. In May of last year, the NOC was established. It is comprised of five elements. One is the watch section from the old multiagency Homeland Security Operations Center. Our second is the intelligence and analysis watch and warning branch. A third is FEMA's National Response Coordination Center. A fourth is the Infrastructure Protections National Infrastructure Coordination Center. The fifth is the NOC planning element.

Taken together, these five elements of the NOC compromise the principal operations center for DHS and provide situational awareness and a common operating picture and operations coordination for the Secretary as he carries out his responsibilities as the Principal Federal Official for domestic incident management.

The second recommendation that was made in the Katrina After Action Report was the need for a Federal planning system—a planning process—and recognizing that within the Federal Government while there were business and budget planning processes in place outside of the Department of Defense, there was no standardized contingency or crisis action planning system for the Federal Government. We have taken that on in my office, and we have developed a national planning and execution system, NPES, which is a five-phase, national-level planning process that has been very broadly adopted by the interagency. In fact, we have trained over 500 people in the interagency in this process, and they are using that to develop their crisis action plans.

The third element that I want to touch on is that the Katrina after action recommendations included the creation of a permanent planning body within the National Operations Center. The mission of the NOC planning element is to provide contingency and crisis action incident management planning in support of the Secretary's national level domestic incident management responsibilities articulated in the Homeland Security Act and in HSPD-5. This planning element is compromised of some 53 members of the interagency—15 are full-time; 38 are part time, but all of them come from the key elements within DHS as well, as from virtually every agency within the Federal Government, to put together national level Federal interagency strategic plans to address the 15 national planning scenarios. These strategic level plans will identify the roles and responsibilities of individual departments and agencies in the event a given scenario were to occur.

So those are the three items I wanted to bring to your attention this morning, Madam Chairman, and I look forward to your questions.

Ms. NORTON. Thank you very much for that testimony, Admiral Rufe.

Now I would like to give both of you the opportunity to respond to the testimony we are going to receive from witnesses. Obviously, you as Federal officials are testifying first. Before I indicate the predicate to this question, I am going to ask you to forward to the Committee a copy of the draft National Response Framework plan

that was submitted to the Department of Homeland Security by the Drafting Steering Committee in the spring of 2007.

Do you understand what the Committee wants?

Mr. PAULISON. No, ma'am, I did not. Could you repeat that again?

Ms. NORTON. I am asking you to forward to this Subcommittee a draft of the National Response Framework plan that was submitted to the Department of Homeland Security by the Drafting Steering Committee in the spring of 2007. Now do you understand? There was a draft submitted to the Department of Homeland Security, apparently a drafting committee from FEMA. We would like that submitted within 30 days to this Subcommittee.

Mr. PAULISON. There were literally dozens of drafts back and forth, but I will give you——

Ms. NORTON. The final draft is all we are interested in that you submitted to the Department of Homeland Security.

Mr. PAULISON. Again, there were literally—I understand what you are saying, and there were literally dozens of drafts back and forth. We worked on this thing all summer.

Ms. NORTON. Well, I can understand that. Let me be clear. I do not want anyone to say, ″We did not understand what the Chair was asking for.″

I want the first submission of the final draft—and I am giving you the date, spring 2007—that you submitted, and they may have come back with questions, and there may have been a back-and-forth, but I am being very specific in what I am requesting, and I am requesting it within 30 days. I am not requesting at this time all the back-and-forths. I want to know what was originally submitted. I know what finally came out because the Subcommittee has the document.

Mr. PAULISON. I understand your question.

Ms. NORTON. Thank you. The date is March 13th, 2007. It is that submission we are asking for.

Now I would like—in order to be fair to the administrators, I warned you that there was caustic criticism coming. The only way for us to judge it is to give you an opportunity to respond to it, so I am going to ask you, I will give you a sample of the kinds of things that are coming forward in the testimony that will follow. Here is one comment.

″the draft framework overlooks the concerns that helped shape the legislation Congress enacted and would put the Nation at risk to some of the same systemic failures that hobbled the Federal response to Katrina.″

So it is alleging that—this comment, which we take as fairly typical of the comments we received, alleges that you did not abide by the legislation and that, therefore, some of the same failures that FEMA encountered would be repeated.

Now, secondly, ″Unless revised, the framework″—well, let me just start with that.

Mr. PAULISON. I guess part of my concern is that this report just came out yesterday. So to have comments on it without thorough review, I find——

Ms. NORTON. Well, you know that they are reviewing the draft report. The draft report was submitted to all of the State and local

agencies, and those who are commenting are commenting on the draft report.

Are you saying to me that the draft report has nothing in common with——

Mr. PAULISON. It has lot in common. The problem is this is only one piece of it.

Ms. NORTON. Well, respond to the concern then.

If you are saying, first of all, that that is not true because we, in fact, used the legislation, then tell us how you did, and you will tell us what failures that hobbled the Federal response to Katrina will be overcome by this document. That is the way to respond to it, not to say, well, they have not seen it.

Mr. PAULISON. Well, there is a lot they have not seen. At the resource center where we set up all the annexes that lay all of this out does follow the Pre-Katrina Reform Act.

What this document does do is it does very clearly define the roles of local, State and Federal Governments. It also brings in the private sector and the nongovernmental organizations, the volunteer agencies. It also has a separate planning section that the other National Response Plan did not have.

This document is going up for review again. If there are specific comments that the users have, we want to see those. This is going to be a collaborative effort. This is a draft document. However, I do feel very strongly that it does answer a lot of those questions that happened in Katrina. I went through the same issues during Hurricane Andrew.

Ms. NORTON. All right, Mr. Paulison. We understand.

Let me let Admiral Rufe take a try at this. These are very specific, very caustic criticisms, and I would like a specific answer as possible. The public is going to hear a lot of caustic testimony. If I were in your position and somebody said to me that I did not follow the law, I would then cite ways in which they did follow the law, Admiral Rufe, and if somebody criticized my draft and said it is going to subject us to the same failures we had with Katrina, my answer would not be, ″Hey, look. We are not going to comment. Maybe we will do better.″ My answer would be, ″No, we do not. This is the way in which we will not have the same systemic failures we had in Katrina.″ It is that kind of specificity, it seems to me, that can overcome the criticism that will be forthcoming from the testimony that we will be receiving, and I am trying to give you a fair chance to rebut it.

Admiral RUFE. Thank you, Madam Chairman.

The only thing I would say is I support the administrator. One, this was just released yesterday, but more importantly, attacks like that which are of a such general nature do not allow you to get at the issue that these attacks are being directed towards. If there are specific shortcomings in the draft that people are concerned about, we can address those, I hope, during the comment period rather than having these general, what I consider to be, pretty broad attacks that are not based on any kind of specifics and that are not helpful, and if we can get to the specifics, we will be able to address those during the comment period.

As the administrator said, this is a draft. We are looking for those kinds of comments. We want to improve it. We would like all

of the stakeholders to be involved in the process of improving it and in making it a better document.

Ms. NORTON. I do want to say for the record that the draft that the expert witnesses saw is almost the same as the document we have before us, so I do not think the government can hide behind some notion that they are responding to a different draft. We looked very closely at that before accepting those comments.

Yes, go ahead.

Mr. PAULISON. I was just going to say that we are not hiding behind anything. This is a draft document. We feel like it is a very good draft document. However, if we were putting it back out on the street again after receiving over thousands of comments on the original one and if there are specifics in here where people do not think we have addressed all of issues, we want to know what those are, but we feel that we have.

Ms. NORTON. Well, let me also be fair to those who are going to come. I have, obviously, tried to summarize what they said. Although I quoted them, I could not give you all of the particulars. They are going to come forward with them. I just wanted to make sure that you had the opportunity to respond to it.

Understand that the reason I picked this one out is because this particular comment, among many others, I must say—and we tried to pick out comments that we thought were fairly typical—said that DHS and FEMA overlooked the concerns that helped shape the legislation, suggesting that the act, itself, is being violated.

Now let me go to another comment that was typical. ″unless revised, the framework will create new confusion over roles at the very top of the system.″ Now let me explicate what they had in mind.

Every single expert says that the so-called ″PFO″—I hate these titles, and I will say to the general public please forgive me. This is so typically bureaucratic, but you have to name them something. The role of the PFO, who is the appointee of the Secretary—that is not in our statute. That is somebody, I mean, the Secretary could appoint me. He could appoint anybody in the audience. This person does not have to have any expertise. That person's role and the role of the Federal Coordinating Officer, we call him the ″FCO.″ Now, he is appointed by us. That appointment is in the statute, and that is a legal officer. Now, say the experts, there is total confusion over those roles, and let me explain why that is important to us.

Why that is important to us, to be very particular about it, is that, in the confusion over Katrina—when we sent Admiral Allen down, this confusion was the first thing that arose. There was a person who reported to the Secretary. There was this person who said, ″Well, I am in the statute.″ Everybody on the ground said, ″Well, who is in charge here?″ Congress took note of that as part and parcel of the confusion.

So what the President did there, seeing the confusion was real, was to make Admiral Allen both the PFO and the FCO, in other words, to give him both positions. Well, what Congress did in saying let us clean this up once and for all, Congress said, "Okay; since we are trying to empower FEMA within the Agency to do its job and not be a hang-on bureaucrat of DHS," I will tell you what, says Congress in the Post-Katrina Act. The PFO, our guy in the

statute, sorry, the PFO is prohibited from having directive authority, to make directives, replacing the incident command structure in the field. It was real clear and came out of the evidence.

Now come the experts, and they say, ″Well, wait a minute. These two officers are still in the document. If, in fact, you are a Federal official, will you look at this chart.″ See how confusing that is? You go in, and you say, ″Well, here I am in the middle of a hurricane. Here I am in the middle of an earthquake. Who do I ask for something?″ say everybody, everybody who responded—the State and local officials, the experts who were unconnected from any of them. There is still rank confusion between these two officers.

I ask you to say to me why that confusion is in the document, at this late state, given the fact that the Post-Katrina Act went to great lengths to dislodge one officer from his responsibility and to give the other the existing responsibility. That is the very specific question I am putting to both of you.

Mr. PAULISON. The very specific answer is there is a very clear definition and separation of the FCO and the PFO.

Ms. NORTON. Describe that separation.

Mr. PAULISON. The separation is the PFO will not oversee what the FCO does. The PFO will not be the FCO.

Ms. NORTON. But what is his role and mission?

Mr. PAULISON. The role of the FCO is to run the work out of the JFO, run the day-to-day operations.

Ms. NORTON. What is the role of the PFO? He is the representative of the Secretary. Is he going to be on the ground?

Mr. PAULISON. The PFO may or may not be on the ground, depending on the type of——

Ms. NORTON. If he is on the ground, what does he do, and what do you say to the people in Missouri or to the people in Tennessee about who is in charge on the ground and who he reports to?

Mr. PAULISON. If the people in Missouri want to know who to go to for that disaster, they go to the FCO. The PFO is out there as the Secretary's representative to help with overall incident, Federal coordination among agencies. The FCO is going to run that day-to-day operation. Now, the——

Ms. NORTON. What day-to-day operation is he running?

Mr. PAULISON. Of all of the Federal assets that are on the ground.

Ms. NORTON. Well, what in the world is the FEMA guy, the FCO, doing then? If he is not running all of the assets on the ground, but the Secretary's representative is, I am still confused about who is in charge.

Mr. PAULISON. The FCO is in charge of anything that has to do with the operational component of that disaster. If an emergency manager needs anything from FEMA or from the Federal Government, they go through the FCO. The PFO, again, is the Secretary's representative on the ground. If it is a catastrophic event—in Hurricane Dean, where we had a category 5 storm predicted to come into Texas, we did not have a PFO, but we had an FCO. The Secretary did not deem it necessary to have one.

Ms. NORTON. The staff has given me the language to show you why we are concerned, gentlemen. The staff has given us the language from your report, and it says the national—your report. The

National Response Framework says that the PFO—that is the Secretary's representative—will coordinate and is the lead Federal official.

Now, Admiral Rufe, I have to ask you because I expect that somebody who has been in the military understands, as many of us out here in civilian life do, and particularly in bureaucracies which overlap all the time—I mean, we pass laws which make them overlap. If you have worked up to the rank of admiral and you have heard what I have just said, first, I would have to ask you whether you have ever worked under a command structure like that.

Mr. PAULISON. Are you asking me or the Admiral?

Ms. NORTON. The Admiral.

Admiral RUFE. Yes, ma'am. This is actually a command structure that is very familiar to people in the Coast Guard because it is what is used in responding to oil spills. We have a unified command. There is not a person in charge. It is a coordinated effort at the top.

Typically for a major oil spill, for an example, the unified command structure, which is a structure under NIMS, calls for the Coast Guard's principal—I forget what they call it now—the on-scene coordinator, the Coast Guard's on-scene coordinator; the responsible party's lead, who is the spiller; the State official, and others just as you see in this diagram, which seems confusing, but actually, it works quite well. They practice that way. They train for that.

Ms. NORTON. Admiral Rufe, I understand that they practice that way. It did not work well in Katrina, and we fear that this person on the ground brings confusion, but most of all, we fear that you did not follow what Congress said to. Let us assume that it works wonderfully well for the Coast Guard. The Congress, in its wisdom or lack thereof, chose another course, and it put it in plain English in the statute. Now, we are always prepared to hear, for example, evidence from the Agency that, in the last emergency, we found that the PFO needed to play a role; therefore, we asked for the statute to be amended. The fact is that the Post-Katrina Act is an amendment of the statute, and we cannot discern that the Act was followed in this regard.

Before I ask further questions, I am going to go to Mr. Cohen.

Mr. COHEN. Thank you, Madam Chairman.

First of all, I want to thank the Director, and he has a background as a firefighter, and I have always had an appreciation for their work, and being from Miami, you know about emergency preparedness, and you know how important it is to a community. So I am pleased that you are in the position you are in, and I have heard many good things about you. Having said that, and not wanting to appear frozen in place, I want to go back to ice.

Explain why it took 2 months to respond to my letter.

Mr. PAULISON. Sir, I cannot do that. That is unacceptable. You should not have waited that long for a response, and I, first of all, apologize for that, and we have put a system in place to make sure that does not happen again. We are putting a tracking system in place. We have hired an executive secretary. When I took over FEMA, we were 800 correspondences behind, and we are pretty

much caught up with those, but there is no excuse for that whatsoever. It should not have been that long. It should have been a matter of weeks, not months.

Mr. COHEN. Thank you, sir. Thank you.

In your letter to me, you expressed that you tried to find some folks to use this ice, and you could not find any. Then later, once you decided to make it available to the public and some people came forward, the initial efforts to find recipients where there were none found were through the General Services Administration, which is the Federal Government, the seafood industry, the United States Forest Service, and nonprofits.

Did you look to local and State agencies and governments and ask them if they had any need or if they could help in giving notice to 501(c)(3)'s or to other charitable groups in their communities?

Mr. PAULISON. No, sir. A lot of the ice we could not get certified as ″potable.″ I know you said you drank it and tasted it, and you are fine, obviously. We could not take that chance with the whole system that FEMA had been using for years with the ice. As we go into our new type of logistics, we are not going to store ice anymore. We are using third-party logistics where you are using a just-in-time delivery system. So I know I am making this a long answer, I do not mean to do that, but the answer is we tried to find somebody to take the ice, and we gave away 600,000 pounds of it just recently to a concrete company in Memphis that needed to cool the concrete down, and it was used for things like that.

Mr. COHEN. I appreciate that, and I understand that. Let me ask you this: I would just think, and maybe I am wrong, that when you gave out your notice and did not get any responses, you only gave it to certain Federal agencies and to the seafood industry. If you had given it to local and State governments and said, ″hey, put out a bulletin,″ maybe some people would come have forth. When you finally did make it available, this group did come forward, and the 600,000 pounds of ice were use for nonpotable purposes.

If there had been a better distribution system for other commodities in giving notice that we were not going to have ice in the future and so it could be used before its shelf life expired, it could have been done, and it just seems like that was not well thought out.

Do you just accept the bag industry's 1-year shelf life or has there ever been any scientific study on this or Eskimos who have passed away or something?

Mr. PAULISON. No, sir, not that I am aware of. I do not think there has been a study on the Eskimos' eating ice.

There has been the standard of a year for that. I know as to all the stuff that we put out when I store ice at my house, which I do for the hurricane season, I always throw it out, generally, after 6 months. I do not keep it much longer than that. A year is an industry standard. I do not know if there is any scientific basis behind that.

Mr. COHEN. Being that you accepted the fact that it was nonpotable, which I still kind of find difficulty with—and I will be honest with you. When I was in New Orleans, there was a fellow down there. Well, I should not really give his testimony away, but he

said that he had never heard of any such thing as an ice expiration date.

If it were the expiration date that you honored, why was it not disposed of in Memphis where people could go at first and pick it up, not be fenced in and take it home and drink it?

Mr. PAULISON. Perhaps we could have done that. We stored it for hurricane season. We did not have any hurricanes that year. I cannot help that part of it. If we had had a hurricane season like was predicted, we probably would have used almost all of that ice just like we did the year before, but we did have a corps come in and test that ice, and the corps would not certify it as potable, usable ice. So that was part of the decision-making also. It was not just the industry 1 year.

Mr. COHEN. I think, if you would try to give more notice to folks so they could use it, it might work.

Let me ask you about the formaldehyde in those trailers.

Ms. NORTON. Could we ask that you wind up this line of questioning shortly so we can get back to our other witnesses who are waiting?

Mr. COHEN. Oh, we are under the 5-minute rule. I did not see the clock ticking.

Ms. NORTON. Well, actually, we took more than 5 minutes because we are trying to devote as much of the hearing as possible to the plan, but we are pleased to have the gentleman ask his questions on formaldehyde.

Mr. COHEN. As to the formaldehyde in the trailers, is it true that you all, for fear of some type of action against you, did not want to give notice to the public about the danger?

Mr. PAULISON. No, sir. After that e-mail that came out from our general counsel, there was literally an 8-hour delay before we took action and started notifying people. There was nothing purposeful in keeping people from being told that there was formaldehyde in trailers. We had already put flyers out. We continue to do that. What we are doing right now is actually moving people out of those trailers as quickly as possible. CDC is moving in to do some testing to really give us a ″no kidding,″ scientific basis of what do we really have. FEMA has used these trailers for 20 years. They are the same ones you buy off the lot. We bought thousands right off the lot. So, if there is a problem with the trailers, then it is truly an industry problem. So we have stopped sales of the trailers. We are making a very concerted, high-intensity effort to move people out, particularly in the group sites, to get them into hotels, motels and apartments. We are going to make sure that we do everything we can do to move people out of harm's way.

You know, secondly, we are not going to use travel trailers anymore. If we are going to use any type of manufactured unit, it strictly will be mobile homes.

Mr. COHEN. Thank you.

Thank you, Madam Chairman.

Ms. NORTON. Thank you very much, Mr. Cohen. The next question is a very important one because it goes to the issue of implementation of the plan.

Now, you received, you and FEMA, Mr. Paulison, received a draft from your own steering commission. It does seem to me that is reg-

ular order because that steering commission consisted of, among others, particularly State and local officials. No plan gets implemented from Washington. It is either done in the field or it is not done. We can go in to assist, we can send in the resources, we can send in FEMA. But it is on the ground that these plans must be submitted.

Some of the most costly criticism has come from State and local officials. Typical of the statements is this one: The collaborative and cooperative process in rewriting the document failed. The State and local responders allege that after submitting the draft to you in FEMA, Mr. Paulison, that there was no response back even though you yourself say that the plan was submitted to the Department of Homeland Security with many drafts going back and forth. The people on the ground say they were excluded from this process and that you went into a mode of secrecy from them. Please respond to that criticism, you and Mr. Rufe.

Mr. PAULISON. I categorically reject that. We had over 700 people provide comments on the old NRF into developing the new one. We took those comments and then right after that we brought the steering committee together to condense those down into 17 areas. At that point we took 120 days to put a writing team together. And the writing team did have emergency management experts on it, although there were FEMA employees from Emergency Management Institute and others, to take those comments from those 700 people.

Ms. NORTON. The 700 people from where?

Mr. PAULISON. The 700 people were from the emergency management community, the fire community, the police community.

Ms. NORTON. Were these the steering committee people?

Mr. PAULISON. I have a list of the steering committee. It should have been in your packet.

Ms. NORTON. Were these 700 people—you talk about 700 people. I am talking about the steering committee. Are we talking about the same group of people?

Mr. PAULISON. It is part of that. The steering people wasn't 700 people, but it was a large group.

Ms. NORTON. Who are the 700 people?

Mr. PAULISON. From all across the emergency management community.

Ms. NORTON. So there were a steering committee and then there were other State and local officials.

Mr. PAULISON. We received comments in on the National Response Plan, and the steering committee took those comments and went through those and broke those down into 17 buckets, so to speak, of 17 different areas. We then took those that the steering committee put together. And I put a writing team together to put this document together to make sure that all——

Ms. NORTON. Was anybody from the steering committee on the writing team?

Mr. PAULISON. No, there was not.

Ms. NORTON. Why not?

Mr. PAULISON. The steering committee did their job. Our job was to put the writing team together.

Ms. NORTON. I asked was there anybody from the steering committee, not was the whole steering committee there.

Mr. PAULISON. No, there was not. We had emergency management experts on there.

Ms. NORTON. Were there State and local officials on the writing committee?

Mr. PAULISON. No, but I had the past Director of the Emergency Management Institute on there. I had the key person that teaches the emergency managers, that teaches the course work on that writing committee. We had a lot of experts on there putting the comments together, writing this draft plan, making sure back and forth, back and forth that we had everything in there from the comments that we had as we could possibly get in there. Now that it is done it is going to get back out to not only the steering committee, but also to a larger steering group for getting comments back in. This is going to be a collaborative effort.

Ms. NORTON. That explanation is important. Let us make sure we are talking about the same period. Once the draft was sent to Homeland Security, apparently many changes were made. These State and local officials allege they were not included in consultation.

Mr. PAULISON. Chairwoman, we took all the comments we could possibly get.

Ms. NORTON. But were they included or not once the plan was submitted to the Department of Homeland Security.

Mr. PAULISON. The plan was not done to go back out yet. This is a plan to go back out for review.

Ms. NORTON. These are the people who thought they were entitled to more than review, I guess we should tell them that, that although parts of the steering committee, they are only entitled to review like everybody else even though they wrote the initial plan. Is that what you want us to tell them?

Mr. PAULISON. No, ma'am, they did not write the initial plan. We were putting the plan together with a writing team making sure we incorporate all of their ideas and all of the comments, and we think we have.

Ms. NORTON. Well, again, we could have a situation here where—a hubris. That is to say we weren't part of it. And that is why we wanted to give you an opportunity to respond. The reason we took these comments so seriously is that we could find nobody in the State and local emergency management community that differed from these comments. And because these comments were so caustic that the final document as far as they are concerned does not bear resemblance to the document they submitted. And for us that is the ball game. There is not a thing you can do out in California or in Illinois. So if these folks who got to do it says this is not what we submitted and we wouldn't mind except when they went back and forth we weren't included, you must understand that the Congress has to take that very seriously since the whole intent here was to get an extremely collaborative process going. So that if you disagreed, in the end they could say, look, at the end we disagreed, but we were kept informed until the very end, and that is not what they say or will say when they testify.

Mr. PAULISON. I would hope, and I understand what you are saying, I really do, I would hope since we put the document out along with all of the annexes, along with the resource center, which is on the Web site, I would hope that once they review that and comment back, that they would see that it does incorporate everything that they have asked us to do.

Ms. NORTON. Wait a minute. I am not going to let you go back to what we have already established for the record. And for the record we have established that the draft plan that they have seen and commented on does not differ materially from your final National Response Plan.

Mr. PAULISON. But it does, it does differ, because this was just a piece of it. The rest of it is in our annexes that they did not see, the Web site that they did not see with our resource center.

Ms. NORTON. So you are convinced that once they see the whole thing, they will see that this is what they had in mind.

Mr. PAULISON. And if it is not, there is 30 days to review this 78-page document and 60 days to review all of our annexes and the Web site. And it will be a collaborative effort.

Ms. NORTON. Could you again, your testimony it seems to me would be more credible to us if you could indicate some ways in which the plan from the steering committee needed changing and that you changed. Give us some examples, then perhaps you can understand. Because after all, they were dealing at the State and local level and you are dealing in another level.

Mr. PAULISON. I have to go back to what I said earlier, is that this plan went back and forth inside our organization, back and forth with Homeland Security making sure we dealt with the two most important pieces. One is obviously the users that are out there, the State emergency managers, local emergency managers, the fire and police chiefs, those that have to use it. But the second piece that we have missed, and one of the reasons that we had issues with Katrina, part of it, was the fact that our local officials at the local level, at the State level or appointed officials at those levels, come and go quite often. And they were not part of the initial mass response plan. So we wanted to make sure that there was a piece in here that they could quickly pick up and learn and understand what their role was. And we think we captured that.

Now, the big in-depth piece of it is in the annexes that is not part of this, it is separate. Our on-line resource center is part of it that the State emergency managers are going to be using. I wish that I had had this when I went through Hurricane Andrew. I wish that my Governor had it, Governor Lawton Chiles had it, because we had a major disconnect in what role each was supposed to play. And this I think clarifies this. If it does not clarify it in the minds of our State and local emergency managers, then they need to tell us very specifically what we need to clarify to do that.

We have a consortium meeting this Thursday with all of these people being involved to go over this again in Chicago. I think most of the people behind me will be at that meeting. And then we have the 30-day process also. It is going to be collaborative. If it needs to be tweaked, if it needs to be changed, we want to hear what they think has to be done.

Ms. NORTON. I have only one more question. Admiral Rufe, I ask you to respond to what has just been said. But I would like you both to understand that a part of this is built in. Once upon a time there was a FEMA and none of these questions would have been relevant, not a single question I asked today would have been relevant. Because that FEMA reported to the President of the United States, was like a special force that just went underground and got it done. You knew who was responsible. There wasn't any back and forth between some super agency. Well, we created a super agency and there was a disagreement between committees as to whether or not we should return to what seemed to work, which was a direct line to the President of the United States, or should struggle within this bureaucracy. And I must say that today's testimony seems to me to put you in a struggle. The steering committee gives you a document. There is a reason why we go to the Department of Homeland Security, although we are talking about all hazards. And that is one of the concerns of the committee. We are talking about all hazards. What FEMA says goes for any hazard. Goes for a terrorist attack, which is clearly where the Department of Homeland Security has been focused all along, even though the only thing that is predictable are natural events. But all hazards from the beginning meant everything. What we are asking you to do is to mediate between what you are told from people on the ground and some people in Washington above you, an agency we have set up, tell you to do or not do. There is no Federal emergency management experience in the Department of Homeland Security. It is all in FEMA. So we are at a loss to figure out what in the world they are telling you, so that there is so many back and forth drafts. From who? Who knows anything what he is talking about? Who is a Federal bureaucrat sitting in an agency over top of you, of which you are a part to be sure, who has no Federal emergency management experience, whether it is Admiral Rufe or anybody else? Now, Admiral Rufe, do you consider yourself a Federal emergency management official?

Mr. RUFE. Yes ma'am, I do. I have had 34 years experience managing emergencies in the Coast Guard; search and rescue, response to oil spills, response to natural disasters.

Ms. NORTON. So you would have been, it seems to me, very helpful in advising FEMA, but you are in the Department of Homeland Security, sir.

Mr. RUFE. If I may, just to indicate to you what some of the roles are respectfully of the Secretary that are in statute and that are important and that are complimentary to what FEMA is doing, let me give you a couple of examples. The Secretary is the——

Ms. NORTON. Is it the Post-Katrina Act that we have focused on?

Mr. RUFE. Yes, ma'am. The Post-Katrina Act made some important changes to the way we manage emergencies. It did not, and I emphasize, it did not undo the Secretary's responsibility for being the principal Federal official for domestic incident management.

Ms. NORTON. And we are not suggesting it does. We are suggesting that the Post-Katrina Act looked to focus and locate emergency management experience in the agency we created and not in the Department itself.

Mr. RUFE. Let me give you one experience that is just very recent that might give you a sense of when the Secretary is engaged where FEMA does not really have a role. Just a month or so ago we had what we thought was an outbreak of foot and mouth disease in the Midwest. We were concerned about it. We didn't know whether it was a real incident or not. We didn't know whether it had a terrorist nexus. As it turned out, it didn't turn out to be a foot and mouth experience, but the cows were experiencing what appeared to be foot and mouth symptoms. We were engaged for 11 days. We had—that is the Secretary and I in my role as his principal adviser for this sort of an event. We were working with the economic advisers to the President because this principally would be an economic impact to us. We were involved with the Department of Agriculture, HHS, Custom and Border Protection, HSC and a whole host of others, intelligence, managing that incident. And it was not an emergency, it was an incident.

Ms. NORTON. That it seems to me is appropriate.

Mr. RUFE. Pardon me.

Ms. NORTON. FEMA has jurisdiction when there is an emergency management declaration, and that is what we are concerned about here. We are not concerned about a foot and mouth disease rumor that you go out from the Federal agency to confirm or not. Of course if the President then decides that what we have is a national emergency, then of course you go to FEMA and say handle it.

Mr. RUFE. Let me give you another emergency which doesn't have a FEMA role. A mass migration from Cuba. That is a role where the Secretary, as his role to lead the U.S. Coast Guard; It involves Customs and Border Protection——

Ms. NORTON. You have just given me a very appropriate role for the Department of Homeland Security that does not involve FEMA. So we do not allege, particularly given the role, the Department of Homeland Security has no role in matters that may be serious affecting our country. We do allege that the Post-Katrina Act said that if we are talking about a Federal emergency, thatFEMA and FEMA alone has the jurisdiction and alone has the expertise.

I have only one more question, and it is just a straight up and down question. If I were given your horrific task, and I don't want you to believe that the questions we have asked do not, or underestimate what a charge this is; hey, go and do a whole National Response Framework for the whole country, and by the way make sure that the private sector is included. That is pretty awesome. You have to sit back and fan yourself. So how do you even begin there? It seems to me that the first thing you do would be to line the act up and almost do a side by side.

What does the act say, what does that mean I should do? We found it noteworthy, curious, that in light of the time that Congress put into writing the Post-Katrina Management Reform Act, in light of the tragic experience out of which that act was born, that the act itself was hardly mentioned in any meaningful way. It is as if the act was not a part of your thinking and that you just sat down to write a plan. In what way, if that was not the case, in what way did you measure what you wrote against the Post-Katrina Management Reform Act?

Mr. PAULISON. Actually we did use the document to make sure that everything we put in the National Response Framework——

Ms. NORTON. In what way I ask? In what way? I am looking for examples. Of course everybody will say of course we followed it. I am trying to allow you to respond to the notion of the expert that you did not in fact follow the act by saying, well, if you had the act on a side by side in what way do you say you followed the act. Chapter and verse, any example. I don't expect you to have all of them, but any example that follows the act.

Mr. PAULISON. I don't know if I can——

Ms. NORTON. Since it is not even cited in a footnote we have to ask you yourselves.

Mr. PAULISON. I don't know that I can give you exact examples. I do know that we made sure as we walked through putting the National Response Framework together, that everything was in compliance with the——

Ms. NORTON. Why? Did you submit it to your lawyers to see if it was in compliance, did you submit it to the Justice Department?

Mr. PAULISON. No, we did not submit it to those. We are capable of reading it, I think, and understanding it and making sure that what is in here is in conjunction with the Post-Katrina Reform Act.

Ms. NORTON. In the future it might help the Committee and it might help your own testimony if a document referred to the act that in fact was responsible for its being drafted. When it is not referred to at all, when we have extraordinary criticism that it wasn't followed, you force me to ask in what way it was followed since the act itself is not cited in the act. And none of what you write do you say is in conformance with specific sections of the act.

Thank you very much. We go to Mr. Cohen.

Mr. COHEN. Thank you, Madam Chairman. I will just be brief. This being the anniversary of 9/11, one of the issues that came up in a previous Committee I was on was the firefighters, first responders there, who didn't have proper equipment at first when they were on the pile and folks who have had respiratory, serious respiratory problems, some I think have died. That seems like something that we should have had some planning for. At this point, particularly as a former firefighter, do we have a stockpile of equipment that we could supply if there is a tragedy that doesn't have a shelf life that we could provide to folk and have plenty of those available?

Mr. PAULISON. Yes, sir, we do. We have those scattered around the country where we can go and equip either a police or fire department should they in fact lose their equipment or should we have to staff another agency with those type of things. And we have those scattered around the country. Prepositions of what are called pods or something like that. I can give you a description of those, what is in them, and also give you a description of where they are. I can get that to your office, and it won't be 3 months.

Mr. COHEN. Thank you, sir. It was just the testimony we received from the firefighters. And I read something about some folks this morning because I was reading about 9/11. And they should have had those regulators, I think they were, and they didn't.

Mr. PAULISON. They should have been wearing respirators the whole time. They were on that pile. And a lot of them were not.

Another one of those sadly lessons learned from those types of things.

Mr. COHEN. When I went there myself about a month after 9/11, again just as a private citizen wanting to see it, but Mayor Giuliani was nice enough to have me get access. I guess he was nice enough, because I used the mask that somebody told me did me no good, so I breathed that air. Those masks they gave apparently don't do any good at all.

Mr. PAULISON. I am not sure what kind of mask you had.

Mr. COHEN. Blue and white and they had a number on them.

Mr. PAULISON. Some of those work very well actually for keeping particulate out, if there is something in the air, like asbestos. If it is a chemical they don't help, but if it is for a particulate anything you wear helps some. But there are some better ones out there than what you are talking about.

Mr. COHEN. I know it is the Corps of Engineers' responsibility, but if a Hurricane 4 or 5 hit New Orleans this year how are the levees, the system?

Mr. PAULISON. The Corps' description of the levees is they are as good as or better than they were during Katrina. However, they failed during Katrina. The ones that they rebuilt are much better. The levees did not fail. There has to be some concern since they probably were not challenged. There is a—I know the Corps is looking very seriously, I think there is a plan in place, on what the long-term rebuilding of the levees should be and what the cost should be. And I am pretty sure that is going to be coming to Congress.

Mr. COHEN. And the wetlands are real important as a barrier. I flew over those, too, and they have been decimated. Are you involved at all with the efforts to replenish the wetlands or is that another department?

Mr. PAULISON. Yes, that doesn't, not that I am aware of, that it falls under FEMA, but it would be another department.

Mr. COHEN. Madam Chair, I got here a couple minutes late, you may have said something, I don't know. But being the anniversary of 9/11, I think it is appropriate this Committee be working and shows the government is working. And FEMA has a high responsibility. They gave government, and it wasn't you, sir, you get good marks, but FEMA gave the government a black eye for not being able to respond. You have got a high responsibility and your people have a high responsibility, and you are our team. I just have to have confidence, will have confidence in you, and know that you have such an important mission to protect us if there is another terrorist attack, if there is another Hurricane 5 level in New Orleans or anywhere else. And so just we are going to have to count on you, and I appreciate you.

I think back upon 6 years ago and seeing the TV of the second airplane hitting the towers. I think I read this morning that President Bush somehow imagined that he saw the first plane hit the tower, which is impossible because nobody saw that for some time later. Kind of like President Reagan I guess being at D-Day. Sometimes people get confused. But it was an awful event and a tragedy that we honor and remember today. And you as a firefighter, I am particularly pleased you are the head of that agency. And being a

Floridian, I am a Memphian by birth, and that is my hometown. I have lived almost all my whole life there, but I have spent about 4-1/2 years in Florida in Coral Gables. I am 58. I think you are 59.

Mr. PAULISON. Sixty. I will be 61 in February.

Mr. COHEN. Well, you got a few. I guess Gables played North Miami at some time or another. I know that you got experience with hurricanes, which I have been through too, so you will do your job. And I thank you for your service and Godspeed.

Mr. PAULISON. Thank you, sir. It is very humbling to have to tell you it is an awesome responsibility. And we are putting good people inside the organization. And I do appreciate—I know we get testy sometimes, but I do appreciate this Committee and its oversight. I really do.

Ms. NORTON. The responsibility is not any that anybody would relish and certainly a responsibility of writing this document is of the same order. I agree with the gentleman that the point is to inspire the confidence in the American people that if something happens we are ready. And that is why this oversight is so important. And why we are so concerned at differences here about whether we are ready and therefore whether we should have confidence. We don't intend to take any chances, not in this oversight. We do not intend for it to be said that, well, this Committee went pretty easy on them. And the first responder said that the document wasn't up to par, but there was testimony. And we said, well, may the good Lord protect us. We think God helps those who help themselves. And we have to straighten out what appear to be grave differences between the experts who have looked at this report and the witnesses whose testimony we have heard today.

I will take your point that there will be 30 days when people can comment. I'm sure, let me just ask you, given the nature of the comments, if more time is needed than 30 days, would FEMA be prepared to allow more time for comments?

Mr. PAULISON. Yes. If we are still getting a lot of comments during that 30 days we will obviously extend that period.

Ms. NORTON. I appreciate that.

Mr. PAULISON. And don't forget they have 60 days to comment on the annexes and on the resource center.

Ms. NORTON. 60 days to comment on the annexes.

Mr. PAULISON. And the resource center. The 30 days is just for the base document. But again, if we are still getting more comments on the base document in the 30 days, we are very flexible on that. I have had a conversation with both the international emergency managers and also the national emergency managers behind me and have committed to them that we will make sure that during this 30 to 60-day period that we will be very collaborative and we will work together to make sure we have all their comments.

Ms. NORTON. Let me inform you of another action we are going to take to be fair to FEMA, DHS and to the first responders who have commented given what is clearly a disconnect between their view of the document. We are going to look for what is always regarded by the Congress as the most objective source. I am going to ask our ranking Member Mr. Graves to join with me in seeking in an expedited request to the GAO to conduct a review, a thorough

review of how the Post-Katrina Act is being implemented through the National Response Plan you have submitted. And that way we will be relying upon a source that has had no role in the document.

We very much appreciate the very awesomely difficult task we have put you to. As you know, Mr. Paulison, I have always been willing to work closely with you. If we offer comments, we offer those comments not to say go and do better, we offer those comments to say go and work with us and together we will do better.

Thank you Mr. Paulison, you, Mr. Rufe, for your important testimony today.

Mr. PAULISON. Thank you, Madam Chair.

Ms. NORTON. And let me call the second panel. We are calling Dr. William Waugh, Jr., who is Professor of the Department, or maybe I will say who they are as they begin to speak. Panel 2 and 3 we are joining together to save time. You are all offering your own critique of the report. And the way I am going to do this, I think probably as a matter of protocol we ought to start with those who are public officials first.

So we will first hear from Tim Manning, who is the Chair of the Response and Recovery Committee of the National Emergency Management Association and who is Director of the New Mexico Department of Homeland Security and Emergency Management.

Mr. Manning.

**TESTIMONY OF TIM MANNING, CHAIRMAN, RESPONSE AND RECOVERY COMMITTEE, NATIONAL EMERGENCY MANAGEMENT ASSOCIATION AND DIRECTOR, NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT; AND ROBERT C. BOHLMANN, CHAIRMAN, U.S. GOVERNMENT AFFAIRS COMMITTEE, INTERNATIONAL ASSOCIATION OF EMERGENCY MANAGERS AND DIRECTOR, YORK COUNTY, MAINE EMERGENCY MANAGEMENT AGENCY**

Mr. MANNING. Madam Chair, good morning. Over the past calendar year I have served as the NEMA representative to the Department of Homeland Security/FEMA National Response Plan Senior Interagency Steering Committee, which has overseen the updates to the NRP. As I come before you today, NEMA has two significant issues related to the National Response Framework, the NRF.

First, the current draft of the NRF must be reworked to reflect the true operational plan or an additional document must be drafted immediately to replace the NRP.

Second, the collaborative and cooperative process in rewriting that document has failed. On September 11, 2001, the Federal Government responded to the attacks using the Federal Response Plan and the Terrorism CONPLAN. One of the recommendations of the 9/11 commission and mandates included in the Homeland Security Act called for a consistent and coordinated national plan. Title V of Public Law 107-296 called for DHS through the Under Secretary for Emergency Preparedness and Response to be responsible for, quote, consolidating existing Federal Government emergency response plans into a single coordinated National Response Plan. The NRP was not perfect but it was necessary. It included the creation of the Principal Federal Official, the PFO, which NEMA opposed,

and the new term, Incident of National Significance. The current rewriting effort was given to FEMA in last year's Post-Katrina Emergency Management Reform Act.

FEMA is responsible for administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each of the emergency support functions under the National Response Plan.

Initially NEMA was heavily consulted and actively engaged. NEMA was included on the DHS/FEMA Interagency Steering Committee, along with representatives of Federal agencies, a representative from the Major City Police Chiefs Association and the International Association of Fire Chiefs. In addition to the steering committee, NEMA provided over 20 representatives to various NRP working groups that spent weeks and months working as subject matter experts to provide input. These highly experienced State emergency management professionals participated in lengthy conference calls and flew across the country to D.C. Often with very short notice. The input provided was based on lessons learned from past disasters and a vision for the future.

Since the informal release of the plan in early August, NEMA has identified a number of critical issues that must be addressed before it can be recognized and accepted by State emergency managers as a viable replacement for the NRP or the FRP. We raise these issues as partners to ensure appropriate readiness.

For the purposes of this hearing our comments reflect the draft that was obtained in early August. DHS has released a final draft for public comment yesterday. In our review it is not substantively different than the first draft, although some minor improvements have been made. NEMA is concerned that the majority of the collaboration, the input provided through the interagency steering committee and the writing teams was not included in this draft.

Overall, the most critical issue for NEMA is the current framework is not a plan. The document reads more like a primer for State and local officials, which is a valuable resource; however, it is not the national plan for responding to disasters. This can be compared to showing up for a football game with an encyclopedia entry on who is involved and how the game is played, but without the actual playbook for offense or defense.

Essentially only a small segment of the plan or the national team is being considered. The current framework is not sufficient for emergency responders and does not replace the previous NRP, the FRP. If the framework is intended to serve as simply a description of the system of response and an introduction to the players involved, an additional document, an actual operational plan must be produced as well.

The current framework has been clearly drafted from a Federal perspective and does not appropriately address the planning needs of the State and local governments, nor does it follow commonly accepted management planning principles, specifically unity of command. The current document maintains the Principal Federal Official as operational. NEMA supported the deletion of this position as duplicative and confusing. If it is to persist in doctrine it must be explicitly clarified as having no operational role or authority as

was stated in the Post-Katrina Emergency Management Reform Act.

Finally, references to mitigation of a document are virtually nonexistent and recovery is only sparingly mentioned. The current draft does not specifically say what the Federal Government brings to the table in a disaster. And the framework essentially writes FEMA out of a job by downplaying the role of the organization and the National Response Coordination Center and the regional response coordination centers. The roles of the national operation center, the NOC, and the NRCC should be clarified and cemented. Operations and coordination centers should serve as the central collection and coordination points. A goal should be the reduction in the number of disparate operation centers, not the proliferation of them. National doctrine for response should eliminate uncertainty. One should not be left to wonder whom to call or talk to in a time of crisis.

The current framework references a number of other planning guides, hazard specific annexes and other resources that will have to be continually developed and adapted to support the framework. It has stated that these will be posted to Web sites and the emergency response community will be expected to know which plan is in play at any given moment. Disaster preparedness is about preparing before a disaster occurs and not downloading the playbook in the middle of an event. If the first time somebody reads a disaster plan is when the event is unfolding, they have already lost.

This concept must be reconsidered, not only to allow partner governments to participate in annex development, but to allow for the adequate timing to train, practice, refine the plans and develop institutional knowledge.

Finally, the collaborative and cooperative process in rewriting this document completely broke down when all of the input and advice from partners was put aside for an internal DHS rewrite. In April 2007, a month before the deadline, NEMA was informed that DHS needed additional time to consider all of the input. In the following weeks NEMA learned that DHS was undertaking a complete rewrite of the newly completed NRP in a closed door process with no stakeholder input, working group involvement or visibility by the steering committee. In early July NEMA was informed that the nearly complete NRP was in fact being completely and substantively rewritten and would be renamed the National Response Framework. It would include significantly more detail and direction on the responsibilities and expectations of State and local governments, but written without the collaboration of those State and local government representation.

The interim final draft was released yesterday to a limited 30-day comment period. Today attempts have been made to open communication with DHS on the draft and that process. If the collaborative and cooperative process remains strained, we fear that the State and local governments and emergency responders will be hard-pressed embracing a plan that has not seriously taken their input into account.

Again, NEMA appreciates the opportunity to testify and provide Congress with the comments on the National Response Framework. We hope that by outlining our current concerns we can help

DHS make an effort to engage stakeholders to address the shortfalls of the current framework and work together to strengthen the final product.

Thank you.

Ms. NORTON. Thank you very much, Mr. Manning.

Mr. Bohlmann.

Mr. BOHLMANN. Madam Chair, ranking Member, and distinguished Members of the Subcommittee, I am Robert C. Bohlmann. I am a Certified Emergency Manager and the Emergency Manager and Homeland Security Director for York County, Maine. I currently serve as a Government Affairs Chair of the International Association of Emergency Managers and I am providing this testimony on their behalf. Our association represents more than 3,800 members, including emergency management professionals at all levels of government, tribal nations, colleges, universities, private enterprise and the nonprofit sector. Most of our members are U.S. city and county emergency managers who have the statutory responsibility to implement emergency plans in a disaster. We appreciate the tireless work of this Subcommittee to strengthen FEMA and your continued effort to see that the Post-Katrina Reform Act is implemented, and we appreciate the opportunity to provide testimony on the process and the substance of the National Response Framework. We were extremely gratified to be identified as one of the key stakeholders and partners in the revision of the National Response Plan.

Especially in light of our above-mentioned statutory responsibilities, we eagerly anticipated participating in a collaborative revision process carving out a clear definition of the roles and responsibilities of those involved in all hazards emergency management at the Federal level. And we look forward to a clear and straightforward description of how those Federal roles and responsibilities would interrelate with State and local emergency management practitioners who have the acknowledged lead role in responding to disasters and emergencies.

The process under the direction of FEMA from December 2006 to March of this year was exemplary. Stakeholders were intensively involved in the collaborative group and worked to address dozens of different aspects. The NRP revision co chairs worked tirelessly to champion a transparent, inclusive process, making sure that both stakeholders and key stakeholders were represented. That is why I along with other key stakeholders and partners were surprised when reviewing an unofficial draft document of the National Response Framework dated July 27th, which is the one we are commenting on today. The document bore little resemblance to what we discussed so extensively from March 2006 to the 2007 timeline.

The last communication we received was on March 13th, that the first draft was being delayed. No further stakeholder interaction on the revised NRP occurred after that date. IAEM believes that this process reversal in conjunction with other fundamental misunderstandings of the emergency management process by DHS has produced a document with flaws which must be corrected for its adoption. IAEM stands ready and willing to assist in this process and

is hopeful that key stakeholders will again be welcomed into the process before the NRF is released.

And we did receive comment this morning from the Administrator that that would be happening. A truly effective National Response Plan is vitally important and will serve as a clear purpose, standing as the overarching planning document identifying the role and responsibility of the players and the way in which resources are accessed in order to save lives and property. It is not rocket science and it does not require 800 pages.

The July 27th draft NRF that we have reviewed appears to be more like a public relations document rather than response plan or framework. IAEM believes one of the fundamental DHS misunderstandings is what "all hazards" means. It is really quite simple. All hazards signifies all hazards resulting in any cause, whether natural, manmade, national security or homeland security. Therefore, we should identify our disaster roles and responsibilities in such a fashion that they relate to any disaster. This is commonly referred to as a functional all hazards approach to planning.

We do not agree with DHS's assessment that the audience for the draft NRF should be local elected officials. Instead, we believe that those charged with the statutory authority to implement and coordinate emergency plans at the State, local and tribal level of government are the primary audience for this document as the subject matter experts.

The draft NRF seems to undercut reforms of the Post-Katrina Reform Act which provides structural realignment and protection of FEMA inside the Department of Homeland Security and clarifies the role of the Administrator. The act restored the national partnering of preparedness, mitigation, response and recovery as responsibilities of the reenergized FEMA, yet the draft has the responsibilities for the strategic planning outside of FEMA.

The Post-Katrina Reform Act also amended the Homeland Security Act of 2002 and clarified the role of the Administrator as the principal adviser to the President, the Homeland Security Council and the Secretary for all matters relating to emergency management in the United States. It further stated that in Section 504 the Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from or mitigate against natural disaster acts of terrorism, other man-made disasters. Yet in this draft the role of the Administrator is severely limited and frequently ignored. The NRF diminishes the role of the Federal Coordinating Officer and gives the Principal Federal Official more authority than the Post-Katrina Act allows. The continued existence of the Principal Federal Official is another way that DHS is increasing our opportunity to fail in a disaster response. We strongly urge that the FCO remain the single point of contact in the field between the Federal Government, State and local governments, and that the FEMA Administrator act as the President's direct representative.

Charles Kmet, the emergency management Administrator for a large tribe in Arizona and a member of the FEMA National Advisory Council, has asked me to emphasize that the tribes continue to see conflicting ways in which they are handled—sometimes a sovereign nation and other times as local units of government—as

a major problem not only with the draft NRF, but also in many other emergency management and homeland security issues. Consequently many tribes are not prepared or equipped to the capabiliy level that their local and regional counterparts are.

The principle for emergency management is planning, and that is important in the process rather than the particular products. General Dwight D. Eisenhower is often paraphrased as saying plans are nothing, planning is everything. We are greatly encouraged with the collaborative nature that would be the beginning of the NRP revision process, and we look forward to the ones that were being offered today. We urge FEMA to reengage the key stakeholder input and give adequate time to correct the flaws of this vitally important plan and encourage Congress to insist on the implementation of the Post-Katrina Reform Act. The NRF should not be a vehicle for reducing FEMA's responsibility and authority.

Thank you.

Ms. NORTON. Thank you very much, Mr. Bohlmann. We will now go to our two additional expert witnesses from outside the government; Dr. William Waugh, Professor of Department of Public Administration and Urban Studies, Andrew Young School of Policy Studies at the Georgia State University, Professor Waugh.

**TESTIMONY OF DR. WILLIAM WAUGH, JR., PROFESSOR, DEPARTMENT OF PUBLIC ADMINISTRATION & URBAN STUDIES, GEORGIA STATE UNIVERSITY; AND DR. PAUL STOCKTON, SENIOR RESEARCH SCHOLAR, CENTER FOR INTERNATIONAL SECURITY AND COOPERATION, STANFORD UNIVERSITY**

Mr. WAUGH. Thank you for the opportunity to address the Committee, Madam Chair. I am a specialist on local government capacity building as well as emergency management, and have broader interests. That is, I hope to offer an academic perspective but also something of a practitioner perspective. I am a current member of the Emergency Management Accreditation Program Commission that sets standards for and accredits State and local emergency management agencies and a former member of the Certified Emergency Manager Commission, which is the top national credential for professional emergency managers.

With the academic hat I look at the NRF draft in terms of a variety of things. One is an academic sense of a framework that facilitates collaboration and also doesn't interfere with the potential for improvisation, particularly on the ground in large scale disasters. We do live in a networked world with shared authority and dispersed resources, a great deal of interdependence, both in terms of intergovernmentally and organizationally and individually, and we also live in a world where there is considerable stress and conflict between emergency managers and Homeland Security officials. So some part of the context here is I think in part a reflection of that.

I am also interested in sort of the weaknesses of the NRP and how those are addressed; that is, things like excessively centralized decision processes that slowed things down, the notion of a cavalry approach to disaster management, the presumption of a Federal lead, even in relatively small kinds of disasters which were sort of an assumption that shows up in the other document, a single-mind-

ed focus on terrorism, and as the Committee has talked about, there are too many people without emergency management experience in the structure dealing with things.

I will say that in the field generally there are some very positive developments in terms of EMAC, the Emergency Management Assistance Compact; that is, letting States share resources, statewide mutual assistance, which is facilitating intrastate sharing of resources, and now the National Emergency Management Network, which is facilitating community resource sharing. So there are some very positive things that should have some impact on this document.

The draft has some positive aspects in terms of dropping reference to the incident of national significance, the emphasis on unified command, although I would caution for cultural reasons some people don't understand unified command and sharing authority and I would be more than happy to deal with that if someone wants to pursue it.

And the negative aspect is that the NRF is a scenario based document that is not all hazards. There are 15 scenarios, planning scenarios that are frequently referred to, only three of which we might consider natural. There are no large flood scenarios, no tornado outbreak scenarios, no tsunami and any number of other things that are potentially devastating kinds of events.

There is a lack of attention to connecting response to mitigation, response to a variety of other things that is sort of necessary to prepare the Nation for dealing with large scale events. The obvious things that you have been focusing on have been the potential conflict between the principal Federal officer and the Federal Coordinating Officer, which I think my comments referred to as the 800-pound gorilla in the room if you have the representative of the Secretary sort of in the chain of command. This also is a question of having more people involved in the process who may or may not have any expertise with emergency management. And I think the predesignated principal Federal officers don't seem to reveal people that actually do have that kind of expertise.

And the lack of direct contact between the FEMA Administrator and the President in events that don't involve a national disaster, Federal disaster declaration, that it is not certain that the President will be receiving advice from someone who actually knows anything about emergency management.

My conclusions are notions that the document actually does need to assure that there are experienced emergency managers in charge. And I will say that in some of the discussion here that frequently people confuse emergency responders and emergency managers and they are not the same thing. And developing mechanisms that will facilitate collaboration, either governmentally, interorganizationally and so on, that while the incident command actually drives academics nuts, it is a bureaucratic system and we have had 50 years of criticisms of that in circumstances that require flexibility and improvisation. And the notion of having a document that provides at least a general framework but also affords opportunity for flexibility when you have to respond to changing circumstances.

And with that I will stop.

Ms. NORTON. Thank you, Dr. Waugh. Now we move to our last witness, Dr. Paul Stockton, Senior Research Scholar, Center for International Security and Cooperation, Stanford University.

Mr. STOCKTON. Thank you, Madam Chair, for the opportunity to testify. It is clear that you have read our prepared testimony with great care, so I am going to summarize my remarks very briefly and maximize the opportunity that you have to ask questions. I believe that the draft framework as currently written ignores and is likely to subvert the important changes that Congress enacted into law in the Post-Katrina Reform Act. I am going to suggest this morning that Congress had compelling reasons to adopt those changes and also suggest that departing from the law, departing from the law enacted by Congress puts the Nation at risk of some of the same systemic failures that hobbled the Federal response to Hurricane Katrina.

I couldn't help but smile, Madam Chair, when you made reference earlier to the possibility of doing a side-by-side between the law and the draft National Response Framework. Because as an old Hill staffer that is exactly what I did when I got my hands on a copy of the draft. I lined it up against the statutory provisions that you enacted into law, and here is what I came up with.

The act specifies that the FEMA Administrator is, quote, the principal adviser to the President for all matters related to emergency management in the United States. The act also specifies that the Administrator of FEMA shall, and again I quote, lead the Nation's efforts to prepare for, protect against, respond to, recover from, mitigate against the risks of natural disasters, acts of terrorism and other manmade disasters. Very clear. And my written testimony provides the cites.

The draft framework ignores these legislative grants of authority and assigns them to the Secretary of Homeland Security. The framework states that the Secretary, not the FEMA Administrator, would be the principal adviser to the President for emergency management. The framework also specifies that, and here I quote, the Secretary of Homeland Security is the principal Federal official for domestic incident management. By presidential and statutory authority the Secretary is responsible for coordination of Federal resources utilized in the prevention of, preparation for, response to or near-term recovery from terrorist attacks, major disasters and other emergencies.

Madam Chair, the framework's departure from the division of authority that Congress specified in the Post-Katrina Reform Act creates a couple of problems. First of all, the framework will foster confusion over who is responsible for leading and coordinating Federal assistance in a disaster operation. And confusion can have deadly consequences.

Even more important is the second problem. The framework takes the emergency management system in the wrong direction and ignores lessons learned from Hurricane Katrina. Let me turn very briefly to why I believe that is the case.

Studies of the response to Hurricane Katrina, including the House Select Committee's report, A Failure of Initiative, identified a number of underlying causes for the failed Federal response to Hurricane Katrina. The House report noted that it does not appear

that the President received adequate advice and counsel from a senior disaster professional. And the key reason for that, again the report specifies, that under the Homeland Security Act of 2002 the Secretary of Homeland Security is the Department's top official for emergency management. The report noted that emergency management, and I quote, is just one of the Secretary's many responsibilities. According to the Secretary's testimony before the Select Committee he is not a hurricane expert, nor does he have much emergency management experience.

Madam Chair, I believe that it is likely that this situation will continue to exist in the future. The Secretary is going to be responsible of a vast array of responsibilities, including terrorism prevention that extend beyond traditional emergency management. The Secretary needs to be good at that. Occasionally maybe we will have an emergency manager as a Secretary but not always.

So in response to that thinking, that analysis by Members of Congress, the Katrina Reform Act adopted two structural changes to strengthen the quality advice to the President. It shifted the leadership of emergency management from the Secretary to the Administrator of FEMA. And second, as you noted earlier, Madam Chair, the act mandates that the FEMA Administrator will be an emergency management professional with, quote, a demonstrated ability in and knowledge of emergency management at Homeland Security.

Mr. STOCKTON. I think. Madame Chair, I believe that Congress made a sound decision in enacting these changes. The Nation needs a professional emergency manager to be in charge of the Emergency Management System, and that professional must have the authority needed to lead the assistance to States and localities when they require it. Any reversion to the previous DHS Secretary-led system would be a step backwards and reflect an unlearning of the lessons learned at such enormous cost in Hurricane Katrina.

My written testimony provides supporting analysis for the arguments I have just presented and highlights additional problems with the Framework, particularly in the realm of the catastrophic response. I would welcome the opportunity to answer questions that you might have and want to thank you again for the opportunity to testify.

Ms. NORTON. I want to thank all four of you. I have some questions for the four of you. You have been important witnesses for us. We obviously have our own expert, but it was important for us to hear from the academic community, the community that is not involved and doesn't have a dime in this dollar, and to hear, of course, from those who we are going to look to to get it done.

And in that regard, Mr. Manning, I just say you got my attention because you unearthed a gnawing concern I have had ever since looking at this report. And when you said when the—effectively you said that when the response community feels that it has not had sufficient input into a plan, it may not embrace that plan. There is a difference between you at a State and local level and FEMA, and that is to say that when we write a law, we can't compel FEMA to do what we say to do. And we intend to do that. But nobody can compel. Nobody up here—that is why we have a Federalist system—can compel State and local managers to embrace a

plan that they think is not sufficiently relevant to their own experience. That is a red flag for this Subcommittee.

Now, I want to get to particulars. I am going to ask Mr. Manning and Mr. Bohlmann some questions.

Mr. Manning, first of all, let us establish you are bona fide—you are on a steering committee.

Mr. MANNING. Madame Chair, that is correct. I am on the steering committee.

Ms. NORTON. Now, I asked the Director about his consultation with the steering committee and had to finally call him in to dates, the date of March the 5th, because he said that there were many back-and-forths after that. So I had to say I am talking about the original submission. Now, what would have occurred—he also said that State and locals were involved, but—that is to say after the initial submission.

All right. If there was another formal network of State and locals—I mean, if they are trying to create a whole network of States and locals, perhaps that was the objective. Do you know of any State and locals, beside the steering committee where there were many State and locals, who were involved or who disagree with you? Is there other opinion from the organizations that you represent, the National Emergency Management Association or, for that matter, the International Association of Emergency Managers, at odds? Are you having some minority views from those who were consulted even though those of you on the steering committee were not consulted after you handed in your report?

Mr. MANNING. Madame Chair, I am not aware of any of my colleagues that hold a dissenting opinion on our official association position, and I am not aware of any local people as well.

Ms. NORTON. I wish you would let this Committee know if there is a minority view, in your view, that there were State and locals who were consulted who had some input into this matter. We consulted you because you represent the association of all of them, so we thought if they don't tell you, we are not sure who they are telling.

Dr. Waugh, this whole notion of consultation and this whole notion of the chain of command—and I want to question all of you on this chain of command problem, the Federal officer, the principal officer. Dr. Waugh, it is very interesting—you said—and I think the metaphor is well taken that—but who is the 800-pound gorilla in the room? That was DHS. We were literally trying to create an 800-pound gorilla in FEMA because it was a baby gorilla. Let us fatten him up, give him some muscles, and I will take care of it. And we come back with the same puny gorilla that we put in there. He didn't lift his weight. Something happened when he was in the room.

That is what I want to get to, and that is where I would most appreciate—because I am now—I am going to hypothesize one of the reasons. Notice what we did in the Congress. There was disagreement among the Committees. My Committee, Democrat and Republican, Full Committee Chairman, the Chairman of the—the ranking Member, the Chairman of this Committee—I was not that Chairman. I was the ranking Member—all believed that there was something that didn't need fixing, and we fixed it when we took

FEMA and put it in the Department of Homeland Security. It is an interesting mistake, one that you can understand after 9/11. You are trying to consolidate everything. So we said—unfix it is what we said, put it back to where it was. But by that time, there was a whole Committee—and this is part of the Committee on Transportation. There was another whole Committee, the Committee on Homeland Security.

I might say as an aside, you can imagine the position this puts me in since I'm one of the so-called big four that says let us go back to what worked. I am also a Member of the Homeland Security Committee. So from the inside of that Committee, I saw that Committee claim ownership. What do you expect? You give somebody FEMA, and then you want to take it away. So Congress, in effect, kind of creates a structural problem here. And I am wondering whether or not when this document was submitted by Mr. Manning and his colleagues to FEMA, whether or not structurally FEMA was put between a rock and a hard place, because there is somebody over them that Congress has left over them, and they do not report directly to the President; or yes, they do, according to the act, except they are still in the Department of Homeland Security.

You know, in our naivete, we thought writing in law that they were to report—we thought writing in law that they were the principal officer would do it. But I am asking all four of you, those of you who have experience from the academic community, those of you who understand bureaucracy because you have been in State or local government, to say whether or not FEMA is put in a position that would make it very difficult to do what we have asked them to do because there is somebody that looks like he is more powerful, looks like he is in charge of them, who can then instruct him with respect to any document he turns in what to do. And if so, what do you think we ought to do about it, given the fact that we wrote a law that seems to us in plain English did say what was to happen and it did not happen?

I am trying to put before you a dilemma so that we don't look as if these people just said, "we don't care what Congress said." I am trying to look beneath the surface to see what was the dynamic that would make anybody in the Federal Government ignore so patently what, as Dr. Stockton said, the side by side would show you they were mandated to do. Is there a structural problem here; and if so, how does FEMA get around it and still be a part of the Department of Homeland Security, assuming as I do that with all we have on our plate, Congress is not going to go through what it would take to snatch FEMA out at this point, at least not at the moment? Dr. Stockton, do you have a view? Let us start with you.

Mr. STOCKTON. Yes, ma'am. I believe that regardless of the structural changes that Congress ended up enacting after Hurricane Katrina, that continued congressional oversight, especially by this Committee, was going to be essential to further progress. I note in my written testimony that the Post-Katrina Act included a very important provision that essentially turned FEMA into a fortress within the Department of Homeland Security. That was no accident, Madame Chair. That came after careful consideration by Members of what had become of FEMA within the Department of

Homeland Security. In the act you specify that the mission and capabilities of FEMA cannot be diminished by the Secretary——

Ms. NORTON. Think of it. Think, all four of you, those of you in government, do you know of any precedent in the Federal sector for that? Hey, you are part of them, he is over you, but you really report to the President of the United States?

Mr. STOCKTON. My point, Madame Chair, is to make it work, sustained, vigorous oversight of the sort you are conducting right now is absolutely successful to strengthening the Emergency Management System and making this law work as intended.

Ms. NORTON. Mr. Bohlman, did you have something you wanted to say?

Mr. BOHLMANN. Well, I have seen great changes on FEMA in the last year or so and certainly since——

Ms. NORTON. I wish you would detail those. That would be important.

Mr. BOHLMANN. Well, we underwent a fairly large disaster in the State of Maine this summer, spring and flooding, and the response from FEMA was markedly different than it was in May of 2006. We had the opportunity to do one in 2006 and one in 2007. I hope we miss 2008. And it was markedly different. The boots-on-the-ground response, the capabilities that FEMA brought, the openness to work within the community was certainly there. It wasn't large enough to have a PFO, so we didn't have to go through that, but the Federal Coordinating Officer and the regional office and all of the staff that was on the ground, there was a marked difference in moving forward.

Ms. NORTON. There was a marked difference in the resources they brought, how quick they responded?

Mr. BOHLMANN. How quickly they responded, their willingness to be there almost as the rain stopped and start their process, their disaster—their initial ground taking the damage assessment.

Ms. NORTON. Did you see anything of DHS?

Mr. BOHLMANN. No, no.

Ms. NORTON. Of course, as you said, there——

Mr. BOHLMANN. There was no PFO——

Ms. NORTON. There was no national emergency.

Mr. BOHLMANN. That could be questioned because when you get it declared, it is almost—the way it reads now, it could be.

Ms. NORTON. But it wasn't declared——

Mr. BOHLMANN. It wasn't declared national significance, no, ma'am. But it was a good response, different, as I say, from 2006.

Ms. NORTON. Different from 2006 in Maine?

Mr. BOHLMANN. 2006 in Maine, yes, ma'am.

Ms. NORTON. And even though you had not had a Federal—I mean, a principal officer, the DHS man, there was a difference between the 2006 and the 2007 response and what——

Mr. BOHLMANN. Very definitely, yes.

Ms. NORTON. Just in the quickness of the response?

Mr. BOHLMANN. The rapidness, the willingness to work with State and local, the fact that FEMA was on scene and actually, during the event, were on conference calls back and forth with them. FEMA was much more visible and approachable in 2007 than they were the year before.

Ms. NORTON. It looks like they have demonstrated that, left to their own devices, they can come in and do the job if they don't have somebody who may confuse the people on the ground.

Mr. BOHLMANN. Very well.

Ms. NORTON. Very important to hear that. When we hear about this confusion about the plain language—by the way, that interests me because if you want to know my real profession, I am a professor of law. I taught full time as a tenured professor of law at Georgetown University, and I teach one course there every year. And it comes out of my experience as a Federal official, Chair of the Equal Employment Opportunity Commission, and now as a Member of Congress. It is called Lawmaking and Statutory Interpretation, and it is all about how what we do up here lends itself to confusion and with those implementing the law, and that the courts are right when they try to discern what in the world we are talking about, shall it be the text, shall it be the context, and what we are going to do about that. In a world where all of the governments have a parliamentary government, you don't have to go to court to find out what happens. And so we use all kinds of examples of unclear language from the Congress.

Therefore, you see when I looked at the Post-Katrina Act, I looked at it with the other hat I have, which is my professorial hat, and I will be darned that I don't think anybody would have to sue under this act to find out what we meant. Now, when you see how it gets implemented, and indeed that in black and white, contrary to what the act says, we have this other guy popping up full of muscles, the principal officer, you are left to say, well, what more can we say? Dr. Stockton, you can depend on us, on oversight. That is why we were able—we nailed ourselves as the first of the Committees—and there are going to be a number of Committees that examine this—because we have the primary jurisdiction over FEMA.

But I am wondering, and I would like to hear from all of you who would have an opinion on this, whether in light of this confusion—I heard what Mr. Bohlmann said and was impressed with it—that you leave these guys to themselves, they heard what the Post-Katrina Act said, they were there as rain fell, they got it done, it sounds like the old FEMA to me therefore, since they had trouble, thereby reducing, frankly, our confidence that when they get the comments back, they will simply do what we say do as opposed to perhaps what their overseers in the Department of Homeland Security say, do you believe that the notion that there shall be a single point of contact in a national emergency or any other emergency should be now further defined in law and written into law? We thought we had done it. I am always willing to take responsibility when the Congress has been unclear because that is typical of the Congress. Do you think that would help in this case?

Mr. MANNING. Madame Chair, I believe that there does need to be some direction to clarify that. We cannot go into the—we cannot go forward with unclear rules and responsibilities at the top of the pyramid as shown on the diagram. The principle of unity of command is that every one person works with or reports to one other person, and unified command—I have worked in a unified command many times in my professional career, and it does not mean

an abrogation of single point of contact, leadership over whoever you are responsible for. It means different people of different jurisdictions coming together and coming to consensus in the direction of an incident. That is very different than having two people with equal and conflicting responsibility. As long as that—those roles remain in confusion in a National Response Plan, in a Framework, whatever the document is called, there will be opportunity for failure, and that must be clarified going forward.

Ms. NORTON. We are trying first with the appropriation change, which I indicated in my opening remarks. We have asked, and the House has already made—defunded this person, at least for these purposes. The Department does claim that it needs him for other purposes, like foot-and-mouth disease.

We don't have any problem with the Secretary having an advisor. We have problems with countermanding what we said about what to do in a Federal emergency management.

Mr. Manning, you spoke, I think, forebodingly of how this was not an operational plan. I wasn't sure how much detail you thought needed to be in the plan, whether you were talking about amount of detail. When you say it is not an operational plan, if that is your criticism, what do you mean by that?

Mr. MANNING. Madame Chair, that really stems from the fact that this document does not contain a single frame of reference for who is in charge, at what point—at what point does who talk to whom. It gives very—it gives many variations on different types of emergencies. In some cases it could be this person; in some cases it could be these people.

Ms. NORTON. I don't understand that. I thought this was an all hazards document; there are different people you report to.

Mr. MANNING. Madame Chair, that is correct, and that is a very good point. The Framework reads like an introductory text to disaster response with all its many variations, and that is useful, as we have stated. This could be a useful document, but not in place of an operational plan.

We need a single document that states that in all cases, this is the chain of command, these are the players involved, this is the framework under which we will respond. Those elements exist in some part in this document. They exist in the NIMS document. They exist throughout the ESFs. What is lacking now is a single unifying operational plan.

What is also lacking is a replacement for the old FRP, the Federal Response Plan. There is no single one document that says how the Federal Government will respond in support of a request for assistance from State governments. That is what the FRP was. That no longer exists. It is buried within the Framework and supporting documents.

Ms. NORTON. If this is not the plan, and this is the question that the ranking Member would have wanted to ask—the ranking Members had to—one of our Members has died, and he has had to go to the funeral, so you will have to excuse him that he had to leave to go to a funeral of a Member that is taking place in Ohio. Do you believe—if this is not the plan, we are trying to find out what is the plan? Does FEMA intend, do you think, to replace the National Response Plan with 30 scenario-based plans? Mr. Manning talked

about different plans for—different strokes, I guess, for different folks. Is that what you think they are talking about, Mr. Manning.

Mr. MANNING. Madame Chair, my understanding is in some cases that may be correct. It appears in the current draft, the public draft that was released yesterday does call for playbooks and incident-specific annexes and numerous plans based on the 15 scenarios. I can't more vociferously oppose that idea. It is one thing and very recommended for an agency or a level of government to have an operational hazard-specific contingency plan for an area. If you are the government of New Orleans, to have a plan for a hurricane coming ashore is a great idea. When you scale up to the level we are talking about, to have 30 different duplicatives with variation operational plans, it is a recipe for disaster. One will be left to say, well, is this a flood, or is it a tornado, because there was a tornado, or is it a wind event? That cannot be allowed to be the environment we operate in, Madame Chair.

Ms. NORTON. Because in a real sense, the preparation is the same. For example, in Hurricane Katrina, the big argument among the insurance carriers is, you know, we pay for flood, we pay for hurricanes; in fact, they were both. When you prepare for—when you litigate, there is, at the level where we are dealing, something everybody should being doing. And then below that are things that in your own jurisdiction you know best.

Dr. Waugh spoke of something that was very disconcerting about there being only three natural disaster scenarios in the plan, no flood, no tornado. That is the things I most remember from this season, by the way. Could this be because the Department of Homeland Security thinks, well, we know how to handle those things, and what we need the scenarios to be about is about terrorism since that is what is new. I am now trying to imagine what their response might be for this obvious, rather huge discrepancy. Three natural disasters and how many terrorist disasters, Dr. Waugh?

Mr. WAUGH. The remaining 12 would be terrorism.

Ms. NORTON. How do you account for that? How do you think they would account for that, and what is the danger.

Mr. WAUGH. The essential focus was on terrorism. It would be, frankly, fairly easy to develop scenarios that are not terrorist-related that would actually have applicability for a chemical attack or a variety of other things. But part of the problem—if you are focusing on that as sort of the planning scenarios in all of those cases—if it is a terrorist event, the Federal Government is the lead, and it really defines the structure that——

Ms. NORTON. The Federal Government. Does that mean FEMA, or who does that mean?

Mr. WAUGH. It means DHS. It doesn't necessarily mean FEMA.

Ms. NORTON. In fact, that is, of course, if there was to be a fatal flaw in the document, it is not having the same answer from them as from you. That is where the original sin, it seems to me, would lie, and then you go forward from there to the bureaucracy and the rest of it.

Mr. Bohlman, and Mr. Manning for that matter, because Mr. Manning was on the Committee, why do you believe that the steering committee and other responders were shut out after this first

document was submitted? And why does it bear so little resemblance to what you submitted? Why would such changes be made, and what—how would you characterize the major differences between what was submitted by the steering committee on the ground and what has come up in this final response Framework?

Mr. MANNING. Madame Chair, I have no knowledge of why the draft that was done in consensus between the working groups, the writing teams, the steering committee and all of the stakeholder input, the 700 plus people that——

Ms. NORTON. What were the major changes?

Mr. MANNING. The NRP, the National Response Plan revision that was completed sometime in the spring of 2007 was an operational plan. It was a revision to the National Response Plan. It included checklists and oversight and overview documents for elected officials, as was mentioned, that is now the core of the new document, plus a new doctrine. The National Response Plan revision that was the product of 6 or 8 months of work was an operational plan. I don't know why. All I know——

Ms. NORTON. It is basically—the operational nature of it is not so much the content of the plan?

Mr. MANNING. That is correct, Madame Chair. The draft that went away in the spring was an operational plan. It contained consensus. An example is the PFO, the principal Federal official. The writing team that was—the working group that was trying to define the roles and responsibilities of all of the officials worked on that particular position and how it would be defined in the NRP, the new NRP. It was explained and made very clear there was no negotiation, that position would not go away. It was not up for discussion. That would remain in the plan.

So they worked very diligently to come up with an explanation, a definition, a description of the role and responsibility of that position, And what they came up with, what was in the draft that was completed in the spring, was that position was for informational purposes only for the Secretary. It was a representative of the Secretary on the ground for visibility—for the Secretary's visibility into a disaster operation in an affected State; had no line or operational or any authority whatsoever on the ground, simply a representative of the Secretary, like him coming to visit.

What came out in the plan—in the Framework is a very decidedly operational position that, depending on the situation, may have authority; while not having a line authority over the FCO, certainly has the inherent authority over the FCO, and certainly looks so on the ORG chart.

Ms. NORTON. The point you make is just a very important one in understanding what to do.

Finally, let me say, one last question, because we are honored to have the Chairman of the Full Committee here who is an expert, the ultraexpert on all of these issues, and I would like to ask him to say a few words, perhaps have some questions. But I do want to make sure I know how to proceed from here.

We are going to get questions and answers. You heard me ask FEMA if they need more time to respond. We are going to give it to them. They said yes. I am not trying to make work for anybody, but it occurred to me that they didn't say anything about going

back to the steering committee to assure them that they had taken into account or to hear further from them.

Do you think in addition to the 30-day or more response period that the steering committee should be reconvened, the steering committee consisting of any State and local officials, so that they can, in fact, have some concerted input into the final document?

Mr. MANNING. Madame Chair, the steering committee is still in effect as far as I am aware. We do have weekly conference calls. There was one this morning while this hearing was being conducted. The steering committee is primarily the Federal interagency. There are only three State and local government representatives out of the membership, And my understanding is that through this last 30 to almost 60 days, the draft that went out on the street was being circulated through the Federal interagency, through the Federal members of the steering committee.

Ms. NORTON. Wait a minute. Let me understand this. How many members were on the steering committee?

Mr. MANNING. Madame Chair, I actually do not know the total membership of the steering committee. It is primarily the Federal interagency.

Ms. NORTON. It is primarily Federal officials. Approximately how many?

Mr. MANNING. I would say approximately 15 to 20.

Ms. NORTON. Approximately 15, about three State and local officials, and you are saying that the Federal members of the steering committee continue to be involved, but not the State and local members of the steering committee?

Mr. MANNING. Madame Chair, I am sorry, let me give a little more explanation on that. The members of the steering committee were not involved in the period between the end of May and July when the new draft came out on the streets. The Federal——

Ms. NORTON. Federal and local members?

Mr. MANNING. That is correct, Madame Chair.

For the last 30 days, since it was released in July through the month of August, it was undergoing—the Framework draft was undergoing a review-and-comment period through the Federal interagency, the agencies being led by their member representatives to the steering committee. It was not provided to State and local governments on the steering committee—well, it was provided to the—I received a copy in July, Madame Chair, but not for dissemination to the membership of the National Emergency Management Association or to the Governors or to anybody else. It was simply for my personal review.

Ms. NORTON. And not also as a member of the steering committee, for the steering committee to collectively look at this document you then received?

Mr. MANNING. Madame Chair, I personally was given a copy and asked for my personal comments inside of that period. The Federal agencies were given agency copies, for the agencies to give formal comment, I believe, a large number of those comments. It was not provided to the International Association of Emergency Managers, to the National Emergency Management Association for all of the members and mayors and representatives to comment inside that period.

Ms. NORTON. They would say that is for the comment period.

The reason I ask about the steering committee is because these were the original drafters of the plan, and so if you are going to go back to anybody, it does seem to me that you—it might be appropriate to go back to the steering committee—after all, they gave you something—if only as a matter of respect, to say, We are giving you back something different, and maybe you want to have something to say about it.

Mr. MANNING. Madame Chair, at this point it appears those decisions are made internally at DHS headquarters, and the steering committee is on occasion being briefed.

Ms. NORTON. Mr. Chairman, this has been really very forthright and important testimony. We heard first from the Department, and we made every attempt to be fair to the Department by letting the Department know in advance. The crux of the comments that were submitted by these witnesses, they were very seriously at odds with the Framework, and we now heard from the members, the experts, too, from State government who represent those from State and local government, and two outside experts. You, Mr. Chairman, are the ultimate inside expert, and I would like to ask you to make such comments that you have or ask such questions as you may bring.

Mr. OBERSTAR. Thank you, Madame Chair, for those compliments. But you have been conducting a rigorous and thorough hearing and inquiry into the development of the National Response Framework Plan, and I followed a good bit of it upstairs when I was in my office with one after another group of constituents and other—including a visiting delegation from France, a mayor—two mayors of French cities who are here to understand how our system of government works compared to the parliamentary system of government. And I turned on the television to say, Here is how our system of government works. We have a well-informed Committee, Subcommittee Chair who knows the subject matter and is proceeding like an inquest, cross examination that has been withering, and they listened, and I translated with some great interest on their part.

But what you have been pursuing here is the origin, evolution, development of this National Response Plan, and what appears to me is that there is a plan developed by the group, the Commission, that then was commandeered by Homeland Security and fashioned into a response Framework draft that apparently you did not see after it left your hands; is that correct? Or had little input once it left——

Mr. MANNING. Mr. Chairman, that is essentially correct. The working groups, the writing teams and the steering committee came to a consensus document that went through public comment within the community, and that document then was reframed, redrafted by the Department of Homeland Security in a separate process without the visibility of any of those stakeholders into this new document.

Mr. OBERSTAR. It doesn't appear to have the structure of a plan, laying out very—in very specific ways how response to disasters will occur. And one thing that caught my eye as I read through this previously was that these gratuitous commentaries, resilient com-

munities begin with prepared individuals and families, that could have been written in the sixth grade. I just don't understand where this sort of thing comes from.

In the collapse of the I-35W bridge in Minneapolis, simply because that is the most recent event, the response was very well structured because the mayor took advantage 4 years ago of the Advance Preparation for Disaster Initiative that James Lee Witt had established while he was at FEMA. The community engaged in planning exercises and then in a mock disaster response, bringing together not only the first responders of Minneapolis, but those of St. Paul and the surrounding local jurisdictions, mobilizing so that each one knew what its role was to be. And then they did a warm-up a year ago just to revisit the response plan. They were prepared. They were ready to move because they had—they had engaged in this exercise.

How many communities under this plan are going to be counseled, advised and supported in undertaking this kind of response? Is there a structure within this Framework to do that?

Mr. BOHLMANN. I would like to try to comment on that. I believe from what I have seen in the basic draft document that we saw on July 27th, and even the one that came out yesterday, which I quickly looked at last evening, that does not have that in it. But the playbooks and the reference materials on the other Web site that they talk about may provide more of that.

However, that type of response and planning at the local level is what the local emergency managers do on a daily basis, and we would use this Federal plan as the overarching, guiding plan to do that local planning and exercising and training that you refer to which is so critical. And the response you saw in the Minneapolis area is the response that we all work daily to encourage in our local communities and is so critical to do that.

This is a document that we need to look at for the larger picture and currently, what we saw on the 27th of July, does not provide that. And I cannot really go into great detail on the playbooks and other that are going to be on the Web site. Maybe my counterpart Mr. Manning would care to comment more.

Mr. OBERSTAR. Other Members wish to comment.

That is very disturbing. The success of any response mechanism begins at the community level and should. And the experience of Katrina and of other incidents and on this particular day, recalling September 11, there were so many lessons that we were to have learned and to have applied, and this document just does not seem to apply those lessons learned, and that to me is troubling.

Mr. BOHLMANN. Well, I would like to add there are other avenues that FEMA does provide, and they are excellent avenues, and one of the key ones is the Emergency Management Institute in Emmitsburg where that high level of training is provided by FEMA on a regular basis, and another is from universities such as Dr. Waugh, Dr. Stockton here today that are offering courses at all levels today to get professional emergency managers and public officials trained. But, again, I will go back to we still need that overarching document to bring that all together.

Mr. OBERSTAR. It appears to me also there is a very heavy reliance in this document on response to what we might call in other

terms a terrorist attack. I have said that—and former Chairman Don Young and I, when we were laboring over the proposal to create a Department of Homeland Security, would remove FEMA from its position, the Coast Guard, throw these and many others into this new amalgam— that our terrorism in the heartland is fire, flood and blizzards, whiteouts. On the northern border, the prospect of Canadians trying to sling their way across the border is remote. It is Americans who are invading Canada for their healthcare system.

What we need is a plan that really prepares local governments to cope with an event that is beyond their local capacity to manage. And I just have a feeling that this national response architecture is a subtitle, a response to terrorism, and not in preparation for and response to those tragedies that strike us day to day and which will occur with greater frequency in this year of global climate change.

You are all nodding yes.

Mr. MANNING. Mr. Chairman, I think you bring up a very important point in that in the past, when FEMA was independent, but that notwithstanding, we had disparate plans for disparate events. We had the Federal Response Plan for general, large emergencies. There was the CONPLAN that dealt with how the agencies would come together if it was terrorism to do the investigatory piece. The directive that the Department of Homeland Security combine these plans into a National Response Plan was really one to—a directive to unify—to take to the final step the all-hazard planning concepts; that it doesn't really matter what caused it, the response is going to be the same. There may be investigatory pieces, there may be mitigation pieces later, there may be other aspects to it, but the response will be primarily the same.

What we have seen out of the NRP, the first version, the second version that was in effect during Katrina, and then the third draft even, and certainly in the Framework, is that that differentiation has not been eliminated; it has almost been cemented, it has almost been institutionalized to say that the idea, for example, that you need a PFO and an FCO because sometimes there won't a Stafford Act declaration, so you won't need an FCO, so we are always going to have a PFO. I think what is an important tenet that needs to be taken into account when we are drafting our national response plans is that we need to find a way to do it and do it that way and not—without regard for the cause, or the effect, or any of the other pieces.

Mr. OBERSTAR. Thank you. I think that is exactly what I hear from local fire chiefs, from volunteer fire departments, from local police, sheriffs' departments. They are looking for, as you described it, a cohesive, coordinated response and for support, volunteer fire departments, for example. We had a tragedy, and I had this discussion with Mr. Paulson shortly afterward, in April of this year. Campers in the wilderness area, the Bounty Waters Canoe Area, the wilderness, had a campfire going, and they were burning trash, which they shouldn't have been doing, and it was in a time of year where fires were discouraged by the Forest Service, very dry. They left the campsite and the campfire burning. Wind came up, blew

it into the nearby brush and then the woods, and a fire was underway, a huge forest fire.

So the volunteer fire department arrived with their pumper truck, and it didn't work. They had applied to FEMA 2 years consecutively for a grant to buy a new pumper truck. It could have snuffed that fire right out at the start. They were turned down because they didn't show a connection between their pumper truck request and Homeland Security.

That is an outrage, and that is where a document like this falls apart. If it doesn't recognize that these day-to-day occurrences—and that fire eventually swept 75,000 acres—then it is not doing its job, and it is going to be our responsibility to make sure that we turn this document around.

Thank you very much for your contributions. It has been—your insights have been very beneficial.

And thank you, Madame Chair, for your grinding inquisition here.

Ms. NORTON. Well, thank you, Mr. Chairman. We did believe that we had to be very clear to FEMA and to the Department of Homeland Security that this was an oversight hearing in the nature of a critique, and that is why we had expert witnesses in the first place. The whole purpose of a critique is to get improvement, and that is what, given what is at stake, we are going to demand—we are going to demand with more hearings.

I appreciate, Mr. Chairman, your remarks focusing on the cohesive nature of the response. The Framework must contemplate cohesive nature to all hazards, as the witnesses have also reinforced, and that FEMA is who Congress said and who the public believes has that responsibility, and if it doesn't, then everybody is in confusion.

And Dr. Waugh, Mr. Chairman, made a point that we did not in this hearing have need to question about, but it is very important in light of the all-hazards response. He talked about allowing for innovations and flexibility at the local levels. That is what they are there for, to see whether or not to apply all hazards to a hurricane, to a tornado. There is a general notion of what everybody should be able to do. Beyond that, the Federal Government wouldn't dare to tell you what to do, because only you know what to do on the ground. You have done it in Maine on the ground for generations. But we are here to provide guidance in case it is a flood or in case it is a terrorist attack. These are the fundamentals. These are the operational fundamentals as Mr. Manning would have it.

So, Mr. Chairman, the heart of what we have heard today is that there are still two people on the ground, and that those two people continue to render confusion in the field. That is all we needed to hear. None of us has—none of the witnesses has said that the Secretary should not have his own man; however, the statute made clear who our man is, Mr. Chairman, when it comes to a Federal emergency, and that was supposed to be FEMA, and we have heard no testimony that documented the notion that FEMA is the primary person.

In fact, what we are left with are three flaws, all of which individually and together, it seems to me, could be called fatal. One is the redundancy of these officers, the Secretary's man, our man—

each of those may be women at any point in time—and who is in charge on the ground; secondly, the bureaucracy that breeds—and FEMA—and DHS's reach-down continually into FEMA's expertise, although DHS has no specific Federal management expertise. It has across-the-board oversight, none of the specific management expertise that is very hard to come by—I asked Mr. Bohlmann who is a certified Federal management officer.

And the third was—and this, of course, is ominous to hear—the cutoff to quick advice to the President of the United States because of the waving line—we are not sure where it goes between FEMA and the President—indicated whether this was—asked whether this was structural; given what we have done leaving FEMA in there, what we thought we should do about it, whether to strengthen the legislation; whether to do what we have done with the Federal officer and the principal officer and the appropriation.

But I tell you one thing, gentlemen, we are not going to sit here and do nothing. That is why we had this hearing on September the 11th. That is why we asked you for your candid critique. That is why, on the basis of your critique, I have announced today that we will be asking the GAO for its critique of this report and of what you have had to say about this report.

The Subcommittee cannot thank you enough for the time, the effort, the great thought on this you put into your own critique of this extraordinarily important document to the security of the United States of America. Thank you, and this hearing is adjourned.

[Whereupon, at 1:00 p.m., the Subcommittee was adjourned.]

**Subcommittee on Economic Development, Public Buildings and Emergency Management**

**Hearing on "Readiness in the Post-Katrina and post-9/11 world: An Evaluation of the New National Response Framework"**
**Tuesday, September 11, 2007**

**Statement – Congressman Jason Altmire (PA-04)**

Thank you, Chairwoman Norton, for calling today's hearing to review the National Response Framework (NRF) released by the Department of Homeland Security (DHS).

On the anniversary of 9/11, it is fitting for this committee to discuss the issue of emergency response. The NRF, released earlier today, was intended to provide the detailed response framework for all levels of the government to follow. Unfortunately, the NRF lacks the clarity needed to ensure that inadequate responses, such as the Federal government's response to Hurricane Katrina, do not happen in the future.

More disturbing than the evident lack of clarity within this framework is the apparent disregard for the input provided by state and local first responders during the drafting of the final NRF. State and local first responders are, as their titles explain, the first to respond to a natural disaster or catastrophic attack. I believe that they, better than anyone, understand the situation on the ground and the best way to prepare for future incidents.

I look forward to hearing the testimony provided by our witnesses today. It is critical for all interested parties to understand why decisions were made during construction of this framework and to see how we can work to improve upon it.

Madam chair, thank you again for holding this hearing today.

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**OPENING STATEMENT OF REP. STEVE COHEN**

Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings and Emergency Management

"FEMA's Emergency Food Supply System"

September 11, 2007

I look forward to hearing from Mr. Paulison, the Chief Administrator of the Federal Emergency Management Agency (FEMA), the Director of the Office of Operations Coordination for the Department of Homeland Security and others today as we examine the new National Response Framework and its development in the Post-9/11 world.

The catastrophic events that occurred exactly six years ago today, highlight the great need for the federal government to have a coordinated plan for responding to disasters. FEMA's lackluster response to Hurricane Katrina led to passage of the Post-Katrina Emergency Management Reform Act of 2006. Among its provisions, this legislation required FEMA to revise its National Response Plan (NRP) to clarify the federal chain of command during disasters as well as provide for significant state and local input in revising NRP to ensure it reflects the expertise of emergency management practitioners.

In April 2007 testimony before this subcommittee, DHS stated that its revised response plan would be issued in June 2007. Unfortunately, while a draft was reportedly developed in July, I remain concerned with press accounts that state this latest draft did not include significant consultation with state and local experts within the emergency management field. These accounts also note that the draft falls short of meeting many of the goals mandated by the Post-Katrina Emergency Management Reform Act.

I look forward to hearing from our witness today on the current status of the National Response Plan and how we may seek to improve coordination within FEMA and DHS at large to help deter future catastrophic events such as those which occurred on September 11, 2001 and during hurricane Katrina.

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS,
AND EMERGENCY MANAGEMENT
HEARING ON "READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK"
SEPTEMBER 11, 2007

Today marks the anniversary of a very significant day in our Nation's history. Much like the anniversary of the attack of Pearl Harbor, September 11 is a date "which will live in infamy".

It is not a coincidence that on the anniversary of this day, the Subcommittee holds a hearing to probe the plan and the organizational structure put in place after the tragic events of September 11, 2001. After reading the testimony of today's witnesses, as well as the press reports about the new National Response Framework, I have serious concerns not only about the content of this plan, but about the process by which it was developed.

In response to the Hurricane Katrina, Congress clearly instructed the Department of Homeland Security ("DHS") in the Post Katrina Emergency Management Reform Act of 2006 (Public Law 109-295), to restore the Federal Emergency Management Agency ("FEMA") to a professional organization with the expertise, responsibility, authority, and capability to prepare for and manage all

aspects of disasters and emergencies. Importantly, in this Act, Congress specifically aimed to avoid confusion over authority and reunited preparedness with the rest of emergency management functions within FEMA.

Rather than complying with the law, DHS is heading in the complete opposite direction with this document. The National Response Framework attempts by DHS to marginalize FEMA and its Administrator. This new framework stands to reinstate the patterns and mistakes that led to the Department of Homeland Security's dismal response to Hurricane Katrina.

Testimony from our expert panel indicates a deeply flawed National Response Framework. To quote from the written testimony of Dr. Stockton from Stanford University: "... the framework also ignores – and is likely to subvert – key changes that Congress enacted in the Post-Katrina Emergency Management Reform Act of 2006... and would put the Nation at risk to some of the same systematic failures that hobbled the Federal response to Katrina."

It is disturbing, and counterintuitive, that state and local emergency managers and first responders were locked out the final drafting of this document. These responders, not only by common sense but by law, are supposed to have a key role in the development of this framework. It is indicative that his shift occurred when DHS

took over the development of the process from FEMA. This new plan also sheds light on the way DHS views its relationship with FEMA and with state and local governments. The consequences of DHS defying the common-sense, practical direction required by Congress, are profound.

I repeatedly questioned the wisdom of placing FEMA, which was a universally recognized as a nimble and effective organization when independent, into the larger DHS bureaucracy. Even though I believe the Post Katrina Emergency Reform Act did not go far enough, because it kept FEMA within DHS, I have been willing to give this reform a chance to see if it works. However, in light of the disregard DHS is showing for even the modest FEMA reforms enacted last year, I think it may be time for Congress to revisit whether this country can afford to continue to have FEMA buried in and hobbled by the Department of Homeland Security.

I look forward to the testimony of the witnesses with us today.

**The Honorable Bill Shuster**
**Subcommittee on Economic Development, Public Buildings and Emergency Management**

**Hearing on Readiness in the Post-Katrina and Post-9/11 World: Evaluation of the New National Response Framework**

**September 11, 2007**

Thank you, Madam Chair for holding today's hearing.

I agree with you and Ranking Member Graves that revising the National Response Plan is one of the more important recommendations of the Katrina investigations. If we don't have a good plan, then the chances of another failed response are high.

I also believe the revised plan gives us a glimpse into the Department's implementation of our FEMA reform bill. Unfortunately, from what our witnesses and I have seen, it doesn't look good.

When I became chairman of the subcommittee last Congress, I took a strong interest in the rising chorus of concerns about FEMA's decline within the Department of Homeland Security.

I met with emergency managers, the fire services, police groups, and every FEMA Director in the last 15 years about how FEMA was faring inside DHS and how to reverse its declining capabilities.

I had no preconceived notion about what was right or wrong. I simply listened to the professionals to understand their perspective.

After Hurricane Katrina hit, I was pretty much immersed in emergency management for the next year and a half. This committee started an aggressive oversight and legislative schedule, and the Speaker appointed me to the Select Committee to Investigate the Preparation for and Response to Hurricane Katrina.

Tom Davis chaired the Katrina Committee, and he made a commitment to follow the facts where ever they led. We held nine hearings, interviewed dozens of people, reviewed half a million documents, and traveled to the Gulf Coast numerous times.

Our final report: "A Failure of Initiative" was an unvarnished assessment of what worked and what didn't at all levels of government. In my opinion, "A Failure of Initiative" was the most comprehensive and hardest hitting review of all the Katrina investigations.

As you may recall, the Katrina Committee was tasked to investigate the disaster and present its findings to Congress. It did not make formal recommendations.

So when Chairman Davis held the press conference to release the report we were all somewhat caught by surprise when a reporter asked if the Select Committee thought FEMA should be restored as an independent agency under the President.

Chairman Davis deferred to me as the chairman of the authorizing subcommittee and asked me to respond. Without having discussed this issue with the other members, I offered my opinion that, yes, FEMA should be put back together again and the Director should report directly to the President.

After my comments, one member after another came to the podium and agreed FEMA should be independent. Ultimately 8

out of the 11 Katrina Committee Members sponsored our legislation to restore all aspects of disaster management to FEMA and make it an independent agency.

I came to this conclusion because catastrophic disasters require the President to mobilize the entire federal government, and in that situation the President needs the advice of a professional FEMA Administrator who coordinates the response on his behalf.

The Secretary of Homeland Security will never be a professional emergency manager, because his primary job is to prevent the next terrorist attack.

That's why we created the department, and I don't want the Secretary taking his eye off the ball the next time we have a catastrophic hurricane or earthquake in California or Missouri.

While the final FEMA reform bill did not restore FEMA as an independent agency under the President, it did the next best thing.

It put the primary responsibility and legal authority for managing all aspects of disasters under FEMA including preparedness and response. It required the Administrator to be a professional. It made the Administrator the principal disaster advisor to the President. And finally, we put a legal wall around FEMA so the Department may not transfer any responsibility, authority, function, asset, or money out of FEMA.

The reform bill also directed FEMA to revise the National Response Plan to reflect these changes and clarify FEMA has the primary responsibility for managing disasters.

From the testimony of our witnesses, I have serious concerns about the quality of the new response plan and the Department's implementation of the FEMA reform bill.

I look forward to our witnesses' testimony, and thank you again for holding this important hearing.

Testimony of Robert C. Bohlmann, CEM
U.S. Governmental Affairs Committee Chair
International Association of Emergency Managers

Before the
Subcommittee on Economic Development, Public Buildings and Emergency Management
Committee on Transportation and Infrastructure
U.S. House of Representatives
On
Readiness in the Post Katrina and Post 9.11 World: An Evaluation of the New National Response Framework

September 11, 2007

I am Robert C. Bohlmann, the Emergency Management / Homeland Security Director for York County, Maine. I currently serve as the U.S. Government Affairs Chair of the International Association of Emergency Managers (IAEM) and am providing this testimony on their behalf. I am also a Certified Emergency Manager ® (CEM).

The International Association of Emergency Managers has over 3,800 members including emergency management professionals at the state and local government levels, tribal nations, the military, colleges and universities, private business and the nonprofit sector in the United States and in other countries. Most of our members are U.S. city and county emergency managers who perform the crucial function of coordinating and integrating the efforts at the local level to prepare for, mitigate the effects of, respond to, and recover from all types of disasters including terrorist attacks. Our membership includes emergency managers from large urban areas as well as rural areas.

Today, I welcome the opportunity to address some very critical issues concerning the process which resulted in the creation of the draft National Response Framework (NRF).

Before doing that, I would just like to take a moment to extend the thanks of the International Association of Emergency Managers (IAEM) to this subcommittee for your tireless work on strengthening the Federal Emergency Management Agency and your continued effort to see that the Post Katrina Reform Act is implemented as Congress intended. In fact, we believe that in your discussions about the draft NRF you may gain some insight as to how that process is being accomplished.

We were extremely gratified to be identified as one of the *key* stakeholders and partners in the revision of the National Response Plan, along with our state emergency management colleagues – as those statutorily responsible for the emergency planning process. We eagerly anticipated participating in a collaborative revision process carving out a clear definition of the roles and responsibilities of those involved in all-hazards emergency management at the federal level. In addition, we really looked forward to a clear and straight-forward description of how those federal roles and responsibilities would inter-relate with state and local emergency management practitioners who have the acknowledged lead role in responding to disasters and emergencies.

In many ways, this process – under the direction of FEMA from December 2006 to Mid March of this year – was exemplary. Other stakeholders as well as *key* stakeholders were intensively involved in work groups addressing a dozen different aspects of the revision to the plan. There were 23 representatives of local governments (IAEM provided seven) and six members of tribal government (IAEM provided one) who participated in these collaborative work groups. IAEM members were actively engaged in the work groups for Roles and Responsibilities; Incident Management and Coordination; Volunteer & Donations Management; Catastrophic Planning; Evacuations; NIMS Work Group; Training & Implementation; and Special Needs. These IAEM members participated in numerous conference calls and meetings in Washington, D.C. (typically on relatively short notice). There was an active "give and take" in the dialogue and many important issues were addressed. NRP Revision co-chairs Bob Shea and Tina Gabbrielli worked tirelessly to champion a transparent and inclusive process making sure that both stakeholders and *key* stakeholders were represented in this vitally important effort. In fact, this inclusive process is one of the primary characteristics of thoughtful, well-designed and implemented emergency management practice.

That's why we at IAEM – along with other *key* stakeholders and partners – were shocked when we reviewed an unofficial draft copy of the National Response Framework (NRF) dated July 27, 2007. The document we saw bore no resemblance to what we had discussed so extensively with FEMA and other stakeholders in the December 2006 through February 2007 timeline. The last communication our NRP work group members received was on March 13, 2007 from co-chairs Shea and Gabbrielli thanking all of us for our participation and advising that the planned March 12, 2007 release of the first draft was being delayed "[t]o ensure that we accurately capture the concerns of our stakeholders and develop a quality product…" The co-chairs also advised they were "…looking[ing] forward to working with [us] over the next few months." However, no further stakeholder interaction on revising the NRP occurred after that date. Our next encounter with the revised NRP was when we read about a draft framework dated July 2007. The formerly transparent and open revision process became clouded and closed. It is our belief this process reversal has produced a document with serious flaws which must be corrected before its official public release. IAEM stands ready and willing to assist in this process and is hopeful that *key* stakeholders will again be welcomed into the process before official public release of the revised NRP.

We appreciate this opportunity to visit with you today because we believe in the importance of a truly effective National Response Plan – and further, that it must serve a clear purpose. We believe that the NRP should serve as the over-arching planning document that identifies the roles and responsibilities of all potential players and the methods by which resources are requested and delivered at all levels. It is not rocket science – and it does not have to be 800 pages long. The draft NRF that we have reviewed appears to be more like a public relations document rather than a response plan or framework. For example, there is no discussion of the role and responsibility of the FEMA Administrator with respect to the President of the United States as Congress clearly delineated in the Post Katrina Reform Act. Without a discussion and understanding of the federal roles and responsibilities, how can those with the responsibility to coordinate emergency response at the state and local level make sure they are a part of a team or "unified" effort to save lives and protect property?

IAEM is also not sure there is consensus between the DHS authors of the draft NRF and stakeholders on what "all hazards" really means. This is really quite simple. All hazards signifies all hazards resulting from any cause, whether natural, man-made or national security / homeland security. Therefore we should identify our disaster roles and responsibilities in such a fashion that they relate to any disaster. This is commonly referred to as a "functional, all-hazards" approach to planning. Concerns unique to a single hazard can be addressed in hazard-specific appendices. One of the reasons there is no consensus is that the previously collaborative NRP revision process was eliminated on or about March 13, 2007.

Furthermore, we do not believe there is even consensus between the DHS authors of the draft NRF and the stakeholders and *key* stakeholders as to the real audience or purpose for the document. The DHS authors of the draft NRF seem to suggest it is aimed at local elected officials. Yet, state and local government emergency managers are those who implement a coordinated response on behalf of the local elected officials. Therefore, it would seem logical to aim this document at those who will be providing the subject matter expertise to assist local elected officials in executing their responsibilities. It also seems more appropriate to provide an executive summary of the document for local elected officials.

We were further surprised that the draft NRF seemed to undercut the reforms of the Post Katrina Reform Act which provided structural realignments and protections for FEMA inside the Department of Homeland Security and clarified the role of the Administrator. This Act restored the rational partnering of preparedness to mitigation, response and recovery as responsibilities of a re-energized FEMA. Yet the draft NRF indicates that the DHS Incident Management Planning Team develops the strategic plans for the key 15 National Planning Scenarios and FEMA conducts nationwide operations planning to support these strategic plans. This seems to be a separation of preparedness functions contrary to the Post Katrina Reform Act. The Act also amended the Homeland Security Act of 2002 and clarified that the Administrator is the principal advisor to the President, the Homeland Security Council and the Secretary for all matters relating to emergency management in the United States. It further stated in Sec. 504 that "the Administrator

shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from or mitigate against a natural disaster, act of terrorism or other man made disaster." Yet in this draft NRF the role of the Administrator is severely limited and frequently ignored.

IAEM believes there is a serious disconnect between what the DHS authors of the draft NRF say regarding the roles of the Principal Federal Officer (PFO) and the Federal Coordinating Officer (FCO) and what Congress intended in the Post Katrina Reform Act and the Stafford Act. The draft NRF refers to the PFO as the lead Federal official who will exercise overall coordinating authority on behalf of the Secretary at the field level when appointed; yet the Post Katrina Reform Act stated that the Principal Federal Official shall not "have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials". The Federal Coordinating Officer in the draft NRF represents the FEMA Administrator in the field. However, under the Stafford Act, the FCO is the President's representative. During Congressional hearings regarding the failures of coordination during Hurricane Katrina there were numerous references to the fact that the dual existence of a PFO as well as the FCO led to ambiguities of authority and responsibility which often severely hampered response as well as recovery efforts. Our local emergency managers want the FCOs to have the authority to make decisions that we can act upon and not worry about "second-guessing" by an additional level of authority. We do not need this continuing lack of clarity. IAEM strongly urges that the FCO remain the single point of contact in the field between the federal government and state and local governments and that the FEMA Administrator act as the President's direct representative in disaster situations.

The July 2007 draft NRF fails to provide an overall structure which will allow the different components of the Federal Government to adequately coordinate with one another in a disaster response. There is no discussion in the draft NRF as to how the ESF Annexes, Support Annexes and Incident Annexes will support one another to provide for an effective Federal Government response. This lack of clarity in the federal relationships will surely only be magnified when interacting with State and local governments during a disaster response.

There is another over arching consideration relating not only to the draft NRF but also to many of the other documents, proposals, scenarios and assumptions made by DHS. It all starts with the 15 National Planning Scenarios. Of these, only two involve natural hazards. This, clearly and logically, does not reflect the real spectrum of hazards to which we are subject in the United States. It is, in our opinion, shortsighted to think there should be separate plans for every type of disaster or emergency. This type of flawed thinking permeates not only the draft NRF, but also the Target Capabilities List (TCL) and the Universal Task List (UTL). IAEM believes the reason for this flaw existing within the basic planning documents is that FEMA has the experience and ability to deal with a TRUE all-hazards approach but has been given little authority to make planning assumptions or decisions. This is another reason why it is so important that all preparedness functions within DHS be transferred to FEMA as mandated by Congress.

Failure to keep these functions connected – and within FEMA – will continue to promote the conditions that produce flawed assumptions, scenarios and plans. We must address the entire range of natural and man-made disasters within the built environment.

We were puzzled with the draft NRF call for "...delivery in the case of each of the Guideline's 15 scenarios two types of plans: (1) a strategic plan ...; and (2) an operational supplement...(Draft NRF, page 68, July 2007)" This would, essentially, entail the creation of 30 different plans at the Federal level, perhaps for each department – and even more questions at the State and local levels as to which plans might be operative under what circumstances. The consequences of failure to produce an adequate National Response Plan could easily be increased lives lost and property damaged in emergencies and disasters.

Charles Kmet, the Emergency Management Administrator of a large tribe in Arizona with 28,000 members and 2.8 million acres of land, chairs the IAEM Tribal Affairs Committee and is a member of the FEMA National Advisory Council. He commented how surprised he and some of the committee members were at the inconsistent language contained in the draft NRF, especially with regards to tribal nations. Charles asked me to emphasize the tribes continue to see the conflicting ways in which they are handled – sometimes as sovereign nations and other times as local units of government – as a major problem not only with the draft NRF, but also with many other emergency management and homeland security issues. Consequently, many tribes are not prepared or equipped to the capabilities level of their local and/or regional counterparts.

The cardinal principle of emergency management planning is that what is important is the process rather than any particular product. General Dwight D. Eisenhower is often quoted as saying, "Plans are nothing, planning is everything." We were greatly encouraged with the collaborative nature of the beginning of the NRP revision process. However, the process "went dark" sometime around March 13, 2007, resulting in a flawed draft NRF. We urge DHS to allow FEMA to re-engage in stakeholder and *key* stakeholder input and give adequate time to correct the flaws in this vitally important plan.

*Note: On September 7, when this statement was due to the Committee, a draft NRF had not been provided by DHS to local emergency managers for review and comment. This statement is based on the July 27, 2007, draft which was released by Congressional Quarterly.*

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# TESTIMONY
**BEFORE THE**
**HOUSE TRANSPORTATION AND INFRASTUCTURE SUBCOMMITEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT**
**ON**
**READINESS IN THE POST-KATRINA AND POST 9.11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK**

**THE UNITED STATES HOUSE OF REPRESENTATIVES**

**SEPTEMBER 11, 2007**

Thank you Chair Norton, Ranking Member Graves and distinguished members of the Committee. It is my pleasure to be here today to express my views on the evolution of the National Response Plan and the now currently titled National Response Framework. I am Tim Manning, Director of the New Mexico Department of Homeland Security and Emergency Management. 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, where I am currently serving as the Chairman of the Response and Recovery Committee. I was named the first director of the New Mexico Department of Homeland Security and Emergency Management by Governor Bill Richardson in April 2007, having previously been appointed to his Cabinet as Director of the Governor's Office of Homeland Security in 2005 and as the State Director of Emergency Management since early 2003. My background includes a number of positions in the State's emergency management agency, including Chief of the Emergency Operations Bureau, and having been, at various times, a firefighter, EMT, rescue mountaineer, hazardous materials specialist, and hydrogeologist. Overall, I have fifteen years in the emergency management field including my service as a first responder.

Over the past calendar year, I have served as the NEMA Representative to the DHS/FEMA National Response Plan Senior Interagency Steering Committee, which is overseeing updates to the National Response Plan mandated by the Post-Katrina Emergency Management Reform Act (P.L. 109-295). As I come before you today, NEMA has two significant issues related to the National Response Framework (NRF). First, the current draft of the National Response Framework must be reworked to reflect a true operational plan or an additional document must be drafted to replace the NRP. Second, the collaborative and cooperative process in rewriting the document failed.

**NRP Revisions Timeline**

Over the last five years, the development of the National Response Plan has been a bumpy and winding road. On September 11, 2001, the federal government responded to the terrorist attacks using the Federal Response Plan and the United States Government Interagency Domestic Terrorism Concept of Operations Plan, or CONPLAN. The Federal Response Plan was a document for the Federal Government, describing how it would respond to a request for assistance from the States and the CONPLAN was a document describing how the Federal government would respond to an act of terrorism on domestic soil. One of the recommendations of the 9/11 Commission and mandates included in the Homeland Security Act called for a consistent and coordinated national emergency response plan. Title V of P.L. 107-296, called for DHS, through the Undersecretary for Emergency Preparedness and Response, to be responsible for "consolidating existing Federal Government emergency response plans into a single, coordinated national response plan" to unify the disparate plans. While the resulting plan was not perfect, it was necessary for coordinated national planning and response. This initial plan included the much questioned creation of the Principal Federal Official (PFO), which NEMA opposed, and the new event declaration of an "Incident of National Significance". Current NEMA President Albert Ashwood served to represent NEMA on this state and local group.

The current rewriting effort was mandated as a responsibility of FEMA in last year's Post-Katrina Emergency Management Reform Act. FEMA is responsible for "administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan". The legislation goes on to address expectations in the NRP's operational capability to meet the national preparedness goal, other functions, and to ensure that it can work appropriately in times of disaster. Congress, the Administration, and the GAO all called for the need to update the National Response Plan in the aftermath Hurricane Katrina.

At the initial start of the plan rewrite, NEMA was heavily consulted and actively engaged. NEMA was included on the DHS/FEMA Interagency Steering Committee along with representatives of the federal agencies, a representative from the Major City Police Chief's Association, and the International Association of Fire Chiefs. The process began in earnest in January 2007. In addition to our role with the Steering Committee, NEMA provided over 20 representatives to the various NRP working groups that spent weeks and months working as subject matter experts to provide input. These highly experienced state emergency management professionals participated in lengthy conference calls and flew across the country for meetings in Washington, D.C. – often with very short notice. The input provided was based on lessons learned from past disasters and a vision for the future.

**Draft Framework Content**

Since the informal release of the plan in early August, NEMA has identified a number of critical issues in the current draft of the framework that must be addressed before the framework can be recognized and accepted by state emergency managers as a viable

replacement for the National Response Plan. We raise these issues as partners in preparedness and response and to ensure appropriate readiness for any disaster. For the purposes of this hearing, our comments reflect the draft that was obtained in early August. NEMA is concerned that the vast majority of the input provided through the Interagency Steering Committee and writing teams was not included in the unofficial draft. Our comments reflected here are overarching concerns at a high level, and we may provide more detailed comments when the draft is formally released.

Overall, the most critical issue for NEMA is that the current framework is not a plan. The document reads more like a primer for state and local officials, which is a valuable resource, however not the national plan for responding to disasters. This can be compared to showing up for a football game with an encyclopedia entry in hand on who's involved and how the game is played, but without the actual playbook or understanding of the roles of the offense, defense, the coaches, and the referees. Essentially, only a small segment of the plan or the national team is being considered in the actual update. Much more detail is needed for state and local governments, who are responsible for saving lives and protecting property during disaster response, if they are expected to use this as the national plan for responding to disasters. The current framework is not sufficient for emergency responders and does not replace the previous NRP or the FRP. If the framework is intended to serve as simply a description of the system of response and an introduction to the players involved, an additional document, an actual operational plan, must be produced as well.

The current framework has been clearly drafted from a federal perspective, and does not appropriately address the planning needs of state and local governments nor does it follow commonly accepted emergency management planning principals. For instance, the draft implies that states must exhaust all mutual aid resources before federal disaster assistance may be requested. This statement is inaccurate and does not reflect current disaster law such as the Robert T. Stafford Disaster Relief and Assistance Act. Additionally, the framework causes confusion in the statement that "the framework is always in effect", yet throughout the document there are references to various points in which the Secretary can invoke the framework. The current document maintains the Principal Federal Official (PFO) as operational, yet the role was clarified in last year's Post-Katrina Emergency Management Reform Act to be informational only. NEMA supported the deletion of the position as duplicative and confusing. If it is to persist in doctrine, it must be explicitly clarified as having no operational role or authority. Finally, references to mitigation in the document are virtually non-existent and recovery is only sparingly mentioned.

The current document does not specifically say what the federal government brings to the table in a disaster, and the framework essentially writes FEMA out of a job by downplaying the role of the organization and the National Response Coordination Center (NRCC) and Regional Response Coordination Centers (RRCCs). State emergency management agencies directly interact and coordinate with FEMA during disaster response through the NRCC and RRCC in real time. National doctrine for response should eliminate uncertainty. The roles of the NOC and NRCC should be clarified and

cemented. Operations and coordination centers should serve as central collection and coordination points; a goal should be the reduction in the number of disparate operations centers, not the proliferation of them. One should not be left to wonder whom to call or talk to in times of crisis.

Also, the current framework references numerous other planning guides, hazard specific annexes and other resources that will have to be continuously developed and adapted to support the framework. It is stated that these reference items will be posted to websites and the emergency response community will be expected to know which plan is in play at any given time. Disaster preparedness is about preparing before a disaster occurs and not about downloading the playbook the day the disaster occurs. If the first time someone reads a disaster plan is when the event is unfolding, they have already lost. This concept must be reconsidered to not only allow for state and local governments to participate in annex development, but to also allow for adequate timing to practice, refine the playbook, and develop institutional knowledge.

State and local operations plans have been developed, updated and revised over the past two years to reflect the principles and concepts outlined in the National Response Plan. As states continue to train and exercise these plans with their partners at all levels of government, changes in federal plans and concepts make it difficult to institutionalize these plans. The process of revising, training and exercising plans at the state and local level takes one to two years. There is concern that continual rewrites at the federal level will make it difficult or impossible for states to effectively train and exercise and develop institutional knowledge.

**Specific Policy Issues for Change**

Some of the other critical changes that must be included in the plan are:

- The framework must clarify the appropriate roles and responsibilities of levels of government and response agencies to avoid causing confusion because of vague descriptions or inaccuracies;
- The framework must take into account the role of county as well as municipal governments, as counties are the critical links to local government in the emergency management field. More often than not, a municipality may not have an emergency management function and that function is set at the county level, while in some cases, state law requires cities, towns and townships to maintain emergency management functions;
- Coordination with the private sector and NGOs must be outlined further in the framework;
- The framework must reflect that Stafford Act disasters can be declared for many different events and not exclusively for natural disasters The current draft seems to treat Stafford Act organizational structures as inappropriate for anything other than a natural disaster;
- The framework must address the varying organizational structures for emergency management and homeland security in the states. The draft says that State Homeland Security Advisors are the liaison between the Governors' Office and DHS. The Governor, as specified in the Stafford Act and within the principals of

federalism, has the ability to specify their authorized representative or state coordinating officer to represent them before DHS or FEMA;

- The framework should be more specific on exchanging liaisons within command centers during an incident and should point to the National Incident Management System (NIMS) requirements and NIMS should dictate that major players working under a unified effort will exchange liaisons;
- The framework must reflect the way that the interstate mutual aid system works in this country. States, at the request or direction of the Governor, are the only entity with the authority to request interstate mutual aid. This is based on an act of Congress to allow states to enter into the interstate Emergency Management Assistance Compact (EMAC). Responders do not directly request additional resources from other states or the federal government for mutual aid or otherwise – federal assistance must follow the Stafford Act as well. Further, states do not have to exhaust all EMAC sources before seeking federal assistance, as the Stafford Act does not specify mutual aid must be used first. In some disasters, it is not feasible to utilize mutual aid;
- The framework must tie up inconsistencies among the Joint Field Office (JFO) and the Joint Operations Center (JOC) as to whether they should be established and how these offices are to interface with the state emergency operations center (EOC). Also, suggesting that a state EOC would co-locate with the JFO is unrealistic and would impede command and control from the normal disaster response operations. Departure from an EOC depends on the disaster – it must be a joint decision between FEMA and the state and not an automatic decision;
- The framework must specify that the FEMA Administrator will, rather than may, recommend a course of action to the President when disaster assistance is requested by a Governor and this decision must be communicated with a yes or no to formal requests;
- The framework language must be clear on the roles of the National Operations Center and the NRCC and must coordinate the roles to not place an undue burden on states for information and situational awareness in the midst of a disaster;
- The framework must unify the efforts of National Infrastructure Protection Plan (NIPP) Preparedness Planning and the National Preparedness Planning;
- The framework must clarify the assignment of responsibility and associated procedures, as the framework calls for states to clearly assign responsibility but the framework itself does not itself; and
- The framework must clearly define the role of the FEMA Administrator as clarified by the Post-Katrina Emergency Management Reform Act. The framework must address the role of the FEMA Administrator as the principal advisor to the President, Homeland Security Advisory, and the Secretary of the Department of Homeland Security for all matters relating to emergency management and disasters. Additionally, the President is authorized by Congress to designate the Administrator to serve as a member of the cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters. The framework must take into account this provision in the event that the President chooses to implement the section during times of disaster.

**Revision Process**

The collaborative and cooperative process in rewriting the document completely broke down when all of the input and advice from partners was put aside for an internal DHS rewrite. In the past week it appears to have improved, and we hope we are moving beyond that, but we want to lay out the history of this product with you. In April 2007, NEMA was informed that DHS needed additional time to consider all of the input received from federal agencies and stakeholders and that they would not be able to meet the designated June timeframe to formally release the revised NRP, but would do so at the first opportunity. In the following weeks, NEMA learned that DHS was undertaking a complete rewrite of the newly completed NRP in a closed door process, with no stakeholder input, working group involvement, or steering committee visibility. In early July, NEMA was informed that the nearly complete NRP was in fact being completely and substantively rewritten and would be renamed the National Response Framework and would include significantly more detail and direction on the responsibilities and expectations of State and local governments, written without the input or collaboration of any State or local government representation.

We are told that this current draft is being reworked, and an interim final draft with a limited 30 day comment period is imminent. To date, attempts have been made to open communication such as NEMA's letter to Secretary Chertoff outlining concerns on August 23, 2007, a more detailed explanation of issues sent to the DHS/FEMA Interagency Steering Committee on August 28, 2007, and finally a conference call a last week with key DHS/FEMA participants to address the draft. Additionally, in the past week, FEMA has scheduled a meeting with key stakeholders to unveil the framework on September 13th, and the FEMA Regional Administrators are attempting to schedule meetings with States throughout the country over the next month. As a national association, we are particularly troubled and remain concerned by a short comment period and want to ensure that a process is put in place to consider and address the comments from stakeholders. If the collaborative and cooperative process remains strained, we fear that state and local governments and emergency responders will be hard pressed embracing a plan that has not seriously taken their input into account. We believe that FEMA went through this process with the best of intentions to meet their statutory and Administrative mandates and to also include state and local input to build strong partnerships for the NRP.

**Conclusion**

Again, NEMA appreciates the opportunity to testify and provide Congress with comments on the National Response Framework. We hope that by outlining our current concerns, we can help DHS make an effort to engage stakeholders to address the shortfalls of the current framework and work to strengthen the final product. NEMA has offered our assistance to DHS in this regard and remains committed to partnering with DHS on the framework. We hope we can improve this framework to be a true national plan in partnership with Congress and the Administration.

**Statement for the Record**

R. David Paulison

Administrator
Federal Emergency Management Agency
Department of Homeland Security

Before the

United States House of Representatives

House Transportation and Infrastructure Committee

Subcommittee on Economic Development, Public Buildings and Emergency Management

National Response Plan

September 11, 2007

**Introduction**

Good afternoon, Chairwoman Norton, Ranking Member Graves, and Members of the Subcommittee. Thank you for inviting me to appear before you today.

I am David Paulison, Administrator of the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). I look forward to working with this Subcommittee and Congress to ensure that our Nation is prepared for all hazards. In recent years, we have faced an unprecedented series of disasters and emergencies. Terrorist attacks, catastrophic hurricanes, devastating wildland fires, widespread flooding, earthquakes, threats to critical infrastructure, and the potential of a pandemic outbreak all require a unified approach to domestic incident management. The lessons learned from Hurricanes Katrina and Rita, in particular, confirmed the importance of the National Response Plan, and revealed the need to clarify the plan's structure, doctrine, and language so that it would more clearly guide the integration of response efforts across all levels of government, the private sector, and nongovernmental organizations.

I am pleased to report that the Department of Homeland Security, in partnership with the Federal family, as well as non-Federal stakeholders, is developing a National Response Framework (Framework) to take the place of the National Response Plan (NRP) and improve our Nation's all-hazards preparedness, response, recovery, and capabilities and better serve and protect our citizens. Like the NRP, the Framework will be a living document, one that is dynamic and flexible, and ever evolving to constantly address the new challenges we will face in the future. You have heard me speak about a New FEMA that is forward leaning, responsive, and professional - this National Response Framework must also incorporate that doctrine.

**Background**

Every day there are emergencies in the United States that require action by emergency responders. Whether those responders come from different parts of the same local jurisdiction or from other jurisdictions or State and Federal agencies, they need to be able to communicate and to work together effectively. The historic events of 9/11 and Hurricane Katrina point to the need to continue efforts to develop and maintain a common approach to incident management. In the past, Federal planning has focused primarily on how Federal agencies relate to one another during emergencies. Those plans did not fully focus on integrating levels of government to manage incidents or fully reflect working relationships before, during, and after a crisis. Following the 9/11 attacks, greater efforts were made to understand and implement common incident management principles and to develop common planning frameworks.

In Homeland Security Presidential Directive (HSPD)-5, *Management of Domestic Incidents,* the President directed the Secretary of Homeland Security to establish a single, comprehensive approach to domestic incident management by developing a National Response Plan and a National Incident Management System (NIMS). The NIMS, originally released by the Department in March 2004, established standard incident management

processes, protocols, and procedures that allow responders to work together more effectively. The NRP, as initially released by the Department in December 2004 and modified in May 2006, used the comprehensive framework of the NIMS to provide the structure and mechanisms for the coordination of Federal support to State, local, and tribal incident managers and for exercising direct Federal authorities and responsibilities.

**The Revision Process**

Following the response to Hurricanes Katrina and Rita, DHS reviewed numerous independent investigative reports and concluded that the NRP, as written, required revision. DHS/FEMA established a layered oversight structure to assist in the review and revision process. The oversight structure consisted of a senior level Steering Committee, an interagency Task Force, a Writing Team, and 12 Work Groups. In addition to reviewing numerous Katrina after-action reports, DHS/FEMA conducted stakeholder meetings to gain consensus insight into the top issues to be addressed in the review. The majority of concerns pertained to clarification of the structures, doctrine, and language of the plan to better integrate response efforts across all levels of government, and the private sector organizations.

From these sources, DHS/FEMA identified 17 key issue areas for consideration during the review. These key 17 issues were then assigned to the Work Groups for discussion and the development of suggestions for modifications to the document. Stakeholders representing nearly 700 Federal, State, tribal, local and private sector organizations took part in the NRP review work group meetings. DHS/FEMA used the suggestions of these groups as the baseline for a more user-friendly document that is easier to read and better reflects a national approach to domestic incident response.

The draft Framework was sent to stakeholders on September 10, 2007, for a 30-day public review and comment. All supplemental documents will be open for comment for a 60-day period. Comments on the draft are due October 11, 2007; comments on the supplemental documents are due November 9, 2007. Meetings are being held throughout the next two weeks with numerous stakeholder groups to present the draft, engage in interactive discussions and answer questions about the draft. A website has been established and FEMA is accepting comments. The documents are available electronically at www.regulations.gov and www.fema.gov/nrf.

**The National Response Framework Replaces the Former National Response Plan**

Although the word "plan" was part of the NRP's title, in reality, the document was never really an operational plan; rather it provided the framework for national incident management. Therefore, after consulting with stakeholders and consistent with the new homeland security strategy, DHS/FEMA has adopted the term "framework" to more accurately reflect the function and purpose of the document. The updated title, National Response Framework, represents a natural evolution of national response principles.

The purpose of the Framework is to establish a comprehensive, national, all-hazards approach to domestic incident response across all jurisdictions around common response principles.

The Framework provides a foundation for understanding existing structures, further develops processes, and clarifies roles and responsibilities. The Framework provides the structure for a comprehensive approach to national response. Whereas, previous versions focused heavily on Federal activities, the Framework emphasizes that most incidents are managed locally and all incidents should be handled at the lowest jurisdictional level possible. For that reason, the Framework describes the roles of individuals, communities, States/tribes, and the Federal government, from the perspective of each, and a common integrated approach to incident management. These roles are based on the principles of NIMS, engaged partnerships and unity of effort. As such, the National Response Framework begins where most incidents do, at the local level, and scales levels of response to the level of national involvement.

An effective, unified national response requires layered, mutually-supporting capabilities. The Framework seeks systematically to incorporate public sector agencies at all levels and private sector businesses. Private sector for-profit and not-for-profit businesses and organizations serve vital roles in incident management which have been more prominently recognized in the new document. The private sector not-for-profit organizations in particular, contribute to response efforts through engaged partnerships with each level of government to assess potential threats, evaluate risk and take actions as may be needed to mitigate threats and effectively respond when incidents occur.

**Unique Characteristics of the National Response Framework**

The new document is being written for senior elected and appointed leaders, such as Federal agency heads, State Governors, tribal leaders, mayors or city managers –those who have responsibility to provide for effective incident management. At the same time, it will inform emergency management practitioners of basic response principles, explaining the operating structures and tools used routinely by first responders and emergency managers at all levels of government. In order for the nation to be prepared for manmade and natural disasters, its leaders and emergency responders must both have a baseline familiarity with the concepts and mechanics of the Framework, as well as a common understanding of each others' unique, but vital roles in the national response.

The Framework also focuses on the preparedness, response and short-term recovery phases of incident management. It expands upon its flexible, scalable, and adaptable coordination structure and guides the full range of activities that shape an organized and efficient response. The Framework is designed to cover complex requirements in anticipation of or in response to threats, acts of terrorism, major disasters, and other emergencies.

**Preparedness and Planning are Essential to Effective Response.**

Effective incident response involves an integrated combination of planning, training, exercising, and organizing prior to an incident in order to build, sustain, and improve operational capabilities. The new Framework will acknowledge the importance of planning and preparedness activities and addresses actions taken by all stakeholders to identify the personnel, training, and equipment needed for a wide range of potential incidents and to develop jurisdiction-specific plans for delivering capabilities when needed for an incident.

**The Five Elements of Response Doctrine**

Our national response doctrine defines basic roles, responsibilities and operational concepts for incident management across all levels of government and with the private sector. The overarching objective of this doctrine is saving lives, meeting basic human needs and reducing the loss of property. Our national response doctrine comprises five key principles including:

- Engaged partnership-- Leaders at all levels must communicate and actively support each other to develop shared goals and align capabilities so that no one is overwhelmed in times of crisis.

- Tiered response-- Incidents must be managed at the lowest possible jurisdictional level and supported by additional response capabilities when needed.

- Scalable, flexible and adaptable operational capabilities-- As incidents change in size, scope and complexity, the response must adapt to meet requirements.

- Unity of effort through unified command-- Effective unified command is indispensable to all response activities and requires a clear understanding of the roles and responsibilities of each participating organization.

- Readiness to act-- Effective incident response requires readiness to act, balanced with an understanding of risk.

**The Structure of the National Response Framework**

The new Framework is designed to be a living document that is supplemented and supported by an on-line tool, the National Response Framework Resource Center. The Framework is organized to provide clarity and ease of use and contains the following information:

- ***Chapter I: Roles and Responsibilities.*** This chapter sharpens the focus on ***who*** is involved with emergency response management at the community, State, tribal and Federal levels and with private sector businesses and organizations.

- ***Chapter II: Response Actions.*** This chapter describes ***what*** we as a nation collectively do under the Framework: prepare and respond.

- ***Chapter III: Incident Management.*** This chapter explains ***how*** the National Incident Management System concepts and structures are applied to achieve our incident management objectives.

- ***Chapter IV: Planning: Cornerstone of a Broader Preparedness Strategy.*** This chapter emphasizes the importance of planning within the broader national preparedness strategy and briefly summarizes the elements of a national planning system.

- ***Chapter V: Additional Resources.*** This final chapter summarizes the content and plan for the online **National Response Framework Resource Center**, a new FEMA web site that will deliver state-of-the-art support for the *Framework* with additional support tools shaped by and particularly addressed to the incident management community.

**Conclusion**

Our Nation must be prepared to meet all challenges. DHS recognizes that all disaster events, regardless of magnitude, can be devastating to the people and communities affected. The National Response Framework establishes a comprehensive, national all-hazards approach to domestic incident response that brings together all levels of government and private-sector businesses and organizations. This Framework integrates our Nation's response plans, capabilities, and preparedness activities around common principles. It describes the structures, processes, and defined roles and responsibilities, and the mechanisms for integrating the system across all jurisdictions to aid informed decision making and direct support to meet response objectives. The National Response Framework will allow FEMA and its Federal colleagues to be more agile and responsive partners with the States and the public following a disaster.

Thank you for the opportunity to explain the National Response Plan revision process, and I look forward to any questions you may have.

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| **Question#:** | 1 |
| **Topic:** | NRF |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** One of the more important findings of the numerous reviews into the response to Hurricane Katrina was that the President did not appear to receive adequate advice and counsel from a senior disaster professional. As a result, Congress's intent to remedy this situation is reflected in the Post-Katrina Emergency Management Reform Act (the Post-Katrina Act) in which it requires the FEMA Administrator to be a professional, and it designates the Administrator as the principal advisor to the President for all matters relating to emergency management in the United States.

Additionally, the Post-Katrina Act requires the Administrator of FEMA to ensure that the National Response Plan provides for a clear chain of command that is consistent with the role of the Administrator as the principal emergency management advisor and the responsibility of the Administrator under the Post-Katrina Act.

Do you believe the draft National Response Framework reflects the role and responsibility of the FEMA Administrator as required by law (i.e. section 503 of the Homeland Security Act 6 U.S.C. 313)?

**Answer:** Yes.

**Question:** Do you believe under the NRF, the President will receive the professional advice he needs (and the law calls for) during a catastrophic disaster?

**Answer:** Yes.

**Question:** How does the framework ensure the President will get the best professional advice?

**Answer:**

The National Response Framework (NRF) reinforces the mechanisms through which the President and the Secretary of Homeland Security receive accurate information and professional advice during incidents that require federal coordination. In order to ensure that the President receives professional, accurate and timely information -- and consistent

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| **Question#:** | 1 |
| **Topic:** | NRF |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

with the statutory requirements of the Post-Katrina Act -- the NRF sets forth the roles of the President's key advisors. Thus, the NRF reflects the role of the Secretary as the principal Federal official for domestic incident management, while also recognizing that the FEMA Administrator serves as the principal advisor to the President, the Secretary, and the Homeland Security Council (HSC) on all matters regarding emergency management. In addition, the NRF recognizes the roles of the HSC and National Security Council (NSC), as well as their components, the Domestic Readiness Group (DRG) and Counterterrorism Security Group (CSG) in providing the President with national strategic and policy advice during large-scale incidents.

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| **Question#:** | 2 |
| **Topic:** | Ops coordination |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Do you believe placing the PFO program and the 15 planning scenarios within the Office of Operations Coordination is consistent with the Post-Katrina Act?

Do you believe placing these preparedness and response functions outside of FEMA will have negative repercussions on FEMA's ability to prepare for and coordinate the federal response to disasters and emergencies?

How did you arrive at your conclusions?

**Answer:**

The responsibility for the 15 National Planning Scenarios (NPS) has not been assigned to the Office of Operations of Operations Coordination (OPS). Rather, in the implementation of HSPD-8 National Preparedness Appendix 1 (National Planning) OPS will be assigned specific roles within the area of strategic planning and FEMA will be assigned specific roles with regard to operations planning.

Placing the Principal Federal Official (PFO) program within OPS is consistent with the Post-Katrina Act. The Secretary is the principal Federal official for domestic incident management. Consistent with the role and the authority of the Secretary, he may assign an individual to serve as his/her personal representative to an incident. This individual in the field is the principle Federal official. In view of the link with the Secretary, it is appropriate that OPS administers the PFO program.

In the event of a domestic incident which warrants appointment of a PFO, that individual serves as the Secretary's on-scene representative and is responsible for ensuring the overall effectiveness of the Federal response.

We believe that such an appointment serves to strengthen the ability of FEMA to succeed at its primary mission and is wholly consistent with the letter and spirit of the Post-Katrina Act.

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| **Question#:** | 3 |
| **Topic:** | HSPD-5 |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Testimony given by both Administrator Paulison and Admiral Rufe reference Homeland Security Presidential Directive #5 (HSPD 5) as the source of authority for the Secretary for certain emergency management activities. However, sections 503 and 504 of the Homeland Security Act clearly, by law, give these same authorities to the Administrator of FEMA.

On what basis do you believe that HSPD-5 does not contravene two statutory provisions, Section 302 of the Stafford Act and Section 509 of the Homeland Security, both of which are more specific and in the case of section 509 is subsequent to HSPD-5 which is merely an administrative document?

Has the Department of Justice reviewed this apparent discrepancy?

**Answer:**

There is no discrepancy between the authorities of the Secretary and the FEMA Administrator. Homeland Security Presidential Directive 5 (HSPD-5) reflects the Secretary's role as the principal Federal official for domestic incident management. The fact that Sections 503 and 504 of the Homeland Security Act provide the FEMA Administrator with authorities related to emergency management does not diminish the broad, overarching authorities and responsibilities of the Secretary.

Moreover, the Homeland Security Act states that the Secretary "is the head of the Department and shall have direction, authority, and control over it," and that "[a]ll functions of all officers, employees, and organizational units of the Department are vested in the Secretary." (Section 102(a)(2), (3)). And Section 503 of the Homeland Security Act, discussing the role of FEMA and the FEMA Administrator, itself states that "[n]othing in this paragraph shall be construed as affecting the authority of the Secretary under this Act." (Section 503(c)(5)(B)).

Questions relating to the Department of Justice's review of these provisions should be directed to the Department of Justice.

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| **Question#:** | 3 |
| **Topic:** | HSPD-5 |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

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| **Question#:** | 4 |
| **Topic:** | OPs mission |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** In particular on page 2 of Admiral Rufe's testimony it states, the "Mission of the Office of Operations Coordination is to integrate DHS and interagency planning and operation coordination in order to prevent, deter, protect, respond to and recover from terrorist threats/attacks or threats from other man made or natural disasters.

How does this reconcile with the duties and responsibilities of the Administrator of FEMA?

What is the department's definition of "all hazards"?

What is the distinction the Department has made between an "incident" and "emergency"?

What is the definition of an incident?

Who decides when an incident becomes an emergency?

What are the statutory bases for your answers?

**Answer:**

The duties and responsibilities of the FEMA Administrator and DHS Director of Operations Coordination are separate and distinct. In support of the Secretary's HSPD-5 responsibilities as principal Federal official for domestic incident management, the Director of Operations Coordination is responsible for integrating operations across the Department's component agencies, as well as coordinating with State, local, tribal and other Federal departments who have a role in preventing, preparing for and responding to acts of terrorism, natural disasters and other domestic incidents. The Director thus serves as the Secretary's principal advisor for the overall departmental level of integration of incident management operations. The Director is also responsible for interagency incident management and operation of the National Operations Center (NOC), which provides a one-stop source for situational awareness and information sharing for the White House and other Federal departments and agencies at the headquarters level.

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| **Question#:** | 4 |
| **Topic:** | OPs mission |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
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In comparison, the FEMA Administrator is the Secretary's principal advisor for matters regarding emergency management. The FEMA Administrator's duties include operation of the National Response Coordination Center, the effective support of all Emergency Support Functions, and, more generally, preparation for, protection against, response to, and recovery from all-hazards incidents.

There are numerous scenarios that may implicate the duties and responsibilities of the Director but not necessarily those of the FEMA Administrator. Recent examples include outbreaks of Foot and Mouth Disease in the United Kingdom, animal disease detected on the U.S. northern border, actual and potential vehicle-borne improvised explosive device attacks in the United Kingdom, and the summer 2006 airline liquid explosives plot. Each of these incidents required the Director to play an interagency coordinating role in support of the Secretary's HSPD-5 responsibilities, but did not directly implicate the role of the FEMA Administrator as principal advisor regarding emergency management matters.

The Stafford Act (Sec. 602. Definitions (42 U.S.C. 5195a)) defines hazard as follows: "The term "hazard" means an emergency or disaster resulting from (A) a natural disaster; or (B) an accidental or man-caused event." In addition, the 2007 DHS Appropriations Act further clarifies this and refers repeatedly throughout that "all hazards" includes natural disasters, acts of terrorism, and other man-made disasters.

The term "Incident" refers to an occurrence or event, natural or manmade, that requires a response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, civil unrest, wild land and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, tsunamis, war–related disasters, public health and medical emergencies, and other occurrences requiring an emergency response. An emergency, as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 et. seq., means "any occasion or instance for which . . . Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States."

Incidents occur every day across the United States, and some require the involvement of government. Those that do are typically addressed by a single entity at a single level of government. For example, a house fire is an incident generally addressed by a local fire department, and a home burglary is generally addressed by local police. Some incidents, such as catastrophic wildfires, impact the safety of a large number of people and thus

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| **Question#:** | 4 |
| **Topic:** | OPs mission |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
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require government agencies to prepare and deploy emergency response resources. Other incidents, such as a cyber attack, do not require emergency response activities but nonetheless necessitate extensive government coordination across multiple levels and functions.

The President has the authority under the Stafford Act to declare an "emergency." Although declaration of an emergency under the Stafford Act triggers the availability of certain federal relief, there is often significant overlap between emergencies and incidents. Thus, while the question focuses on the difference between emergencies and incidents, the more significant distinction made by the Department is between the concepts of "incident management" and "emergency management." This difference is partially rooted in the Post-Katrina Act.

The Post-Katrina Act defines "emergency management" as, "the governmental function that coordinates and integrates all activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual natural disasters, acts of terrorism, or other man-made disasters." At the Federal level, FEMA is responsible for emergency management and exercises authorities set forth in the Stafford Act, the Federal government's emergency management statute. Though commonly identified with natural disasters, emergency management is all-hazards in nature, and equally applicable to acts of terrorism and man-made disasters as to natural disasters. Key components of emergency management are its response and preparedness activities. The term "response" as used in this *Framework* includes immediate actions to save lives, protect property and the environment, and meet basic human needs. Response activities are often referred to as "disaster operations," or "consequence management." *Preparedness* activities include planning and building capabilities in anticipation of an emergency. Both groups of activities are ongoing at the State and local level and are supported by extensive Federal grant programs.

Domestic "incident management" focuses on prevention and protection, as well as emergency management activities associated with an incident. Thus, domestic incident management is broader than the *emergency management* activities associated with an incident. Domestic incident management captures the management and coordination of all activities associated either with a specific threat or actual occurrence of an incident, regardless of cause, size, and complexity. Several scenarios illustrate this concept. A disease outbreak may require greater coordination between Federal, State, and local health officials when neighboring jurisdictions are threatened with infection or when the disease is unknown or extremely rare. Law enforcement incidents, such as the D.C. area sniper attacks of 2002, may require more formal management and coordination when

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| **Question#:** | 4 |
| **Topic:** | OPs mission |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
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they involve particularly serious crimes or when multiple jurisdictions and agencies are involved. A cyber incident that shuts down major government or commercial computer systems—or the Internet itself—would likewise require significant coordination. Certain types of domestic incidents also require coordination across multiple disciplines. An example of this type of incident is a terrorist attack on an oil tanker that causes a large oil spill off the coast of a major urban area. Federal agencies such as the Coast Guard, Fish & Wildlife Service, Federal Bureau of Investigation, and Department of Energy would all be involved in the response, as would agencies and organizations at the State, local, private sector, and volunteer level. For each of these domestic incidents, the Secretary of Homeland Security may carry out his HSPD-5 responsibilities as the "principal Federal official for domestic incident management" to coordinate the overarching Federal response to the event.

Federal policy incorporates all of these activities under the concept of domestic incident management and assigns the Homeland Security Secretary as the principal Federal official for ensuring the incident is properly managed and coordinated across the governmental spectrum. The Secretary fulfills this responsibility by developing and maintaining structures and programs across all levels of government to prevent, protect against, respond to, and recover from incidents; leading the process of planning for incidents of all types and causes; relying on organizations and entities to fulfill their responsibilities within this overall structure; and, only when necessary, personally and directly becoming involved in the actual management of a domestic incident.

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| **Question#:** | 5 |
| **Topic:** | NRF - state and local |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** The law required that FEMA and the Department of Homeland Security coordinate and confer with State and local emergency managers in developing the National Response Framework.

In your opinion did FEMA and DHS comply with the law in this regard?

**Answer:**

Yes. National Response Framework (NRF) working groups included representatives from all segments of the emergency management/emergency response sectors. Ultimately, the NRF incorporated a number of key recommendations from more than 700 individuals representing federal, tribal, State and local governments, non-governmental agencies and associations, and the private sector, who participated in a review process that began in September 2006.

Prior to and following release of the NRF for comment, concerted efforts were made to reach out to key stakeholders and respond to their ideas, concerns and issues. By the end of the public comment period on the NRF base plan, over 65 State and local entities had submitted over 1,300 comments (42 percent of the total 3,500 received) to the FEMA-NRF website.

In addition, FEMA conducted briefings and discussion sessions with the National Emergency Management Association (NEMA) and the International Association of Emergency Managers (IEMA), two preeminent representatives of State and local emergency managers. Lastly, FEMA also sought and will receive comments from the FEMA's National Advisory Committee (NAC) on NRF. Through these and other discussions, FEMA has complied with the Post-Katrina Act and better ensured the quality and value of the NRF.

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| **Question#:** | 6 |
| **Topic:** | NRF - final draft |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** At a staff briefing on September 10, 2007 on the NRF it was mentioned that the final draft was "materially" different from earlier drafts.

Please highlight these material differences.

**Answer:** From the outset, a basic goal of the National Response Plan (NRP) review and revision project was to produce guidance that was accessible and useable and that informed not only emergency management practitioners but also executives and elected and appointed officials. During this process, it became clear that achieving the goal of creating accessible guidance was going to require a fundamental change in direction. The NRP became the National Response Framework (NRF), and the document itself became more strategic and more directly focused on incident response. While policy and procedures remained constant, the framework enriched the context by delineating response doctrine, emphasizing the importance of planning, and improving the style of the document.

**Question:** Why were the changes made, who made them, and were your emergency management partners part of the redrafting?

**Answer:** Despite intensive efforts to train officials on the NRP when it was issued in 2004, virtually every after-action report from Hurricane Katrina cited a lack of understanding of the NRP as a key deficiency. Stakeholders complained that the NRP was official in tone, repetitious in places, and difficult to understand. In addition, many stakeholders pointed out that despite its name, the NRP was not actually a plan and was not sufficiently national in scope. As indicated in the previous answer, the changes were made to improve the document's usefulness and understandability. Stakeholders were provided with an opportunity to provide input on the renamed NRF. More than 3,500 total comments on the NRF base plan were received from local, State, and Federal stakeholders from across the nation. All comments were adjudicated by DHS officials with incident management expertise. The revised draft document was then reviewed by the interagency NRP Review Steering Committee, by the Homeland Security Council's Domestic Readiness Group (DRG), and by numerous experts from State and local government, the academic community, and emergency responder constituency groups.

**Question:** At what date did FEMA and/or DHS stop consulting its emergency

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| **Question#:** | 6 |
| **Topic:** | NRF - final draft |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
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management partners?

**Answer:** DHS has continued to consult with emergency management partners throughout the NRP review and revision process. A brief hiatus in Steering Committee meetings occurred in the spring of 2007 as DHS officials focused on the writing task. When this work was completed, the meetings resumed and members of the Steering Committee, who represent the range of Federal, State, local, NGO, and private sector organizations, helped to refine the document.

**Question:** What are your plans, if any, to engage them again?

**Answer:** As indicated above, stakeholders have been included throughout the process and continue to be involved as we finalize and implement the new guidance.

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| **Question#:** | 7 |
| **Topic:** | Post Katrina Management Reform Act |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** What is notably absent from the framework is mention of the Post Katrina [Emergency] Management Reform Act as the basis for establishing the plan and allocation of duties.

Why is the Post Katrina [Emergency] Management Reform Act not mentioned in any meaningful way?

**Answer:**

The implication in the question that the NRF does not meaningfully reflect the Post-Katrina Act is not correct. To the contrary, the NRF was crafted with the requirements of the Post-Katrina Act in mind and DHS incorporated specific provisions from the Post-Katrina Act into the NRF. For example, the base document's descriptions of the role of the FEMA Administrator and the Federal Coordinating Officer reflect relevant statutory language. In addition, a lengthy description of the Post-Katrina Act (and other relevant Federal statutes and authorities) is included in the *Authorities Reference* document accompanying the NRF, and the legislation is referenced in several footnotes within the base document.

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| **Question#:** | 8 |
| **Topic:** | NRF - stakeholders |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** One of the major challenges in revising the National Response Plan and creating the National Response Framework will be informing State and local government officials and first responders about the changes to the plan/framework.

How does DHS plan to inform these important stakeholders about these changes?

**Answer:** Upon release of the National Response Framework (NRF), DHS will implement a roll-out strategy that will include press releases, dissemination of talking points, slide presentations and brochures, meetings with stakeholders, regional outreach to States and local governments, and closed-circuit television broadcasts. Training and exercise activities on the NRF will follow.

In addition, DHS will also automatically notify stakeholders of subsequent changes to the NRF and other associated documents through the NRF Resource Center website. The website has an "email update" feature that allows stakeholders to be added to a list of people who will be notified each time the site is updated. DHS will also post notices on the DHS home page indicating changes have occurred.

**Question:** The plan describes a website. Do you believe a website is really the most effective way to communicate?

**Answer:** Yes. The website allows updates to be sent to stakeholders instantaneously. Stakeholders can download material and begin using it immediately, rather than waiting for a printed document to be developed and mailed. Maintaining and managing the plans electronically allows DHS and other partners to share current plans, procedures and guidance among the user communities. As mentioned above, however, the website is only one part of the Department's roll-out efforts to educate and train stakeholders about the NRF.

**Question:** What other ways of communicating have you considered?

**Answer:** DHS will engage in a robust rollout campaign for the NRF that will include face-to-face meetings with key partners, press-releases, video broadcasts, dissemination of talking points, slide presentations and brochures, and FEMA Regional offices communicating with their Federal, State and tribal partners.

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| **Question#:** | 8 |
| **Topic:** | NRF - stakeholders |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
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Additionally, FEMA will provide training on the NRF using a variety of delivery options.

DHS will also publish a limited number of hard copies of the NRF and will provide hard copies to key stakeholders.

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| **Question#:** | 9 |
| **Topic:** | NRF - format |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** The 2004 National Response Plan was a technical document aimed at explaining the operational and resource coordinating structures of the federal government and how they would respond to an incident. The base draft document of the National Response Framework is best-described as a policy document, and not a technical plan.

Why did you make these changes?

**Answer:**

Ultimately, the effectiveness of any guidance depends on how well it is implemented. In the case of the National Response Plan (NRP), after-action reports from Hurricane Katrina cited a pervasive lack of understanding of the plan as an important factor that led to the inadequate response. Many stakeholders found the NRP to be bureaucratic and difficult to understand. In addition, the NRP failed to capture the National context for major incident response because it did not adequately portray the essential roles played by State, local, and tribal governments, the private sector, and nongovernmental organizations. The National Response Framework (NRF) was carefully constructed to overcome these problems and improve the document's usefulness and comprehensibility. The NRF addresses the response process at all levels--including Federal response formerly outlined in the NRP--and explains, in clear and balanced terms, how all the various parts fit together to achieve a unified response. Whether or not it can best be described as "a policy document," the NRF represents a natural evolution of the national response architecture and reinforces the national incident coordination roles established by HSPD-5.

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| **Question#:** | 10 |
| **Topic:** | NRF - framework |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** At the September 10, 2007 staff briefing DHS staff made a point of saying the document was a framework not a plan.

Why not a plan?

What is the difference?

What wrong with having a plan?

**Answer:**

Following Hurricane Katrina and the after-action reports, it became evident that the National Response Plan (NRP) was not a true operational plan in the sense understood by emergency managers. Stakeholders also indicated that they found the NRP difficult to understand and to implement. By adopting the term "framework" within the title, the National Response Framework (NRF) is now more accurately aligned with its intended purpose. The NRF is a natural evolution of the national response architecture and reinforces the national incident coordination roles mandated by HSPD-5.

The "framework" provides the overall policy guidance on how the nation conducts all-hazard response. Plans support the framework by provided specific operational roles and responsibilities.

Plans are certainly useful documents, as the NRF references in its planning chapter; however, a framework, such as the NRF, addresses response issues in a broad and inclusive fashion. Operational plans, which delineate specific mission interests, resources, capabilities and tasking, will be developed to support this framework and other strategic guidance.

The scope of the NRF is also narrower than the previous NRP in keeping with the new *National Homeland Security Strategy*. Instead of incorporating prevention, protection and mitigation actions, the NRF focuses on response and short term recovery roles, responsibilities and relationships rather than formal and bureaucratic doctrine. The NRF speaks to the need for all levels of government, the private sector and voluntary organizations to collaborate in order to respond to disasters and emergencies.

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| **Question#:** | 10 |
| **Topic:** | NRF - framework |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
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| **Question#:** | 11 |
| **Topic:** | PFO/FCO |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Many of the reviews following Hurricane Katrina concluded that the conflicting roles of the Principal Federal Official (PFO) and the Federal Coordinating Officer (FCO) caused considerable confusion regarding the federal chain of command among state and federal response organizations. While Admiral Allen was appointed PFO in order to coordinate the federal response, the legal authority to direct federal agencies and commit federal resources resided with the FCO. Ultimately, this led to the unprecedented step of appointing Admiral Allen as both the PFO and FCO for Louisiana, Mississippi and Alabama. As a result, the Post-Katrina Act prohibits the PFO from having directive authority and replacing the incident command structure in the field. Additionally, the Post-Katrina Act requires that the National Response plan provide for a role of the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

**Question:** Do you believe the draft National Response Framework reflects the requirements of the Post-Katrina Act with respect to the PFO and FCO? Please explain why.

**Answer**: Yes. The pertinent sections of the National Response Framework (NRF) were crafted specifically to comply with the language and the spirit of the Post-Katrina Emergency Management Reform Act.

**Question:** Given the description of the roles of the PFO and the FCO in the draft National Response Framework, is it clear who will be in charge of coordinating the federal response?

**Answer**: Yes. The sections of the National Response Framework addressing the PFO and the FCO were revised based on many thoughtful comments received from stakeholders--including members of Congress and organizations such as the National Emergency Management Association--during the public comment process. The language was refined to clearly indicate that the FCO is the primary Federal representative with whom State officials interface during Stafford Act events.

**Question:** What are the repercussions of any confusion between these two positions? How are ground operations affected?

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| **Question#:** | 11 |
| **Topic:** | PFO/FCO |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
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| **Committee:** | TRANSPORTATION (HOUSE) |

**Answer**: DHS has thoughtfully ensured that the roles, responsibilities, and authorities of the PFO and Federal FCO, as well as other key response officials, are clearly explained in the NRF.

Providing clear guidance in the NRF on the roles of the PFO and the FCO maximizes the effectiveness of on-the-ground response operations as all those involved--Federal, State, local, tribal, private sector, and nongovernmental organization representatives--understand the responsibilities of these key leaders.

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| **Question#:** | 12 |
| **Topic:** | NRF - structure |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** One of the purposes of the NRF is to be a guide for elected and appointed officials.

At the hearing you where shown two slides, one of the structure of a Field Office under the 1999 FEMA Federal Response Plan, and the other of the structure of a Field Office under the National Response Framework. (See attached). It was pretty clear in 1999 only one Federal Official is in charge.

If I am a Mayor of a medium sized city and I walk into a Field Office today, 2007, and ask to speak with the person in charge, which one individual on that organization chart is in charge for the Federal Government?

If the answer is the PFO, how do you reconcile that with the language in section 509 of the Homeland Security Act, that says the PFO shall not replace the incident command structure nor shall the PFO have any directive authority over the FCO and other Federal and State Official and section 302 of the Stafford Act that requires the President to appoint an Federal Coordinating Officer to coordinate the Federal disaster Operations?

**Answer:**

The answer may depend on the specific circumstances of the incident. For example, in the event of a public health emergency, a Health and Human Services official may be responsible for coordinating Federal activities. Similarly, a Senior Federal law Enforcement Official (SFLEO) may have coordination responsibilities in the event of a terrorism investigation. Assuming, however, that the question refers to a Stafford Act event, an Federal Coordinating Officer (FCO) would have been specifically appointed by the President to coordinate Federal support in the response to and recovery from the emergency or major disaster. The FCO executes Stafford Act authorities, including commitment of FEMA resources and the mission assignment of other Federal departments or agencies. For Stafford Act events the FCO is the primary Federal representative in the Joint Field Office with whom State and local officials interface to determine the most urgent needs and set objectives for an effective response. In such events, the FCO is the focal point of coordination within the Unified Coordination Group, ensuring overall integration of Federal emergency management, resource allocation and

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| **Question#:** | 12 |
| **Topic:** | NRF - structure |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

seamless integration of Federal activities in support of, and in coordination with, State, tribal and local requirements.

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| **Question#:** | 13 |
| **Topic:** | incident management |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** The NRF devotes an entire chapter to Incident Management. As you know a key to incident management is that there is an Incident Commander. On page 60 the NRF states "The Joint Field Office is the primary Federal incident management field structure" and it applies the Incident Command System.

Looking at the Field Office organizational chart from the NRF who is the Federal incident commander on that organization chart?

If the answer is the PFO, how do you reconcile that with the law that says the PFO can not have any directive authority, and the Stafford act which places the FCO in charge?

**Answer:**

The Joint Field Office (JFO) is a temporary Federal facility that provides a central location for the coordination of Federal, State, tribal, and local governments and private sector and non-governmental organizations with primary responsibility for response and recovery. The JFO structure is organized, staffed, and managed in a manner consistent with the National Incident Management System and is led by the Unified Coordination Group (UCG). Depending on the event, a Federal Coordinating Officer (FCO), State Coordinating Officer (SCO), Senior Federal Official (SFO), Senior Federal Law Enforcement Officer (SFLEO), and Principal Federal Official (PFO) may all be part of the JFO UCG.

The Incident Commander is the individual responsible for all incident response activities, including the development of strategies and tactics and the ordering and release of resources. The Incident Commander is typically at the Incident Command Post, not at the JFO.

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| **Question#:** | 14 |
| **Topic:** | NRF - PFO |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** On Pages 63 and 64 of the NRF released September 10, 2007 it states, the PFO will, on the Secretary's behalf, coordinate the activities of other Federal officials and serve as the lead Federal Official in the field.

How do you reconcile that with the language in section 509 of the Homeland Security Act, that says the PFO shall not replace the incident command structure nor shall the PFO have any directive authority over the FCO and other Federal and State Officials, and section 302 of the Stafford Act that requires the President to appoint an Federal Coordinating Officer to coordinate the Federal disaster Operations?

**Answer:**
The language describing the Principal Federal Official (PFO) has been clarified in the final version of the NRF. The phrase referred to in the question have been deleted.

The PFO is the Secretary's primary representative who will ensure the consistency of Federal support as well as the overall effectiveness of the Federal incident management. The PFO does not replace the incident command structure nor does the PFO have directive authority over a Federal Coordinating Officer (FCO), a Senior Federal Law Enforcement Official (SFLEO), a DOD Joint Task Force Commander, or any other Federal, State or local official.

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| **Question#:** | 15 |
| **Topic:** | HSPD-5 authority |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** In previous briefings DHS has cited HSPD-5 as the authority for the PFO and its continued operations role.

On what basis do you believe that HSPD-5 grants the authority to contravene two statutory provisions, Section 302 of the Stafford Act and Section 509 of the Homeland Security, both of which are more specific and in the case of section 509 is subsequent to HSPD-5 which is merely an administrative document?

**Answer:** Please see the response to Question 3.

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| **Question#:** | 16 |
| **Topic:** | NRCC/NOC |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Who is in charge of the NRCC?

If not FEMA, how do you reconcile that answer with the Post-Katrina Act requirement that such operational elements not be removed from FEMA?

Please distinguish the role of the NOC under the Operations Directorate and the NRCC at FEMA.

**Answer:**

FEMA is in charge of the National Response Coordination Center (NRCC). The NRCC is FEMA's primary emergency management operations center, as well as the focal point for national resource coordination. Functioning at the operational level, the NRCC maintains situational awareness links with a large number of operating nodes and centers at all levels of government such as: State Emergency Operation Centers(s) (EOC(s); selected local EOC(s); Regional DHS components; Regional ESF EOC(s); State Fusion Centers; NORTHCOM; Joint Terrorism Task Forces; headquarters and regional Department and Agency Operations Centers; and other key operating centers. The NRCC supports emergency management, response and resource planning; monitors potential or developing disaster incidents; supports regional and field component operations; and coordinates national-level emergency management and disaster response activities and resource allocations for DHS and FEMA. In accordance with the Post-Katrina Act, FEMA has enhanced NRCC operations.

The NRCC is one of the five functional components of the National Operations Center (NOC). The NOC is the central DHS and interagency hub for domestic incident management coordination and situational awareness at the strategic level. The elements of the NOC are: the NOC Watch, the NRCC, the National Infrastructure Coordination Center (NICC), Intelligence Analysts from the Office of Intelligence and Analysis, and the Incident Management Planning Team (IMPT). The NOC's mission is to provide situational awareness to senior DHS and White House leadership and to facilitate information sharing and operational coordination among Federal, State, local, tribal, and nongovernmental operation centers as well as with private sector homeland security stakeholders. The NOC achieves its mission through the consolidation and synthesis of law enforcement, national intelligence, emergency response, and private-sector

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| **Question#:** | 16 |
| **Topic:** | NRCC/NOC |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
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information. It then uses this information to facilitate homeland security information sharing and operational coordination with Federal, State, local, tribal, nongovernmental and private-sector organizations.

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| **Question#:** | 17 |
| **Topic:** | National Planning Scenerios |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** On page 52 of the National Response Framework, it says that the DHS Director of Operations Coordination (Admiral Rufe) is developing the strategic guidance and plans for the 15 National Planning Scenarios.

How do you reconcile that with the law that requires that FEMA be placed in charge of these planning scenarios? (See section 645 of the Post-Katrina Act)

**Answer:**

As noted in response to Question 2 above, responsibility for the 15 National Planning Scenarios has not been assigned to OPS.

The Post-Katrina Act states that "The President, through the [FEMA] Administrator, is authorized (but not required), to include [in the national preparedness system] planning scenarios that reflect the risks presented by all-hazards in the NPS. The scenarios, if developed, are to provide a foundation for the development of target capabilities to meet the National Preparedness Goal (NPG) and must reflect the full range of 'representative hazards' that require the identification and definition of tasks required to respond accordingly."

Through its oversight of the interagency Incident Management Planning Team (IMPT), OPS develops strategic level plans to address the existing 15 NPS. A strategic plan contains a concise summary of the situation, mission, concept of operations, and Federal coordination and oversight. The purpose of strategic plans are to generate requirements; establish long-range goals, priorities, and objectives; obtain interagency agreement on specific roles/responsibilities for a given threat; develop approved performance and effectiveness measures in order to execute National policy. These strategic plans will provide the basis upon which FEMA would then lead, in collaboration with other Federal departments and agencies, in the development of operational level plans for each scenario. IMPT and FEMA planning roles and responsibilities are complementary efforts that are aligned with the Post-Katrina Act's requirements.

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| **Question#:** | 17 |
| **Topic:** | National Planning Scenerios |
| **Hearing:** | READINESS IN THE POST-KATRINA AND POST-9/11 WORLD: AN EVALUATION OF THE NEW NATIONAL RESPONSE FRAMEWORK |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

STATEMENT OF
ROGER RUFE, DIRECTOR OF THE OFFICE OF OPERATIONS COORDINATION
U.S. DEPARTMENT OF HOMELAND SECURITY
BEFORE THE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT
UNITED STATES HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 2007

Good morning, Chairwoman Norton, Ranking Member Graves and Members of the Subcommittee. I am Roger Rufe, Director of the Office of Operations Coordination at the U.S. Department of Homeland Security (DHS). I am pleased to appear today alongside Administrator Paulison and the other witnesses. Thank you for inviting me to provide you and your subcommittee my evaluation of the development of the National Response Framework (NRF) as it relates to the Office of Operations Coordination.

Under Homeland Security Presidential Directive 5 (HSPD-5), the Secretary of Homeland Security (Secretary) is the principal Federal official for domestic incident management, responsible for "coordinating Federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies." To carry out those responsibilities, the President directed all "Federal departments and agencies to cooperate with the Secretary in the Secretary's domestic incident management role." Thus, the Secretary is authorized by the President to coordinate Federal operations across all homeland security mission areas – including prevention, protection, response, and recovery. As the Director of Operations Coordination, I support the Secretary in executing these responsibilities. As such, I believe that the NRF will support our efforts in the implementation of national policy as it will formalize and codify the changes which we have made since the National Response Plan (NRP) was superseded by the development of the NRF. In addition, the NRF will articulate these changes to our partners and customers, as part of the new incident response processes.

Overview of the NRF

The draft National Response Framework (NRF) is a guide that describes how Federal, State and local governments conduct emergency response and incident management. Unlike the NRP, the NRF will offer flexible and adaptable coordinating structures to enable the linking of all levels of government, private sector businesses, and non-profit organizations.

The NRF is an important step forward for DHS and interagency coordination in that it captures the absolutely crucial structures and processes we are now using to provide situational awareness and manage a spectrum of incidents. The NRF will help to formalize ongoing efforts of DHS that are intended to fulfill statutory requirements as well as national policy, and to work in conjunction with not only other Federal departments, but with our critical State, local and private sector homeland security partners as well. I believe it is equally important to state that the NRF will assist the

Department with the often difficult task of communicating how we define roles and responsibilities.

Overview of Katrina Lessons Learned: National Operations Center

Since Hurricanes Katrina and Rita, DHS has undertaken a systematic effort to ensure that there are more robust and coordinated preparedness and response structures in place to deal with all manner of incidents. As my colleague related, FEMA has made significant modifications to their operations and processes. My office has also undergone enhancements in the past year as we continue to grow our capabilities and mature organizationally. The mission of the Office of Operations Coordination (OPS) is to integrate DHS and interagency planning and operations coordination in order to prevent, deter, protect, respond to and recover from terrorists threats/attacks or threats from other manmade or natural disasters.

We have taken the post-Katrina recommendations provided by the White House, Congress, the GAO, and others very seriously and are making enhancements to DHS operations. We appreciate the recommendations GAO has offered regarding DHS operations centers including (1) our collaborative practices, (2) the existence of major barriers to executing our mission, and (3) the importance of defining common outcomes and joint strategies. The conclusions within these reports contain a number of key recommendations that served as a foundation for several specific improvements to OPS, which are formalized by the NRF. These include the National Operations Center (NOC) and its five elements, the national information reporting system, and a Federal contingency planning process.

The White House's report on the lessons learned from Hurricane Katrina recommended that a National Operations Center be established and that it act as a single information reporting system for all Departments and agencies. To that end, my office has made significant advances in many operational capabilities that directly enhance the Secretary's ability to carry out his responsibilities as established in the Homeland Security Act and HSPDs 5 and 8. The NOC, together with our interagency partners, is incrementally implementing a comprehensive national information reporting system. This system enables the NOC, in coordination with interagency partners, to provide excellent situational awareness for national leadership.

The NOC was officially established on May 25, 2006, with the approval of the NRP Notice of Change that linked together and integrated the functions and personnel of the multi-agency Homeland Security Operations Center (HSOC), the Office of Intelligence and Analysis element of the HSOC, FEMA's National Response Coordination Center, Infrastructure Protection's National Infrastructure Coordination Center (NICC), and the NOC Planning Element. Furthermore, according to authorities granted by the Post Katrina Emergency Management Reform Act, the NOC is the principal operations center for DHS and provides situational awareness and a common operating picture for the entire Federal government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster. The NOC is

responsible for ensuring that critical terrorism and disaster-related information reaches government decision-makers. By performing its mission, the NOC enables the Secretary and other leaders to make informed decisions and identify courses of action during an event or threat

The NOC is the primary point of access for the Secretary and senior administration officials to domestic situational awareness relating to the prevention of terrorist attacks and incident management within the United States. In addition, the NOC serves as the primary National-level hub for domestic situational awareness, common operating picture, information fusion, information sharing, communications, and operations coordination pertaining to the prevention of terrorist attacks and domestic incident management.

Likewise, the NOC serves as the National Fusion Center and in collaboration with the Office of Intelligence and Analysis, fuses all source information to quickly determine if there is a terrorism nexus. It synthesizes reporting from State Fusion Centers, law enforcement, national intelligence, emergency response, and private sector organizations. The NOC also works to disseminate homeland security information to appropriate intelligence and law enforcement agencies, other homeland security partners, and senior Federal officials.

The major situational awareness tool of the NOC is the Common Operating Picture (COP). This real-time, web-based tool ties together key homeland security partners primarily at the Federal, State, and Joint Field Office levels. The COP has been available since its inception beginning with the 2006 Hurricane season. Several essential capabilities of the COP include are:

- Accessibility through the Homeland Security Information Network (HSIN);
- Capability to share critical information among the inter-agency community;
- Inter-agency common operating database;
- Shared inter-agency understanding of the situation;
- Information integrity for reporting requirements and;
- Timely, risk mitigated decision making;

In addition, the COP enables access to functional screens that provide National and International Situation Summaries, Executive Actions, Requests for Information, the status of responders, chronology of key events, that status of critical infrastructure impacted by an event, maps and imagery, media monitoring products, streaming video from the field, functional metrics, and HSIN information.

As part of our incremental approach, we are advancing the COP capabilities from natural disasters to all hazards and all threats. Our "next steps" are intended to advance the COP capabilities from unclassified, hurricanes/natural disasters to classified, terrorist threats and incidents. We are currently focusing on the worst-case scenario for nuclear/radiological incidents and will use national exercises and real world events to validate and continue its development.

In February 2004, DHS developed the Homeland Security Information Network (HSIN) based upon the Joint Regional Information Exchange System (JRIES) used by the Department of Defense. HSIN is now used as the primary, secure nationwide network through which DHS receives and shares critical information, including alerts and warnings, with its components and its public- and private-sector partners, including Federal, State, local, and tribal officials and the owners and operators of critical infrastructure. HSIN allows these parties to communicate on suspicious activities, threats, and infrastructure vulnerabilities; prepare for and mitigate natural or man-made disasters; and collaborate on restoration and recovery efforts following a serious incident. The content on HSIN is administered by OPS, which makes the network available, free of charge, to a broad array of homeland security partners. The network is actively embraced by State and local fusion centers across the country, many of which have created their own customized portals. HSIN enables OPS to quickly and efficiently share information with a large number of users, at multiple levels of government, across the United States and with foreign partners.

Several reports concluded that DHS needed to address planning limitations at the National level, including the creation of a permanent planning body within the NOC. DHS addressed this recommendation through the creation of the NOC Planning Element which reports to me. The mission of the NOC Planning Element is to provide contingency and crisis-action incident management planning in support of the Secretary's national level domestic incident management responsibilities articulated in the Homeland Security Act of 2002 and HSPD-5. The NOC Planning Element is comprised of two components: (1) a core group of 15 full-time planning representatives from key DHS elements (e.g., TSA, CBP, I&A, FEMA, Coast Guard, and ICE)[1] as well as other key interagency members (i.e., DOD, DOJ, FBI, HHS, DOT, DOE, EPA) and the American Red Cross[2]; and (2) an "on-call" staff of 38 planners from DHS as well as the interagency.

The initial actions of this planning element have been focused on the development of Federal interagency strategic plans that address each of the 15 National Planning Scenarios. Each plan identifies the roles and responsibilities of individual departments and agencies in the event a given scenario were to occur. This planning process serves two distinct purposes: it facilitates the ability of the Secretary to fulfill his/her coordination responsibilities under Presidential Directive by providing awareness of the individual capabilities that a specific agency plans to deliver; and it also identifies existing seams and gaps that exist within the interagency planning efforts for a particular scenario.

Another recommendation identified the need for a Federal planning process to unify the efforts of planning that occurs across the interagency. DHS addressed this recommendation through its development of the National Planning and Execution System

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[1] Transportation Security Administration, Customs and Border Patrol, DHS Office of Intelligence and Analysis, Federal Emergency Management Agency and the United States Coast Guard.
[2] Department of Defense, Department of Justice, Federal Bureau of Investigation, Health and Human Services, Department of Transportation, Department of Energy an the Environmental Protection Agency.

(NPES) which is a five phase National level planning process developed to support the Secretary of Homeland Security in his role as the principal Federal official for domestic incident management.

Conclusion and the Way Ahead

In summary, DHS is committed to ensuring that all possible steps are being taken to address the various threats and incidents that can endanger our citizens. DHS will continue to work together with all partners across the homeland security spectrum, including Congress, to ensure the best policies, practices, processes, and technologies are integrated into the daily DHS operations framework.

The efforts I have described, such as the COP, are now part of the day to day operations of DHS, OPS, and the NOC. They allow for better information flow, situational awareness, national reporting, and unity of effort in relation to all-threats and all-hazards events. I believe that the importance of the NRF is that it will help illustrate these efforts and the lines of communication for multiple participants ranging from Federal departments and agencies to State and local governments as well as private sector and foreign partners. We will continually enhance these efforts by implementing lessons learned during real world events and exercises.

As you seek to learn more about DHS preparedness and response efforts, I invite the Subcommittee and staff to visit the NOC so we can provide you with a more detailed briefing about the full range of my Office's activities. Thank you for this opportunity to testify today and I look forward to answering your questions.

PREPARED STATEMENT OF PAUL N. STOCKTON

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Testimony before the

Subcommittee on Economic Development,
Public Buildings, and Emergency Management
Committee on Transportation and Infrastructure

Hearing on "Readiness in the Post Katrina and Post 9/11 World: An Evaluation of the New National Response Framework"

11 September 2007

The views expressed by the author are his own
and do not necessarily represent those of any U.S. Department or agency

Thank you for the opportunity to testify on the vital issue that you have taken up today. Since well before 9/11, this Subcommittee has helped strengthen the U.S. emergency management system. Now, as the Department of Homeland Security refines its draft National Response Framework,[i] you and your colleagues have an especially significant opportunity to shape the evolution of that system.

The draft Framework proposes much-needed improvements for disaster preparedness and response. As currently written, however, the Framework also ignores -- and is likely to subvert -- key changes that Congress enacted in Post-Katrina Emergency Management Reform Act of 2006.[ii] Congress had compelling reasons to adopt those changes. The draft framework overlooks the concerns that helped shape the legislation Congress enacted, and would put the Nation at risk to some of the same systemic failures that hobbled the Federal response to Katrina.

I will open my testimony by examining the Framework's most glaring departure from the reforms Congress enacted in 2006: the proposal that disaster preparedness and response efforts be led by the Secretary of the Department of Homeland Security (DHS), rather than by the Administrator of the Federal Emergency Management System (FEMA). I will then briefly explain why I believe Congress made the correct decision in assigning that leadership responsibility and authority to the FEMA Administrator, and why the shift proposed by the draft Framework would put the emergency management system at such risk. I will conclude by raising some additional issues that the Subcommittee may wish to consider as it reviews the draft Framework, especially those involving the uncertainties that continue to surround response to catastrophic events.

## I. A FUNDAMENTAL CHOICE

The Department of Homeland Security deserves great credit for recognizing the inadequacies of the National Response Plan, and moving to remedy those problems in the National Response Framework. The draft Framework proposes some important improvements in the response system. For example, it emphasizes the need to build the capacity of states and

localities to plan for disaster response operations, which remains a major shortfall in many jurisdictions. The Framework also focuses on clarifying the specific functions and authorities of federal officials in assisting states and localities for disaster response. That effort is absolutely vital, because in the response to Hurricane Katrina, confusion over who was responsible for what delayed and degraded federal assistance operations.[iii]

The Framework's clarification of official functions is also its greatest weakness. As currently drafted, the Framework calls for a very different allocation of federal duties and authorities than Congress enacted into law in the Post-Katrina Emergency Management Reform Act of 2006 (hereinafter referred to as the Katrina Reform Act). That Act left untouched the Stafford Act's assignment of ultimate statutory authority over federal government response activities to the president. Just below that level, however, the Katrina Reform Act specifies that the Administrator of FEMA shall "lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risks of natural disasters, acts of terrorism, and other man-made disasters."[iv] The Act also specifies that the FEMA Administrator is "the principal advisor to the President, the Homeland Security Council and the Secretary [of Homeland Security] for all matters related to emergency management in the United States."[v]

The draft Framework ignores most of these grants of authority. The Framework states that at DHS, "the FEMA Administrator is the Secretary's principal advisor for matters relating to emergency management."[vi] But the Secretary, not the FEMA Administrator, would be the principal advisor to the President for emergency management. According to the Framework, "the role of the Secretary of Homeland Security is to provide the president with an overall architecture for emergency response," and to "coordinate the Federal response" to disasters when such disaster assistance is needed. Instead of following the statutory requirement that the FEMA Administrator lead the Nation's efforts to prepare for and respond to the risks of terrorist attacks, hurricanes or other incidents, the draft Framework also emphasizes that:

> The **Secretary of Homeland Security** is the principal Federal official for domestic incident management. By Presidential directive and statutory authority, the Secretary is responsible for coordination of Federal resources utilized in the prevention of, preparation for, response to or near-term recovery from terrorist attacks, major disasters and other emergencies.[vii] [Emphasis in the original]

The Framework does not explicitly recognize that it advances a very different allocation of authority than Congress enacted into law in 2006. Indeed, the draft Framework never once cites the Post-Katrina Emergency Management Reform Act of 2006, and makes no explicit reference to the Act's provisions concerning the authorities of FEMA and its Administrator. The Framework states, however, that "Nothing in this Framework alters or impedes the ability of Federal, State, local, or tribal departments and agencies to carry out their specific authorities or perform their responsibilities under all applicable laws...."[viii] That provision would appear to leave the FEMA Administrator in the lead for the emergency management system -- notwithstanding the Framework's own emphasis on the leadership role of the DHS Secretary over that same system.

A key objective of the draft Framework is to clarify roles and responsibilities in emergency management. Unless revised, the Framework will create new confusion over roles at the very top of the system, not only within DHS but also amongst the Departments that must partner with FEMA and DHS for disaster response, and with the State and local leaders whom the federal government will assist. The effective functioning of the National Incident Management System (and the incident command system on which it is based) will depend on a clear understanding of who is responsible for what. We need to know who will be in the lead for coordinating federal assistance, and for building the system that will provide for it. I would hope that the Members of this Subcommittee might take an interest in helping DHS to eliminate the confusion that the current draft of the Framework will foster.

As that process of clarification goes forward, I would also hope that future drafts will more closely adhere to the division of authorities laid out by the Katrina Reform Act. My reasons go beyond those involving the Constitutional imperative that the Executive faithfully execute the laws enacted by Congress (though such considerations are clearly important). I believe that the principles that guided Congress in adopting the Act remain relevant today, and that departing from the Act's grant of authority to the FEMA Administrator would put the response system at risk. Let me now turn to why that is the case.

## II. LEARNING FROM KATRINA

Studies of the response to Hurricane Katrina, including the House Select Committee's A Failure of Initiative, identified underlying causes of federal-level failure that helped prompt Congress to reallocate authority over emergency management. The House Report's analysis of the Katrina-era national response framework led off with the finding that it did "not appear that the president received adequate advice and counsel from a senior disaster professional."[ix] The Report notes that in accordance with the 2002 Homeland Security Act, which created the Department of Homeland Security, DHS Secretary Michael Chertoff was the Department's top official for emergency management. The Report also notes, however, that "emergency management is just one of the Secretary's many responsibilities. According to Chertoff's testimony before the Select Committee, he is not a hurricane expert, nor does he have much experience with disasters."[x] The Report went on to cite a number of instances in which the advice provided to the President, and the decisions made by the Secretary, delayed and degraded the federal response to the hurricane.

An emergency management professional might have offered better advice to the President. The House Report found that such a professional would have been "well aware" of the impeding consequences of Katrina as it approached landfall (including the likelihood of catastrophic flooding). A professional emergency manager would also:

> Recognize the challenges of responding to such a disaster, and appreciate the need for timely and proactive federal assistance. Comments such as those the President made about not expecting the levees to breach do not appear to be consistent with the advice and counsel one would expect to have been provided by a senior disaster professional. Furthermore, it seems reasonable to expect delays in recognizing the need for and then requesting DOD mission assignments [to provide disaster assistance] may have been avoided if the President had been advised of the need for early presidential involvement.

The Katrina Reform Act adopted two structural changes to strengthen the quality of advice received by the president in emergency management, and thereby avoid a recurrence of the problems that contributed to failure in Katrina. First, Congress recast the division of authority established by the Homeland Security Act of 2002, and required that the Administrator of FEMA (rather than the Secretary of DHS) be the principal advisor to the president for emergency management. Second, the Katrina Reform Act mandates that the FEMA

Administrator shall have "a demonstrated ability in and knowledge of emergency management and homeland security," as well a minimum of 5 years of executive leadership and management experience.[xi] Congress paired professional expertise with expanded Administrator authority to improve the emergency management system.

Of course, no legislative provisions can guarantee effective emergency management advice to the president (or ensure that the president will follow it). That is why the other steps Congress has taken to strengthen FEMA as a whole are so important, especially in terms of expanding the Agency capabilities and preparedness missions most critical to assisting states and localities. Yet, Congress also had compelling rationale to reallocate authority at the top of the emergency management system in 2006. Any reversion to the previous, DHS Secretary-led system would be a step backwards, and would reflect an "unlearning" of the lessons gained at such terrible human cost in Hurricane Katrina.

III. THE WAY AHEAD

The Katrina Reform Act included a third provision relevant to the focus of today's hearing. The Act specifies that the Secretary of Homeland Security "may not substantially or significantly reduce the authorities, responsibilities, or functions of the Agency or the capabilities of the Agency to perform those missions" unless Congress gives legislative approval to such changes.[xii] Congress put that provision in the Act for a reason. Prior to Katrina, FEMA suffered from a steady corrosion of its response capabilities, at the same time that DHS' leadership also stripped away the responsibility of the Agency and its Administrator for disaster preparedness.[xiii] Congress structured the Katrina Reform Act to prevent a renewed decline of FEMA within DHS. In this historical context, it is especially troubling that the draft National Response Framework ignores the leadership functions that Congress granted to the FEMA Administrator. DHS should revise the draft Framework to clearly reflect and help implement the augmentation in authority that Congress enacted for FEMA and its Administrator. That is important not only for respecting the Constitutional responsibilities of the legislative branch, but also for the future effectiveness of the emergency management system.

There are many additional ways in which the system Framework might be improved future drafts. In particular, I would urge that the Subcommittee explore the Framework's allocation of coordination functions and authorities between Principal Federal Officials (PFOs)

and Federal Coordination Officers (FCOs).[xiv] Confusion over those coordination roles undermined federal response efforts in Katrina, and should be further clarified in the Framework. The current draft of the that document is also silent on a number of outstanding issues for structuring the U.S. response to catastrophes, including that of the special circumstances in which the president would designate the Department of Defense (as opposed to FEMA and DHS) to serve as the lead federal agency for response activities. The Framework will have a web-based annex that may eventually help clarify these issues. They are too important, however, to be buried in annexes that may not get the readership they merit by state and local leaders and emergency managers they are intended to serve.

Ultimately, the Nation will continue to depend on the efforts of Congress (and especially this Subcommittee) to oversee and help shape the strengthening of our emergency management system. As the Department of Homeland Security revises the draft National Response Framework, and builds on the improvements that it already offers to the National Response Plan, I would like to thank the Committee for holding today's hearing to help advance that process.

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[i] National Response Framework (Washington, D.C.: U.S. Department of Homeland Security, 19 July 2007), Pre-decisional and Deliberative Draft.

[ii] Congress adopted the legislation (hereinafter referred to as the "Katrina Reform Act") as Title VI of H.R. 5411, the *Department of Homeland Security Appropriations Act for Fiscal Year 2007*, P.L. 109-295, 120 Stat. 1355, 1394 (2006). Text of the Post-Katrina Act can be found in the Congressional Record, *United States Congress, House of Representatives*, 28 September, 2006, pp. H7795-7800.

[iii] A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina (Washington, D.C.: U.S. Government Printing Office, 15 February 2006), pp. 131-149 and *passim*.

[iv] Sec. 503 (a) (2) (A) of 6 U.S.C. 311, as amended by Sec. 611 of the Katrina Reform Act.

[v] Sec. 503 (c) (4) (A) of 6 U.S.C. 311, as amended by Sec. 611 of the Katrina Reform Act.

[vi] Draft Framework, p. 51.

[vii] Draft Framework, pp. 21 and 51.

[viii] Draft Framework, p. 21

[ix] A Failure of Initiative, p. 132.

[x] Ibid.

[xi] Sec. 503 (c) (2) (A) and 503 (c) (2) (A) of 6 U.S.C. 311, as amended by Sec. 611 of the Katrina Reform Act.

[xii] Sec. 506 (c) (1) of 6 U.S.C. 311, as amended by Sec. 611 of the Katrina Reform Act.

[xiii] A Failure of Initiative, pp.153-158.

[xiv] Framework, pp. 64-6. For statutory language on the same issue, see Sec. 509 (c) (1) of 6 U.S.C. 311, as amended by Sec. 611 of the Katrina Reform Act.

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Testimony before the
Subcommittee on Economic Development, Public Buildings, and Emergency Management,
Committee on Transportation and Infrastructure,
United States House of Representatives
On September 11, 2007

I wish to thank the Subcommittee for providing me the opportunity to address questions concerning the National Response Framework and how the current draft was developed.

I am Professor of Public Administration in the Andrew Young School of Policy Studies at Georgia State University in Atlanta and I teach graduate and undergraduate classes in disaster management, public policy, and organizational theory. I also teach in the Executive Masters degree program in Crisis and Emergency Management at the University of Nevada at Las Vegas and am involved in American University's Senior Crisis Management Seminar (as part of the U.S. State Department's Anti-Terrorism Assistance Program). I serve on the Emergency Management Accreditation Program (EMAP) Commission and served six years on the Certified Emergency Manager (CEM) Commission. EMAP sets standards for and accredits state and local emergency management programs and the CEM Commission administers the top national credential for professional emergency managers. Kathleen Tierney and I are co-editors of the second edition of the International City/County Management Association's forthcoming "green book" on local emergency management which will be published in the next few months and I am editor-in-chief of the *Journal of Emergency Management*.

Several articles focusing on the national emergency management system and its priorities were provided to the committee and are noted at the end of this document. The gist of those articles is that the national emergency management system in the United States is made up of networks of public agencies, private firms, nonprofit organizations, and volunteers and that involving them in Homeland Security and emergency management decision making is essential. The national system's foundation is local emergency management offices, local emergency response agencies, faith-based and secular community organizations, ad hoc volunteer groups, and individual volunteers and its surge capacity is provided by volunteers. We have a long history of volunteerism in

emergency management in the United States and should always expect that volunteers will be a significant segment of our disaster response operations. Most fire departments today are still volunteer organizations. Most search and rescue is done by neighbors, family members, and friends. Faith-based and secular community groups increasingly have their own disaster relief organizations and the capabilities of those organizations are increasing rapidly. The point is that we have a system in place for dealing with large and small disasters that is heavily reliant upon local resources and local capacities. Building those resources and enhancing those capacities should be the goal of local, state, and federal programs.

One of the products of local capacity building is greater community disaster resilience. Communities that have experienced disaster and have managed its effects develop a sense of efficacy that carries over into other disaster situations and into other community activities. Preempting local action or excluding local officials from crisis decision processes does not increase resilience or encourage capacity building. National response plans must be cognizant of the need to involve local officials and residents in both decision processes and relief operations. Perhaps most important, the community needs to be in charge of its own disaster operation. The community needs to mitigate its own hazards, prepare for disaster, respond when necessary, and set its own priorities for recovery. Outside assistance may be necessary as the scale of events increases, but disasters are local and recovery ultimately is local.

How we organize to manage hazards and deal with disasters is critical. In a large nation, a cavalry approach to disaster assistance simply does not work because it takes too long for the cavalry to get to disaster areas, the cavalry is unfamiliar with the community, and the cavalry has less disaster experience generally than local responders and emergency managers. Emergency management is a profession that prizes collaboration and the information-sharing and close working relationships that are essential to collaboration.

There are positive signs in the new National Response Framework that Homeland Security officials recognize the authority and roles of local officials:

> Even when a community is overwhelmed by a disaster, there is still a core, sovereign responsibility to be exercised at this local level, with unique response obligations to coordinate with State, Federal and private sector support teams. Each organization or level of government therefore has an imperative to fund and execute its own core emergency management responsibilities (page 3).

The emphasis on unified command, for example, suggests that local authorities will be very much involved in decision processes. A problem with the NIMS organization generally has been that it is based upon assumptions about legal authority that are in some cases erroneous and in some cases misguided because the practical exercise of authority would be difficult at best. The development of response objectives should be primarily a state and local responsibility. Response strategy should be primarily a state and local responsibility. The federal government, in most cases, should be in a supporting role. Dropping the dropping NRP language that would suggest federal

takeovers during "incidents of national significance" may represent a recognition of the legal, political, and practical problems associated with preempting local and state authority.

On the negative side, despite frequent use of the term "all-hazards," the NRF is scenario-based rather than all-hazards. The 15 scenarios upon which national planning is based are almost wholly terrorism-related. The "natural" disasters include a major hurricane, a major earthquake, and a pandemic, but there are no scenarios for catastrophic floods, tornado outbreaks, tsunamis, or other relatively common natural disasters and no scenarios for technological failures or accidents like oil refinery fires, nuclear facility accidents, and maritime accidents. The adaptation of terrorism plans to natural and technological disasters will be a serious problem because of differences in federal authority and responsibilities in terrorism-related events. Confusion and conflict, much as happened during the Katrina response, will be the likely results of relying upon terrorism-focused plans.

The discussion of community responsibilities also focuses on preparedness. The NRF should point out the critical role of individuals, families, and communities in setting local priorities and participating in disaster operations. As the document states: "In today's world, senior elected officials and their emergency managers build the foundation for an effective response. They organize and integrate their capabilities and resources with neighboring jurisdictions, the State and the private sector" (page 3). State and federal governments are critical partners in building local capacities. Volunteers are an essential component. The "tiered response" begins at the local level.

My responses to the Subcommittees questions follow:

Question:

1. One of the more important findings of the numerous reviews into the response to Hurricane Katrina was that the President did not appear to receive adequate advice and counsel from a senior disaster professional. As a result, Congress's intent to remedy this situation is reflected in the Post-Katrina Emergency Management Reform Act (the Post-Katrina Act) in which it requires the FEMA Administrator to be a professional, and it designates the Administrator as the principal advisor to the President for all matters relating to emergency management in the United States.

Additionally, the Post-Katrina Act requires the Administrator of FEMA to ensure that the National Response Plan provides for a clear chain of command that is consistent with the role of the Administrator as the principal emergency management advisor and the responsibility of the Administrator under the Post-Katrina Act.

- Do you believe the draft National Response Framework reflects the role and responsibility of the FEMA Administrator as required by law? Do you believe the President will receive the professional advice he needs during a catastrophic disaster?

Answer:

Under the NRF, the Secretary of Homeland Security is the "principal Federal official for domestic incident management" and "is responsible for coordination of Federal resources utilized in the prevention of, preparation for, response to or near-term recovery from terrorist attacks, major disasters, or other emergencies." In short, the Secretary is responsible for many, if not most, of the activities previously assigned to the director of FEMA under the FRP. The FEMA Administrator is an advisor to the Secretary of Homeland Security on emergency management. If the Secretary is knowledgeable about emergency management and relies upon the FEMA Administrator and other advisors who are professional emergency managers, the President may get the professional advice he needs during a catastrophic disaster. The FEMA Administrator does advise the President, through the Secretary, when a Presidential Disaster Declaration has been requested. It is uncertain whether the FEMA Administrator has a similar advisory role when no request for declaration has been made.

- The law also required that FEMA and the Department of Homeland Security coordinate and confer with state and local emergency managers in developing the National Response Framework. In your opinion did FEMA/DHS comply with the law in this regard?

Answer:

My understanding of the process is that state and local emergency managers were not substantially involved in the drafting of the NRF after the initial phase. Rather they were permitted to comment after the draft was completed. This is essentially the process that was used in the drafting of the National Response Plan and significant changes had to be made before the final document was issued. When state and local emergency managers have participated it has been through large working groups that limit their impact. The professional organizations that represent state and local emergency managers, i.e., NEMA and IAEM principally, have generally felt that they were on the margins of the process at best. The Department of Homeland Security has been slow to respond to state and local concerns and, frankly, often has seemed indifferent to those concerns.

Question:

2. Many of the reviews following Hurricane Katrina concluded that the conflicting roles of the Principal Federal Official (PFO) and the Federal Coordinating Officer (FCO) caused considerable confusion regarding the federal chain of command among state and federal response organizations. While Admiral Allen was appointed PFO in order to coordinate the federal response, the legal authority to direct federal agencies and commit federal resources resided with the FCO. Ultimately, this led to the unprecedented step of appointing Admiral Allen as both the PFO and FCO for Louisiana, Mississippi and Alabama. As a result, the Post-Katrina Act prohibits the PFO from having directive authority and replacing the incident command structure in the field. Additionally, the

Post Katrina Act requires that the National Response plan provide for a role of the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

- Do you believe the draft National Response Framework reflects the requirements of the Post-Katrina Act with respect to the PFO and FCO? Given the description of the roles of the PFO and the FCO in the draft National Response Framework, is it clear who will be in charge of coordinating the federal response? What are the repercussions of any confusion between these two positions?

Answer:

The PFO represents the Secretary of Homeland Security and may or may not have any experience or training in emergency management and the FCO represents the FEMA Administrator. Historically, most FCOs have been experienced emergency managers. Both serve on the Unified Coordination Group. Clearly, the PFO will have a direct or indirect impact upon operational decisions. He or she will be the proverbial 800-pound gorilla in the room. The people on the recently released list of pre-designated as PFOs do not appear to have disaster experience. It was clear during the Katrina response that decisions were being made by officials who lacked a basic understanding of emergency management and the federal organization outlined in the NRF does not appear to address that problem.

- Since state and local emergency personnel are the implementers of the national plan, it is Congress's intent that state and local emergency managers have a vital, significant role in developing such a national response framework. In your opinion, what results when the "users or practioners" of a plan are excluded from the development of the plan? How are ground operations affected?

Answer:

Because state and local emergency management personnel did not participate fully in the drafting of the National Response Plan and the National Response Framework there is a perception that those documents are federal plans, rather than national plans. Reconciling state and local plans with the national plans has been difficult in many cases because the plans were not written by people who understand emergency management at the state and local levels. Some of the assumptions made by the authors of the NRF are accurate in some states and communities and not accurate in others. For example, one of the problems noted in the after-action reports of the Emergency Management Assistance Compact was differences in the authority delegated to local officials by their states. A national plan has to accommodate those kinds of differences.

Question:

3. Do you believe placing the PFO program and the 15 planning scenarios within the Office of Operations Coordination is consistent with the Post Katrina Act? Do you believe placing these preparedness and response functions outside of FEMA will have negative repercussions on FEMA's ability to prepare for and coordinate the federal response to disasters and emergencies?

Answer:

No, I do not think that placing the PFO program and the planning scenarios with the Office of Operations Coordination is consistent with the Post Katrina Act. The coordination function is central to the FEMA role.

The NRF mentions "all-hazards" frequently, but the plan basically is scenario-based rather than all-hazards. The overwhelming majority of the 15 scenarios are terrorism-related. The only non-terrorism scenarios are a pandemic, an earthquake, and a hurricane. There are no flood, tornado outbreak, heat wave, or similar natural disaster scenarios and no oil refinery fire, nuclear plant accident, or similar technological disaster scenarios.

Question:

4. Many of the reviews into the federal response to Hurricane Katrina recommended the federal government clarify when and how it would proactively "push" resources into a declared disaster area upon a general request for assistance from a governor as opposed to the more traditional "pull" system where a state makes detailed and specific requests for particular resources.

- Do you believe the draft National Response Framework adequately addresses when and how the federal government will initiate a proactive response to a catastrophic disaster? Does the framework adequately define the role of military authorities in such situations?

Answer:

The NRF seems to assume that the triggers for a federal response are easily identified and that all disasters develop in the same way. The assumption is that federal assets will be deployed when state resources are overwhelmed and the governor requests assistance. In the past, federal assets have been staged close to the disaster area when the scope of the disaster strongly suggests that state and local authorities will need assistance and federal assets have been deployed prior to disaster. The trigger for a federal response necessarily needs to be flexible. If the federal government is to be a partner, there need be a more proactive approach that assures support for state and local authorities in requesting assistance and a quicker response from federal agencies when needed. Officials should not assume that they do not have to have resources on the ground in the disaster area sooner than 72 or 96 hours (as some evidently assumed after Katrina's landfall). The

system should be flexible and should encourage innovation and improvisation when needed.

The NRF acknowledges that the National Guard is an essential asset for state authorities and that federalizing the Guard can raise legal issues under the Posse Comitatus Act. It is still unclear when and how active duty military units would be deployed.

**Conclusion**

The answer to the question of how to prepare the nation for catastrophic disasters of all sorts is to increase support for the development and adoption of state and local emergency management standards, particularly comprehensive sets of standards like the Emergency Management Accreditation Program (EMAP), encourage greater professionalization among emergency managers at all levels through the Certified Emergency Manager (CEM) program and professional education, and facilitate collaboration between and among state and local and federal agencies through the Emergency Management Assistance Compact (EMAC), statewide mutual assistance programs, and community to community programs like the National Emergency Management Network sponsored by ICMA and the Public Entity Risk Institute. Collaboration is the key.

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Testimony Submitted by

**James Lee Witt, CEO**

**James Lee Witt Associates, a Part of Global Options Group**

to the

**Subcommittee on Economic Development, Public Buildings and Emergency Management**

**Committee on Transportation and Infrastructure U.S. House of Representatives**

***September 11, 2007***

Thank you for inviting me to submit testimony to the U.S. House of Representatives' Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings and Emergency Management, regarding the recently-released draft of the National Response Framework that was circulated by the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS).

As you are aware, I have spent over 20 years working in the field of emergency management, starting as a County Judge in Yell County, Arkansas, then as the State Director of Emergency Management, and culminating in my 8-year stint as the Director of FEMA under President Clinton. Since 2001, I have worked as the CEO of James Lee Witt Associates, an emergency management and homeland security consulting firm here in Washington, DC.

While in those positions, I worked extensively on plans and structures designed to improve the effectiveness of all-hazards response efforts. In fact, under my watch, our nation's first comprehensive response framework for all-hazards was established, known as the Federal Response Plan. For the first time, the Federal community had not only a set of guiding principles, but also a common operating framework and agreed-upon protocols and processes to improve efficiency and effectiveness in disaster response.

In each and every one my career positions, and in the drafting and subsequent modifications of the Federal Response Plan, I used what my parents taught me growing up in Arkansas - that there is always something more to learn, and that you can do a better job if you go out and learn it. Professionally, this led me to not only draw upon my own experiences, but also gather and build upon the vast knowledge of others in the profession in order to focus and fine-tune my own efforts. In preparing the Federal Response Plan, my staff and I met with State Emergency Management Directors, Federal Agency appointees and career staff, representatives of the first-responder community, Members of Congress, and others on many occasions and in may different types of

forums to seek their perspectives and develop plans and systems that would work. My intention was to clarify the actual needs of our customers, learn what was working across the country and make it work for us.

This willingness to reach out and solicit the input from the States and locals – who provide the foundation of the emergency management system -- has been one of the keys to my success and to the reform of FEMA after the failures of Hurricane Andrew. My staff and I listened, and took to heart the principle that we were there primarily to build a framework based on the consensus and best practices of our customers, and encourage the "raising of the bar" nationwide, so that we could effectively provide support to the States and locals when disasters strike.

In reviewing the National Response Framework, and after hearing from my friends and clients at the State and local level, it doesn't seem that this same approach was used. While I understand that nearly twenty representatives from the National Emergency Management Association (NEMA) were asked to participate in the re-writing of the National Response Plan, the group's input appears to have been largely discarded. The result is that we now have a Framework that does not reflect the needs of our States emergency managers and first-responders.

In fact, I am not entirely sure whose needs the NRF was designed to satisfy. The Framework is far too general, and reads like a conceptual background-piece for elected and appointed public officials. If that was the goal, then it hit the mark. But that is not what the emergency management community either wanted or needed in the Framework. They needed an operational document that assigns responsibilities and establishes clear relationships and authorities. In other words, they needed – and requested – the development of an operations plan.

The NRF, though, is not a plan at all, and does not provide the level of detail that is needed by state and local emergency managers and other response agencies that are responsible for saving lives and protecting property during disaster. The National Response Plan, with all its flaws, did provide the operational detail describing how entities needed to work together -- it just needed to better reflect catastrophic disaster response and recovery issues, be simplified, and it needed to be better understood and exercised (it was released only a month before Katrina hit). Instead of being replaced by the NRF, it should have been enhanced based on lessons learned, and the "jargon" needed to be removed so it could become more operational. Instead, based upon my review, I believe that the country is now in a worse position than before -- an 80% document / plan has been replaced by a 10% document in the form of the National Response Framework

From speaking with my friends in the response community, I know that the current form of the NRF is not what was being discussed up until last April, when the advisory group informing the re-write process was disbanded. The State Emergency Management Directors, and many in both the public and private sectors – including FEMA – felt strongly that the document needed to be more fully flushed-out and operationalized. Why that didn't happen is a question that deserves more review.

This is clearly the biggest concern I have regarding the National Response Framework. But it is not the only one. I would recommend that FEMA and DHS go back to their customers at the State and local levels, and in the private sector, and *listen* to what they have to say. If they were to do so, I think that they would find some significant common concerns expressed. I know this because I have spoken with many State Directors, local officials, and first-responders, and others, and the similarity of our perspectives are startling. Some of the additional questions and concerns that I have with the NRF are as follows:

- The basis for sound planning for emergency management needs to be stability and predictability. Not only is this required in order for the concepts to be institutionalized, but the ability to train and exercise those plans can take 1-2 years, meaning that States and local will not be fully prepared to implement the plans effectively for at least that long of a period. The NRF document, however, outlines the establishment of a website to allow DHS to provide regular updates to planning documents and protocols. It is not reasonable to expect that emergency management offices (State, County, and local) will be checking this website daily or weekly to see what's changed, and then modify their own plans and procedures to match. It also increases the chance that the multiple annexes, plans, guides, etc. will either overlap or conflict. This situation will not only cause ongoing confusion, but it also could result in the need to update literally hundreds of plans in a State several times a year. If that didn't happen, and DHS made substantive modifications to planning documents and protocols, the overall response would not be integrated and everyone would be following different rules when a disaster occurs.
- The draft framework indicates that states must exhaust all mutual aid resources before federal disaster assistance may be requested. There is no such requirement in the Stafford Act or other disaster law, nor is that good public policy. In essence, what this requirement does is penalize those jurisdictions that do the right thing by entering into such agreements (making it harder for them to obtain federal assistance). It also penalizes the supporting jurisdiction, who may not ever be reimbursed for sunk costs from disasters outside of their jurisdictions because a disaster declaration is never issued.
- Under the Stafford Act, FEMA and the FEMA Administrator has substantial and legally defined roles that did not go away or become weakened when the agency became part of the Department of Homeland Security. Despite that fact, the role of FEMA appears to be marginalized in the framework, having been referenced only a handful of times. In fact, DHS is mentioned over and over as having authorities and responsibilities that are actually maintained by FEMA. While it is true that FEMA is part of DHS, other sub-organizations from DHS and other agencies are repeatedly mentioned as having key roles. FEMA is of great importance to States during disasters, but the NRF doesn't recognize that fact.
- The NRF appears to be focused largely on the Federal government, and does not appropriately address the planning needs of state and local government and does

not follow commonly accepted emergency management planning principles. Again, it's not a "plan."

- The NRF draft ignores the role of the County / Parish in disaster response and early recovery, which in many States is very significant.
- Early in the document, the NRF mentions that early forms of mitigation need to be included in Framework, yet mitigation is virtually non-existent in the document other than that reference. Since mitigation opportunities are most numerous and benefits are greatest when they can be employed during early recovery, this is a significant omission.
- There is little usable detail regarding coordination with the private sector or non-governmental organizations (NGOs), which play a key role in disaster response and early recovery.
- The NRF establishes the State Homeland Security Advisors as the liaisons between the Governor's Office and DHS, which is not representative of the actual structures and responsibilities in some states. There area a variety of organizational structures that Governors have established for interface and coordination with DHS/FEMA. The person identified by the Governor (usually the State Emergency Management Director or State Coordinating Officer) should be recognized by DHS, whether that person is the State Homeland Security Advisor or not.
- The NRF states that responders request additional resources from other states or the Federal government, which is incorrect and does not describe how such resources are actually obtained. The State, at the request/direction of the Governor is the only entity with that authority. Furthermore, the State's Emergency Management Agency is the entity that requests and coordinates interstate mutual aid assistance through the Emergency Management Assistance Compact (EMAC).
- There are inconsistencies among the Joint Field Office (JFO) and Joint Operations Center (JOC) descriptions as to whether or not they would both be established and how they will interface with State Emergency Operations Centers (EOCs). Furthermore, the suggestion in the NRF that the State EOC would co-locate with the JFO is unrealistic -- a State would not leave their own command and control facility (that is specifically designed to support their disaster response operations) just because the Federal government shows up on scene.
- The National Operations Center (NOC) is described as the primary operations coordination center and the National Response Coordination Center (NRCC) is presented as the primary operations management center for most, *but not all*, national incident response and recovery incidents, as well as the focal point for national resource coordination. Many of the roles and responsibilities of these two centers appear to be redundant and uncoordinated, and as many of the State Emergency Management Directors have indicated, the structures as described place undue burdens on states for information and situational awareness when they are in the midst of a disaster.
- After working in Louisiana on the Hurricane Katrina / Rita response for over two years now, I continue to wonder what the value is of having the position of the Principal Federal Official. I believe that this position is unnecessary, has no

> authority, and confuses lines of authority in a disaster. This was clearly the case after Katrina, and I see nothing in the NRF that would alleviate that concern moving forward.

Over the past few years, the emergency management community has been challenged like it never has been before, exposing the weaknesses and providing our nation with opportunities for improvement. I am comforted by the fact that so many have stepped up to the challenge and have both focused efforts and invested in making our communities and our country safer, stronger, and better prepared than ever before. The National Response Framework needs to reflect that effort and commitment, and establish an operational structure that is both supportive of our State and local counterparts and helpful in moving them forward to an improved state of preparedness. The Framework, as written, however, does not do enough to move us in that direction.

I am confident that if given the opportunity and the direction from this Committee, FEMA would have both the will and ability to successfully reach out to State and local emergency managers, seek and listen to their input, and revisit the National Response Framework. I believe that they can produce the operational document – the plan – that our country needs. But even as we sit here today, and even in the face of growing concerns expressed by the very stakeholders who are supposed to be supported by the Framework, FEMA is already scheduling meetings with the States to "roll-out" the final draft of the Framework so that implementation can begin.

If the existing draft document continues to move forward as-is, the National Response Framework will be inadequate to meet the needs of our country. It does not provide the operational framework we need. It does not clarify or describe relationships and protocols the way that it must in order to be a working tool for first responders. It does not fully recognize some of the structures that contribute to emergency response success, such as Counties or even the role of FEMA itself. In places, it draws conclusions that are not justified under law or regulation. But most importantly, it was not prepared with the full involvement and consideration of the States and locals who will need to operate within its framework, meaning that it has little buy-in from the people who are needed to make it work. Without that buy-in, the Framework will not be worth the paper on which it is printed.

Thank you for the opportunity to provide you with this testimony today. I would be happy to answer any questions that you may have.

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