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North Carolina Emergency Management and Homeland Security Authorities Summarized

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Summary

The governor of North Carolina exercises emergency management powers; the Secretary of Crime Control and Public Safety has lead responsibility for emergency management administration. The secretary prepares preliminary damage assessments that the governor uses to issue disaster declarations, and determines the appropriate level of response by the state and whether federal assistance is required. Emergency plans are not subject to freedom of information act requests.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Entities with Key Responsibilities

Governor: The governor serves as commander-in-chief of the militia and is authorized to call out the militia to provide disaster relief (N.C. Gen. Stat. §127A-16). Under the Emergency War Powers Act the governor may: plan for distribution of food, fuel, and material; organize civil defense; require evacuations; organize first responders and private corporations during an emergency; control traffic flow; authorize officers to

accept federal funds and equipment, material, supplies and loans; suspend laws related to highways, public health, labor and industry; and control rationing and price-fixing (N.C. Gen. Stat. §147-33.1 *et seq.*). The governor also is authorized to make, amend, and rescind orders, rules, and regulations; coordinate with the president and federal agencies and other state agencies; enter into agreements with the Red Cross, Salvation Army, and other disaster relief organizations; make, amend, and rescind mutual aid agreements; use contingency and emergency funds; and reallocate other agency funds when contingency and emergency funds are insufficient (N.C. Gen. Stat. §166A-5 (1)). During an emergency the governor may: use all state resources; give directions to law enforcement; provide temporary housing; set economic controls on food, rent, wages; and control traffic and procure supplies and facilities (N.C. Gen. Stat. §166A-6 (a2), (c)).

Secretary of Crime Control and Public Safety: The secretary serves as chief coordinating officer for natural and man-made disasters or emergencies. Every state agency reports to the secretary about all natural and man-made disasters. The secretary is authorized to designate lead agencies for additional phases of emergencies or disasters after the initial response (N.C. Gen. Stat. §143B-476). Also, the secretary is authorized to: activate state and local plans; deploy personnel; use and distribute supplies, equipment, and facilities; develop a system of damage assessment to recommend the “appropriate level of disaster declaration to the governor” (N.C. Gen. Stat. §166A-5 (2)).

County governing body: Each county government must establish and maintain an emergency management agency and appoint a coordinator (N.C. Gen. Stat. §166A-7).

Regional Response Team Advisory Committee: The committee advises the secretary with regard to the establishment of an emergency response program for hazardous material emergencies (N.C. Gen. Stat. §166A-26).

Preparedness

The statute mandates that a state emergency management program include the following functions: coordination of all emergency management agencies for planning, training, testing, and activation; preparation and maintenance of state plans for natural and man-made disasters; coordination with the state health director on public health matters, especially nuclear, biological and chemical threats and responses; establishment of standards and requirements for local plans and programs, and training and public information programs; and recommendations for zoning, building, and land-use ordinances (N.C. Gen. Stat. §166A-5 (3)).

The state health director is authorized to take specified actions if a public health threat is identified from a terrorist incident involving nuclear, biological, or chemical agents (N.C. Gen. Stat. §130A-475 *et seq.*).

The Hazardous Materials Emergency Response Act established a regional response system for hazardous material emergencies and terrorist incidents (N.C. Gen. Stat. §166A-20 *et seq.*).

Every corporation that owns a nuclear facility pays annual fees for the cost of planning and emergency response for nuclear facilities (N.C. Gen. Stat. §166A-6.1).

Declaration Procedures

The governor or the general assembly may declare a disaster. The Secretary of Crime Control and Public Safety is to provide a preliminary damage assessment for the governor to determine whether a disaster is to be classified as Type I, II, or III, with criteria and durations for the types of declarations set in the statute (N.C. Gen. Stat. §166A-6).

A local emergency declaration may be declared for any disaster as prescribed; issuance of a declaration activates local ordinances and all applicable local plans, as well as mutual assistance compacts and agreements; the declaration also authorizes assistance. The timing, amendment, and rescission of a local “state of emergency” must be accomplished in accordance with local ordinances (N.C. Gen. Stat. §166A-8).

Types of Assistance

The state agency for federal surplus property may acquire federal property and distribute it to civil defense organizations and other eligible donees (N.C. Gen. Stat. §143-64.2).

The governor is authorized to make state funds available for disaster assistance. Funds are administered through disaster assistance programs by the type of disaster (see “Declaration Procedures” (N.C. Gen. Stat. §166A-6.01).

Each county that establishes an emergency management agency and meets prescribed requirements may be eligible to receive state financial assistance for maintaining and operating a county emergency management program. Such assistance cannot exceed \$1,000 for any fiscal year, and is subject to an appropriation for that purpose. The eligibility of each county is determined annually by the state (N.C. Gen. Stat. §166A-7(e)).

Mutual Aid

The Emergency Management Assistance Compact is codified (N.C. Gen. Stat. §166A-40 et seq).

The Southeastern Interstate Forest Fire Protection Compact is codified (N.C. Gen. Stat. §113-60.11).

Mutual aid contracts between cities, counties, water and sewer authorities, and other entities are to be used to provide assistance in restoring utility service after a natural disaster or emergency (N.C. Gen. Stat. §160A-318).

The chief executive officer of political subdivision is authorized to develop mutual aid agreements (N.C. Gen. Stat. §166A-10).

Funding

The governor is authorized to accept, or may authorize political subdivisions to accept gifts and grants for emergency management purposes (N.C. Gen. Stat. §166A-9).

A county or municipality is authorized to make appropriations and levy property taxes. Appropriations are used to purchase equipment, materials, supplies, and develop emergency management plans. Each county with an emergency management plan is eligible for state financial assistance (N.C. Gen. Stat. §166A-7 (c)).

The Hazardous Materials Emergency Response Fund is used to establish and operate a regional hazardous materials response system (N.C. Gen. Stat. §166A-28).

Hazard Mitigation

The state building code was enacted to reduce the effects of natural disasters (N.C. Gen. Stat. §143-138).

In order to delineate flood hazard areas and 100-year floodplains, local governments may request assistance from the Federal Emergency Management Agency and other state and federal agencies. Floodplain maps are to be prepared and used to administer the National Flood Insurance Program (N.C. Gen. Stat. §143-215.56).

Continuity of Government Operations

Authorities have been enacted providing for lines of succession for the office of governor (N.C. Gen. Stat. §147-11.1); U.S. senators until the next election (N.C. Gen. Stat. §163-12); U.S. representatives by special election (N.C. Gen. Stat. §163-13); and successor for judiciary offices until the next election (N.C. Gen. Stat. §136-9, Art. IV §19).

The executive director of the state board of elections may exercise emergency powers to conduct an election in a district where the election schedule was disrupted by a natural disaster, extremely inclement weather, or armed conflict involving the national guard and reserve (N.C. Gen. Stat. §163-27.1).

Other

Emergency response plans from the University of North Carolina, community colleges, and public hospitals are not public records and are not subject to inspection and examination (N.C. Gen. Stat. §132-1.6).

Public records shall not include public security plans for public buildings and infrastructure facilities (N.C. Gen. Stat. §132-1.7).

If adverse weather or an emergency situation causes a court session to be cancelled or postponed, the chief justice of the state supreme court can extend filing times (N.C. Gen. Stat. §7A-39).

If the Commissioner of Banks determines that an emergency exists or is impending, he or she may authorize banks in any affected part of state to close. In the interest of national defense, the commissioner may order a bank to open or close. The office is to remain closed until commissioner declares emergency rescinded. If communications are disrupted, a bank officer can close a branch or branches and later inform the commissioner of the events (N.C. Gen. Stat. §53-77.3).

The governor is authorized to set policy and regulations for leaves of absence for military training and duty or emergency management service for all state employees and political subdivisions, without a loss of pay or seniority (N.C. Gen. Stat. §127A-116).

When engaged in disaster relief, a member of the national guard or state militia is immune from liability (N.C. Gen. Stat. §127A-150).

State agents and corporations complying with the Emergency War Powers Act are immune from liability (§147-33.4).

The statute establishes immunity and liability protection for emergency management workers (§166A-14, 15).

The statute provides for compensation to be given for property taken during an emergency (§166A-11).

The statute prohibits discrimination in the provision of emergency management services (§166A-12).

The statute authorizes 15 days leave be given to state employees who are disaster service volunteers for the Red Cross in a 12-month period at the discretion of the state agency head based on work needs (§166A-30 et seq.).

Emergency management workers cannot advocate the violent overthrow of government (§166A-13).

Members of regional response teams are provided immunity from liability while responding to hazardous material accidents (§166A-24).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in North Carolina Statutes, with Citations

Terms	Citations
Biological agent	N.C. Gen. Stat. §130A-479
Disaster	N.C. Gen. Stat. §166A-4 (1)
Disaster area	N.C. Gen. Stat. §166A-4 (2)
Emergency management	N.C. Gen. Stat. §166A-4 (4)

Terms	Citations
Emergency management agency	N.C. Gen. Stat. §166A-4 (5)
Hazardous materials	N.C. Gen. Stat. §166A-21 (2)
Hazardous materials emergency response team	N.C. Gen. Stat. §166A-21 (1)
Hazardous materials incident	N.C. Gen. Stat. §166A-21 (3)
Preliminary damage assessment	N.C. Gen. Stat. §166A-4 (7)
Regional response team	N.C. Gen. Stat. §166A-21 (4)
State acquisition and relocation fund	N.C. Gen. Stat. §166A-4 (10)
Terrorist incident	N.C. Gen. Stat. §166A-21 (7)

For Further Research

The citations noted above and other elements of the state code for North Carolina may be searched at: [<http://www.ncga.state.nc.us/Statutes/Statutes.asp>].