
Coates' Canons Blog: What is Emergency Management?

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Next Wednesday, June 1st, marks the official kick-off of the Atlantic hurricane season. Even as we brace for it, we need only look to the April 16th tornados in the piedmont and coastal plain to be reminded that disasters threaten all



areas of North Carolina. Winter ice storms, floods, mudslides, and tropical storms loom as

seasonal menaces; man-made disasters such as a chemical plant explosion can occur without warning. Regardless of their magnitude or scope, all disasters are, at their core, local events, requiring local governments to take the lead in protecting public health, safety, and welfare. This governmental function is called “emergency management.”

Emergency management is sometimes confused with first-responder functions, such as law enforcement, fire and rescue, 911 operations, and EMS (EMS can be especially confusing since “emergency *medical* service” is sometimes mistaken for “emergency *management* service” and vice versa). While these first-responder functions are critical to successful disaster response and recovery, emergency management is much broader. It involves “those measures taken by the populace and governments at the federal, State, and local levels to minimize the adverse effects of any type of disaster.” (GS 166A-4(4)) The scope of emergency management extends beyond responding to a specific disaster event. In fact, it encompasses a “never-ending cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.” (*Id.*) This “never-ending cycle” ranges from reducing the vulnerability of citizens and property to damage and injury, to preparing for prompt and efficient rescue efforts, to rehabilitating affected residents and damaged property, to assessing and planning for potential hazards and risks. (GS 166A-2) The cycle requires extensive management and coordination to ensure that all agencies, departments, personnel, assets, and resources work together efficiently and effectively to protect public health, safety, and welfare – this is emergency management. The individual at the local government level whose primary job duty is carrying out that jurisdiction’s emergency management functions is called an emergency management coordinator.

What is a disaster?

Emergency management involves planning for, responding to, recovering from, and mitigating against disasters. So, what is a disaster? Under North Carolina law, a “disaster” is defined as “an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, or paramilitary cause.” (GS 166A-4(1a)) The definition of a “disaster” is important because it forms the basis for the emergency management powers and responsibilities granted to local governments, including the power to take some extraordinary measures. A few points about the definition of “disaster” are worth noting.

First, the event must either have *actually occurred* or be an *imminent threat*. Simply anticipating that a disaster might strike at some unspecified time in the future does not meet this statutory definition. (See, *Raynor v. Commissioners for Town of Louisburg*, 220 N.C. 348, 17 S.E.2d 495 (1941), holding that the Town's neglect of its power plant, which resulted in the need to make repairs to the plant's engines, did not constitute an "emergency" within the context of the emergency exemption to competitive bidding requirements as the word "emergency" suggests an immediate and present condition, not one which may or may not arise in the future).

Second, the event must have caused (or must imminently threaten to cause) *widespread or severe* damage, injury, or loss of life or property. The terms "widespread" and "severe" are not specifically defined, but the statute clearly contemplates a level of destruction beyond damage to an individual building, minor damage to a small cluster of structures, or nominal amounts of debris.

Third, the event can result from *any* natural or man-made cause, accidental or intentional. The broad inclusion of virtually any event both creates the *authority* for and imposes the *responsibility* on state and local governments to take action necessary to protect public health, safety, and welfare in a time of disaster. (GS 166A-2)

What are local governments authorized to do?

At the local level, the North Carolina Emergency Management Act authorizes cities and counties to engage in a number of activities for emergency management purposes. (GS 166A-7) They may:

- Appropriate and expend funds for emergency management functions;
- Purchase and distribute equipment, materials and supplies for emergency management purposes;
- Provide for the health and safety of persons and property, including emergency assistance;
- Develop emergency management plans and programs (which must be consistent with the policies and standards set by the NC Division of Emergency Management);
- Assign resources for emergency management purposes for services both within and outside of the city or county's jurisdiction (assistance rendered outside the unit of government's jurisdiction is usually done through mutual aid or interlocal agreements);
- Establish and coordinate voluntary registration programs for functionally and medically fragile persons who need assistance during a disaster;
- Adopt local ordinances that authorize prohibitions and restrictions to be imposed during a state of emergency, such as evacuations and curfews;
- Issue state of emergency declarations; and
- Delegate legal powers and authorities in a local state of emergency to an appropriate individual city or county official.

Who coordinates emergency management activities at the local government level?

At the local level, counties are assigned the emergency management lead. Both cities and counties are authorized to engage in the activities listed above. Both cities and counties are authorized to establish emergency management agencies within their jurisdictions, and counties that form emergency management agencies are specifically required to appoint an emergency management coordinator. (GS 166A-7) Both cities and counties may form joint emergency management agencies, and enter into mutual aid and interlocal agreements to assist each other during times of disaster. Despite the parallel legal authorities of cities and counties, including the independent authority to adopt emergency ordinances and issue state of emergency declarations, the *county* is vested with the authority to coordinate emergency management efforts within its jurisdiction, *including* activities of cities within the county. (GS 166A-7(a)) From a practical standpoint, many cities and counties coordinate their emergency management activities through an oversight group or committee made up of representatives of the county and cities within the county. Some jurisdictions have even formally constituted these "control groups" (as they are sometimes called) in their local ordinances. However, from a legal standpoint, it is the county that has primary authority for coordinating emergency management functions within its boundaries, and this legal "chain of command" forms the basis for the operational chain of command between local governments and state and federal emergency management agencies such as the NC Division of Emergency Management and FEMA.

What about other questions? When can a curfew be imposed? Is alcohol automatically banned when a state of emergency is declared? What can local governments do about price gouging and scam contractors who prey on



storm victims?

Great questions! These and many others will be answered in future blog posts in which we'll discuss specific questions about local government authorities, including those when operating under a state of emergency declaration. In the mean time, please feel free to send specific emergency management questions to nhouston@sog.unc.edu or post a comment below. Knowing what your questions are will help ensure that future posts on this topic are both timely and helpful. You can also find more information about emergency management at the NC Division of Emergency Management, the North Carolina Emergency Management Association, and FEMA.

Links

- www.nhc.noaa.gov/
- canons.sog.unc.edu/wp-content/uploads/2011/05/evacuation-route.jpg
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_166A/GS_166A-4.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_166A/GS_166A-2.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_166A.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_166A/GS_166A-7.html
- www.nccrimecontrol.org/index2.cfm?a=000003,000010
- www.ncema.net/
- www.fema.gov/