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**TESTIMONY
BEFORE THE**

**SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR
PREPAREDNESS AND INTEGRATION**

ON

**PRIVATE SECTOR PREPAREDNESS PART I – DEFINING THE PROBLEM AND PROPOSING
SOLUTIONS.**

THE UNITED STATES SENATE

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Thank you Senator Pryor, Senator Sununu and other members of the subcommittee for the opportunity to testify today and to discuss some of the work underway to establish processes by which the resources of the private sector might be employed during major emergencies. These efforts include a number of initiatives taken at the state level across the nation and in several major urban areas.

My name is Richard Andrews. I am currently Senior Advisor on Homeland Security for the National Center for Crisis and Continuity Coordination (NC4), a privately owned California company that has worked over the past 5 years to promote situational preparedness and awareness as well as partnerships between the public and private sectors. I am a member of the Department of Homeland Security's Advisory Council where I Chair the Council's Senior Advisory Committee on Emergency Services, Law Enforcement, Public Health, and Hospitals. My previous experience includes service as the Director of the California Office of Homeland Security, Homeland Security Advisor to Governor Arnold Schwarzenegger, and Director of the California Governor's Office of Emergency Services from 1991 through 1998.

I was a member of the BENS Business Response Task Force that developed the report Getting Down to Business: An Action-Plan for Public-Private Disaster Response Coordination. I also serve as Chair of the Private Sector Committee of the National Emergency Management Association (NEMA). NEMA represents the state emergency management directors and serves as the executive agent for

the nation's Emergency Management Assistance Compact (EMAC), which is the operational mechanism by which states exchange resources during major emergencies. EMAC was initially developed by the Southern Governor's Association in the aftermath of Hurricane Andrew and now includes all states as legislatively authorized members.

EMAC and BENS

As highlighted in the 2005 EMAC After-Action report, Hurricanes Katrina and Rita created the largest demand in the country's history for nationwide mobilizations of emergency resources. The two hurricanes resulted in over 2,000 mission requests from the impacted states, requiring almost 66,000 personnel being deployed. Reports produced by the Senate and the White House each cited EMAC as one of the notable successes of the tragic 2005 hurricane season.

In addition, these hurricanes led to discussions between the EMAC leadership, the NEMA Private Sector Committee and BENS regarding the feasibility of using the EMAC processes to promote a more effective use of private sector resources as part of the nation's overall emergency response.

The BENS report identified an obvious shortfall of the 2005 hurricane response -- the fact that there was no systematic process by which the resources of the private sector could be utilized. A number of different efforts - especially the on-the-fly establishment of a national resource registry by the Department of Homeland Security's Office of the Private Sector Coordinator- laudably attempted to facilitate and broker the use of private sector resources. While there were some successes, there was a great deal of frustration within both the public and private sectors. Both sectors recognized the need for greater collaboration, but the absence of a commonly understood process to match needs with available resources -whether donated or contracted - proved to be a major obstacle.

Among the recommendations in the BENS report was the call for building a Business Emergency Management Assistance Compact (BEMAC). The concept is fairly straight forward. By expanding the EMAC program it would be possible to knit together a fabric of state-based Business Operations Centers to create a scalable, flexible and robust "network of networks." Private sector representatives trained in the processes and procedures of a state's operations center would work alongside emergency management leaders to coordinate government and private-sector resources.

Earlier this year, with the endorsement of the NEMA Board of Directors and the EMAC Executive Committee, the NEMA Private Sector Committee initiated an

effort to explore whether the BEMAC concept could be implemented. BENS supported this effort by assigning staff resources to the initiative and my company, NC4, endorsed my chairing the effort.

NC4 has worked in cooperation with the BENS Business Force efforts and other organizations – the Contingency Planning Exchange, the Financial Services Information Sharing and Analysis Center, the American Society of Industrial Security to name a few – to enhance the information exchange and situational awareness for our private and public-sector clients. In addition, with my experience as Director of Emergency Services for the State of California during the 1990s and more recently as the state’s Homeland Security Advisor, I believed I had a grounding in the many challenges involved in any effort to enhance public and private sectors interactions.

Working with BENS we formed a Task Force that includes the operational and policy leadership of EMAC as well as representatives from key sectors including retail, pharmaceuticals, medical supply distribution, communications, technology and large-scale logistics. Since February, through a series of conference calls and meetings, we have explored the opportunities, impediments and options for formalizing the processes by which private sector resources might be more efficiently utilized.

One of the Task Force’s basic premises was that we wanted to build on, not supplant or unnecessarily complicate the many evolving initiatives across the nation to bring the private sector into the nation’s emergency response and recovery network. Our focus has been on the interstate use of private sector resources; in other words, like EMAC, what are the options for linking the deployment of private sector resources from a providing state in support of an impacted state in a manner analogous to the EMAC structure?

Public Sector Best Practices and Barriers to Entry

In order to establish a baseline of understanding of existing efforts at the state and local level to involve the private sector more effectively into the nation’s emergency response and recovery networks, the NEMA staff conducted a survey of all states. We designed the survey to both identify current initiatives and best practices as well as real or perceived barriers, especially legal and regulatory, that might inhibit private sector resources from being deployed under the EMAC structure.

The survey clearly revealed that a number of very promising, on-going initiatives are underway across the nation in which states and local governments are

reaching out to the private sector to assist in a formal way in emergency response and recovery efforts. A few notable examples stand out.

The Florida Office of Emergency Management has formally established Emergency Support Function (ESF) 18, "Business, Industry and Economic Stabilization" designed to function during both the emergency response and recovery phases. During the immediate response, ESF 18, together with the State Logistics Section works, with the Florida Retail Association through twice daily conference calls to address strategic supply chain issues, projected and post-event impacts on commercial businesses, and restoration of commercial services. Florida also provides, with state funds, Small Business Emergency Bridge Loans and the establishes Small Business Assistance Centers involving multiple agencies to work with impacted businesses on a variety of recovery issues including regulatory challenges and coordination with federal programs.

Massachusetts also established, in advance of the 2004 Democratic Convention and in cooperation with BENS, a similar "ESF 18" partnership with the private sector that included a resource inventory; the state's emergency management organization continues to expand this initiative.

Texas, following Hurricane Rita, has developed an extensive Private Sector Operations Group consisting of 28 companies to support immediate Mass Care, Fuel, Special Needs, Power, Aviation, and Fuel challenges. These sectors will work alongside the state's emergency management officials to rapidly identify shortfalls in public sector capacity that can be most effectively met by private sector resources.

Utah has organized its Private Sector Homeland Security Coordinating Council as a vehicle to discuss issues of critical infrastructure identification, essential services and key personnel. The state is working on a formal "emergency access" procedure to enable key private sector personnel access to restricted areas. The state is organizing sector-specific coordinating councils that will focus on resource management and is working with local Chambers of Commerce as well as other trade associations to structure a network for communications, resource management, and emergency operations assignments.

New Jersey began working with BENS shortly after September 11, 2001 to develop the New Jersey Business Force. Similar BENS partnerships are operating, in varying stages of evolution, in Georgia, Kansas City, Iowa and the Los Angeles and San Francisco areas. These initiatives include the development of private sector resource inventories that might be available to support state operations, participation by the private sector in New Jersey in TOPOFF 3, other state exercises, and testing the use of private sector facilities and personnel

should mass distribution from the nation's Strategic National Stockpile be required.

North Carolina has formally included private medical personnel and resources as part of the state's emergency response network; these resources were deployed during Hurricane Katrina to the gulf coast states. North Carolina continues to identify and develop mission critical resource packages that can be rapidly deployed following an emergency. These resource packages will include private sector resources as needed.

In New York City, the Office of Emergency Management's new emergency operations center includes the private sector as an integral part of the city's response planning and operations. A variety of sectors, including financial services, building owners and managers, utilities and others, work alongside public sector agency representatives during an activation of the city's operations center. New York City's OEM has also developed a model credentialing program to facilitate access to restricted areas by key private sector personnel.

These are but a few examples of the work underway at the state and local levels to bring the private sector more formally into the nation's emergency response and recovery networks. It is important to note, that as recently as five years ago few such relationships existed, so in a very real sense significant progress has been, and continues, to be made.

Despite this tangible progress, a number of significant challenges remain, especially related to using private sector resources in interstate responses.

For example, only four states have statutory provisions that enable private sector resources to be used as "agents of the state" in out-of-state deployments - Delaware, Michigan, Maine and North Carolina. Other states have specific statutory or procurement policies that appear to preclude such arrangements.

This fact alone has forced the BMAC Task Force to rethink the overall strategy for how formally the private sector might be incorporated into the EMAC system. A fundamental premise of the EMAC legislation in each state is that personnel and equipment deployed out of state in response to a request received through EMAC from an impacted state must act as "agents" of the providing state. Other states have stringent restrictions on what "pre-event" contracts and arrangements can be negotiated with private sector entities and, in many cases, prohibitions against applying those contracts to a response into another state.

BENS is continuing an effort to identify the range of regulatory and statutory provisions that impact the use of private sector resources during major

emergencies. I would anticipate that at some point in the near future it will be necessary for this committee to consider whether there are federal statutory changes that are needed to address some of the identified barriers.

Next Steps to Integrate the Private Sector into Disaster Response

The BEMAC Task Force has identified several next steps that we believe will continue to advance the overall objective of defining a clearly understood process by which private sector resources can be mobilized across state boundaries during a major emergency. These next steps include:

- BENS, in cooperation with the U.S. Chamber of Commerce and the Business Roundtable will identify a Point of Contact (POC) for each of the Critical Sectors as identified by the Department of Homeland Security;
- NEMA will provide a briefing to the sector POCs on EMAC and will work with the BEMAC Task Force to promote the use of the POCs -- or other designated sector leads such as a trade or professional association -- as the coordinating point for requests for private sector resources needed by an impacted state that are not available in the requesting state;
- NEMA will provide a document outlining "Best Practice" protocols and procedures developed by states for working with the private sector, and distribute the report to state emergency services directors as well as the Sector Coordinators;
- NEMA will work with the BEMAC Task Force to define and detail "mission critical" packages of resources projected to be needed during an emergency response and will promote the use of these packages by states requesting resources from the private sector;
- BEMAC Task Force members will participate in all NEMA/EMAC After-Action activities following the 2007 hurricane season to review progress made in utilizing private sector resources and identify actions to advance the overall initiative;
- The BEMAC Task Force will work to identify training exercises to enhance understandings of both the public and private sector on more effective use of private sector resources;
- NEMA, the BEMAC Task Force and the BENS legal and regulatory working group, will continue to more definitively understand the legal and procurement environment affecting use of private sector resources and develop recommendations that will address resolvable barriers;
- NEMA and the BEMAC Task Force will work with FEMA to address issues related to reimbursements for private sector resources and compensation for services used through an EMAC-like process; and

- The NEMA Board of Directors has included advancing the work of the BEMAC Task Force as part of their 2007-2008 work plan, ensuring that staff resources will continue to be devoted to this important work.

We believe that the steps outlined above will significantly advance the use of private sector resources by state and local entities as well as help clarify for the private sector a process that will be used in requesting resources.

The BEMAC Task Force believes strongly that states should be the primary focal point for this overall effort and that, like in the evolution of EMAC, it is important to take a few initial steps and gradually build more robust relationships and systems.

Clearly, FEMA needs to be an active partner in this process. We understand that FEMA has its own requirements and needs in using private sector resources. We look forward to working closely with the agency to ensure that these arrangements are clearly communicated to the states and the private sector and that they are coordinated with the efforts being undertaken by NEMA/EMAC and the BEMAC Task Force.

Conclusion

The scale and variety of risks facing this nation from natural and man-made emergencies necessitate that public safety officials at all levels of government, as well as business representatives of key critical sectors, continue the effort to make full use of the resources of the nation in responding to and recovering from events that impact public safety, and continuity of operations in both the public and private sector. Only through such cooperation and partnerships can we accelerate individual and community economic restoration and recovery.

Thank you for the opportunity to share these thoughts with the members of the Committee.