

NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

**ANALYSIS OF THE NEW JERSEY CIVIL DEFENSE
AND DISASTER CONTROL ACT THROUGH A
MODERN EMERGENCY MANAGEMENT FRAME**

by

Daniel Cunning

March 2020

Co-Advisors:

Nicholas Dew
Lynda A. Peters (contractor)

Approved for public release. Distribution is unlimited.

THIS PAGE INTENTIONALLY LEFT BLANK

REPORT DOCUMENTATION PAGE			<i>Form Approved OMB No. 0704-0188</i>
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington, DC 20503.			
1. AGENCY USE ONLY (Leave blank)	2. REPORT DATE March 2020	3. REPORT TYPE AND DATES COVERED Master's thesis	
4. TITLE AND SUBTITLE ANALYSIS OF THE NEW JERSEY CIVIL DEFENSE AND DISASTER CONTROL ACT THROUGH A MODERN EMERGENCY MANAGEMENT FRAME			5. FUNDING NUMBERS
6. AUTHOR(S) Daniel Cunning			
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Naval Postgraduate School Monterey, CA 93943-5000			8. PERFORMING ORGANIZATION REPORT NUMBER
9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES) N/A			10. SPONSORING / MONITORING AGENCY REPORT NUMBER
11. SUPPLEMENTARY NOTES The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government.			
12a. DISTRIBUTION / AVAILABILITY STATEMENT Approved for public release. Distribution is unlimited.			12b. DISTRIBUTION CODE A
13. ABSTRACT (maximum 200 words) The laws and directives in the state of New Jersey governing emergency management must ensure a defined, understood, and achievable mission, and clearly delineate responsibilities at each level of government. This thesis addresses how emergency management in New Jersey can be modified based on a comprehensive analysis of the New Jersey Civil Defense and Disaster Control Act of 1942 and the corresponding New Jersey Office of Emergency Management directives. Each statute of the act and each directive was analyzed against five criteria and then placed in one of three categories: no change, modification needed, or repeal. Emergency management professionals in the state were then asked questions regarding the act, the content of the analysis, and the categorization of the statutes. The data collected from these professionals was used to make changes, or to alter the final categorization. This iterative process resulted in a more thorough analysis. This research makes four main recommendations: improve training for emergency managers in the state, codify modifications of the act in legislation, take a holistic approach to improvements for emergency operations plan development and compliance, and modify residency restrictions on municipal emergency management coordinators. The goal of this thesis is to provide the least complex rules and regulations for emergency managers, so that they can do their job with a better sense of responsibilities to the community served.			
14. SUBJECT TERMS emergency management			15. NUMBER OF PAGES 127
			16. PRICE CODE
17. SECURITY CLASSIFICATION OF REPORT Unclassified	18. SECURITY CLASSIFICATION OF THIS PAGE Unclassified	19. SECURITY CLASSIFICATION OF ABSTRACT Unclassified	20. LIMITATION OF ABSTRACT UU

THIS PAGE INTENTIONALLY LEFT BLANK

Approved for public release. Distribution is unlimited.

**ANALYSIS OF THE NEW JERSEY CIVIL DEFENSE AND DISASTER
CONTROL ACT THROUGH A MODERN EMERGENCY MANAGEMENT
FRAME**

Daniel Cunning
Sergeant, New Jersey State Police
BME, Temple University, 1995

Submitted in partial fulfillment of the
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES
(HOMELAND SECURITY AND DEFENSE)**

from the

**NAVAL POSTGRADUATE SCHOOL
March 2020**

Approved by: Nicholas Dew
Co-Advisor

Lynda A. Peters
Co-Advisor

Erik J. Dahl
Associate Professor, Department of National Security Affairs

THIS PAGE INTENTIONALLY LEFT BLANK

ABSTRACT

The laws and directives in the state of New Jersey governing emergency management must ensure a defined, understood, and achievable mission, and clearly delineate responsibilities at each level of government. This thesis addresses how emergency management in New Jersey can be modified based on a comprehensive analysis of the New Jersey Civil Defense and Disaster Control Act of 1942 and the corresponding New Jersey Office of Emergency Management directives. Each statute of the act and each directive was analyzed against five criteria and then placed in one of three categories: no change, modification needed, or repeal. Emergency management professionals in the state were then asked questions regarding the act, the content of the analysis, and the categorization of the statutes. The data collected from these professionals was used to make changes, or to alter the final categorization. This iterative process resulted in a more thorough analysis. This research makes four main recommendations: improve training for emergency managers in the state, codify modifications of the act in legislation, take a holistic approach to improvements for emergency operations plan development and compliance, and modify residency restrictions on municipal emergency management coordinators. The goal of this thesis is to provide the least complex rules and regulations for emergency managers, so that they can do their job with a better sense of responsibilities to the community served.

THIS PAGE INTENTIONALLY LEFT BLANK

TABLE OF CONTENTS

I.	INTRODUCTION	1
A.	PROBLEM STATEMENT	1
B.	RESEARCH QUESTION	3
C.	LITERATURE REVIEW	4
D.	RESEARCH DESIGN.....	10
II.	NEW JERSEY CIVIL DEFENSE AND DISASTER CONTROL ACT AND THE NJOEM DIRECTIVES	15
A.	OVERVIEW OF EMERGENCY MANAGEMENT IN NEW JERSEY	15
B.	HISTORICAL OVERVIEW OF THE ACT	17
C.	FORMS OF MUNICIPAL GOVERNMENT IN NEW JERSEY	20
D.	HOME RULE AUTHORITY	22
E.	LEGISLATION AND DIRECTIVES: WHY BOTH?.....	26
III.	THE ANALYSIS MATRIX.....	27
A.	BUILDING THE ANALYSIS MATRIX.....	28
1.	Federal Guidance.....	29
2.	Recommendations from Reports Issued to the New Jersey Office of Emergency Management.....	38
3.	Significance to Emergency Management	41
B.	APPLICATION OF THE ANALYSIS MATRIX.....	48
1.	No Change.....	53
2.	Modifications Needed	54
3.	Repeal.....	58
IV.	RECOMMENDATIONS AND IMPLEMENTATION STRATEGY	61
A.	RECOMMENDATIONS	61
B.	STRATEGY FOR IMPLEMENTATION.....	64
	APPENDIX A. ANALYSIS MATRIX—STATUTES	67
	APPENDIX B. ANALYSIS MATRIX—DIRECTIVES	91
	LIST OF REFERENCES.....	101
	INITIAL DISTRIBUTION LIST	105

THIS PAGE INTENTIONALLY LEFT BLANK

LIST OF FIGURES

Figure 1.	Sample of the Analysis Matrix	12
Figure 2.	The Call for Civil Defense Volunteers in New Jersey.	18
Figure 3.	Fear of Nazi Invasion in New Jersey.	19
Figure 4.	Forms of New Jersey Government in Use as of July 1, 2011.....	22
Figure 5.	The National Preparedness Goal.....	30
Figure 6.	New Jersey Regions and Compliance Rate of EOP.....	39
Figure 7.	Definition, Vision, and Mission of Emergency Management.	43
Figure 8.	Findings from Analysis—Statutes	52
Figure 9.	Findings from Analysis—Directives.....	53

THIS PAGE INTENTIONALLY LEFT BLANK

LIST OF ACRONYMS AND ABBREVIATIONS

CHDS	Center for Defense and Security
COOP	Continuity of Operations Plan
DEP	Department of Environmental Protection
DHS	Department of Homeland Security
EMAA	Emergency Management Agency Assistance
EMAC	Emergency Management Assistance Compact
EMC	emergency management coordinator
EOC	emergency operations center
EOP	emergency operations plan
EPCRA	Emergency Planning and Community Right-to-Know Act of 1986
ERP	emergency response plan
ESF	emergency support function
FEMA	Federal Emergency Management Agency
HICA/MYDP	Hazard Identification Capability Assessment and Multi-Year Development Plan
HMGP	Hazard Mitigation Grant Program
HSEEP	Homeland Security Exercise and Evaluation Program
IAP	incident action plan
ICS	incident command system
JIS	joint information systems
LEPC	local emergency planning committee
MAC	multiagency coordination groups
MOU	memorandum of understanding
NFIP	National Flood Insurance Program
NGO	Non-governmental organization
NIMS	National Incident Management System
NJDEP	New Jersey Department of Environmental Protection

NJOEM	New Jersey Office of Emergency Management
NJSA	New Jersey Statutes Annotated
NJSP	New Jersey State Police
NPS	Naval Postgraduate School
NTSB	National Transportation Safety Board
OAG	Office of the Attorney General
OEM	Office of Emergency Management
OMCL	optional municipal charter law
OSC	Office of the State Comptroller
PDM	Predisaster Mitigation Program
SARA	Superfund Amendments and Reauthorization Act
SCOG	State Continuity of Government Plan
SERC	State Emergency Response Commission
STTL	state, tribal, territorial, and local
THIRA	Threat and Hazard Identification and Risk Assessment
VOAD	Voluntary Organizations Active in Disaster

EXECUTIVE SUMMARY

Emergency management in the state of New Jersey has been guided largely by the New Jersey Civil Defense and Disaster Control Act of 1942 (the Act).¹ Portions of the associated legislation from the Act have been amended many times over the last 75 years. However, the Act has not been systemically evaluated as a whole in decades. Emergency management in New Jersey has meanwhile been tested by—and has adapted as a result of—many incidents and disasters, including natural, technological, and man-made causes.

With ever-increasing expectations being placed on state and local emergency managers by various stakeholders, including the general public, the laws and directives in the state of New Jersey governing emergency management must ensure a defined, understood, and achievable mission, and clearly delineated responsibilities at each level of government. New Jersey needs a comprehensive evaluation of the Act and the corresponding New Jersey Office of Emergency Management (NJOEM) directives. This thesis addresses how emergency management in New Jersey can be modified based on a comprehensive analysis of the New Jersey Civil Defense and Disaster Control Act of 1942 and the corresponding NJOEM directives.

The statutes of the Act are evaluated to, first, develop a comprehensive map of emergency management in the state, and second, to determine the impact of modifying the laws to improve emergency management in the state. Particular attention is focused on the modifications needed at the municipal level of government. Positive modifications made to the statutes and directives affecting municipal government and giving the municipal emergency management coordinators (EMCs) the tools they need to succeed will lessen the burdens on county and state emergency managers.

¹ New Jersey Civilian Defense and Disaster Control Act, New Jersey General and Permanent Statutes Appendix A Emergency and Temporary Acts § chap. 9 (1942), Office of Legislative Services, <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>.

Each statute was analyzed against five criteria created based on national, acceptable practice of emergency management, and issues specific to New Jersey:

- Alignment with federal guidance
- Alignment with recommendations from reports issued to the NJOEM
- Significance to the practice and profession of emergency management
- Duplication between the Act and the NJOEM directives
- Language changes needed to correct errors and inconsistencies

Based on the aforementioned criteria, a final determination is made, and each statute is marked as needing one of the following: no change, modification, or repeal. The NJOEM directives are analyzed using the same criteria and given the same final determination markings.

After capturing the data from the initial analysis on a matrix, 12 emergency management professionals representing different agencies and levels of government were asked questions regarding the Act, the content of the matrix, and the final determination markings of the statutes. The data collected from these professionals was used to make additional changes to the statutes, or to alter the final determination markings. This iterative process resulted in a more thorough analysis based on broad input from experienced users of the Act, who know and understand how emergency management and the Act function in New Jersey. Figures 1 and 2, respectively, show the percentage of statutes and directives in each category.

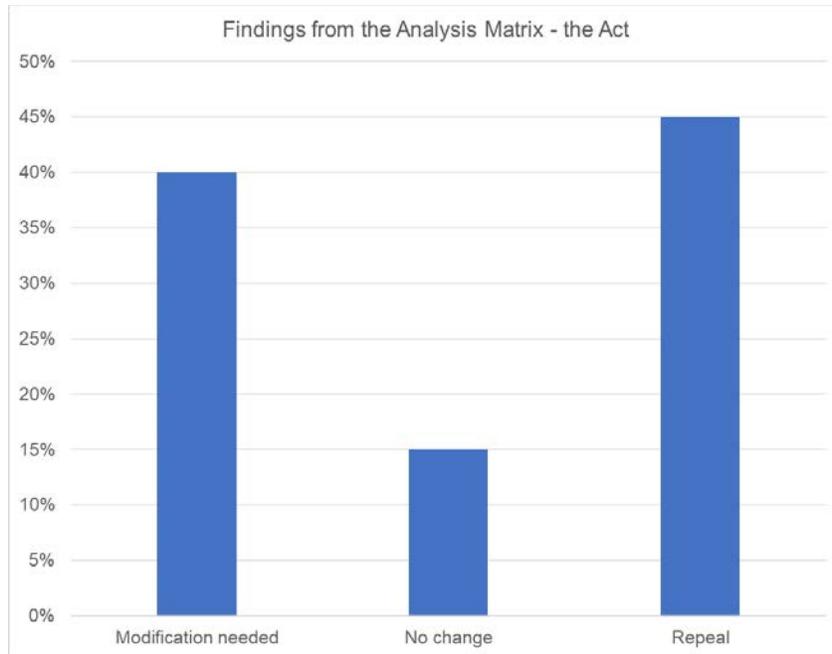


Figure 1. Findings from Analysis Matrix—The Act

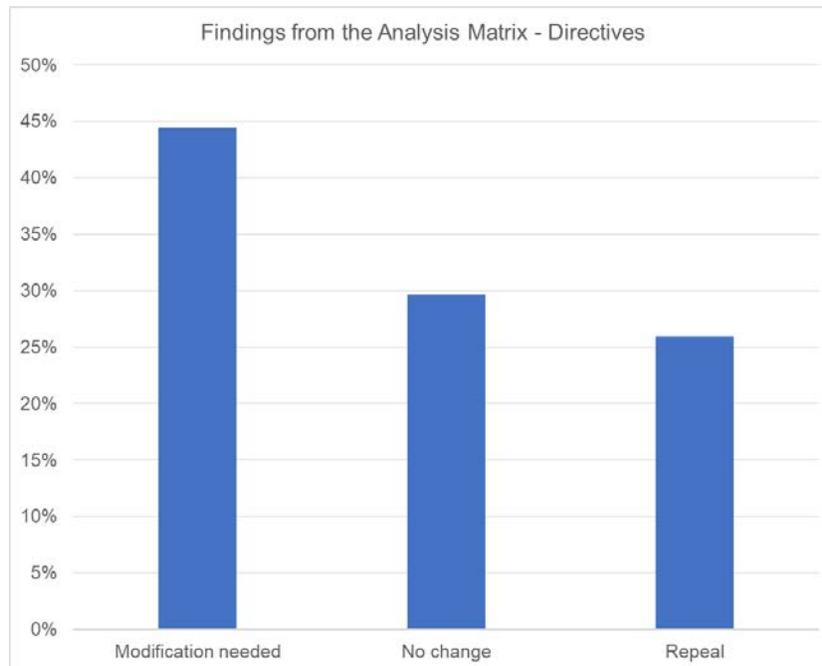


Figure 2. Findings from Analysis Matrix—Directives

The recommendations resulting from this research fit into four main groups. The first recommendation requires no legislative action and can be implemented immediately by NJOEM. The overall lack of familiarity with the Act and directives indicates the need to improve training. The statutes of the Act can be grouped more appropriately by subject or relation and presented within a course of study with the appropriate directives in a more logical manner, which then increases the general knowledge of the Act for the emergency management community in the state.

A second recommendation relates to three known deficiencies with the Act that have been corrected by means other than legislative changes, but which should be codified in legislation. Executive Order #101, Byrne (1980) altered many of the questions of authority within the Act and changed civil defense terminology; for clarity and to avoid future confusion, those changes should be captured in the legislation. Another issue is the failure of the Act to provide authority to county EMCs to declare a county state of emergency, despite clear authority given to the governor and municipal EMCs. The final issue is the supersession of 28 statutes related to worker's compensation for emergency management volunteers.

The third recommendation concerns EOP creation, development, certification, and improvement. The statutes of the Act regarding EOPs require only minor modifications; however, Directive 101 requires much more significant change. The suggested changes to Directive 101, however, cannot be made in a vacuum because of the collective and interrelated nature of Directives 103 and 104, which establish the guidance for the use of collaborative emergency management networks, or local emergency planning committee (LEPCs). LEPCs are pivotal to proper planning and EOP development and are a requirement of EPCRA.

A final recommendation is that the issue of residency for municipal EMCs must be addressed. All agree that the person who holds the position of coordinator in a municipality should have strong ties to the community and ideally be a resident with the knowledge and experience to excel in the position. However, when the pool of candidates for the position is too small, then other options must be considered. The options should be prioritized in the following order: municipal resident, county resident, full-time

employee of the municipality, or contiguous county or municipality resident (shared border even if in another county).

Emergency management is often a complex profession that requires significant knowledge and experience in all mission areas. The goal of this thesis is not to change the laws in New Jersey, but to provide the least complex rules and regulations for emergency managers, especially the volunteers, at the local level, so that they can do their job with a better sense of responsibilities to the community served, so they can understand why emergency management is essential, and so they also have the tools needed to be successful in providing for their communities.

THIS PAGE INTENTIONALLY LEFT BLANK

ACKNOWLEDGMENTS

I would like to thank the New Jersey State Police (NJSP) for allowing me to pursue this educational opportunity at the Naval Postgraduate School (NPS). I am especially thankful to Colonel Patrick Callahan and the NJSP Command Staff for their leadership, vision, and interest in my participation at NPS.

I would also like to thank Major Louis Bucchere, Commanding Officer, and all the men and women of the New Jersey Office of Emergency Management for their guidance and support throughout the program, especially to those who endured listening to me go on and on about some aspect of the program or another. I encourage all those with an interest to apply to the Center of Homeland Defense and Security (CHDS); it is truly a life-changing experience.

I must take a moment to recognize my coalition of contributors, Ray Evans, Chuck Murtaugh, Dennis McNulty, Mike Oppegaard, Jeff Pompper, Captain Mario Sinatra, Joe Sever, Maryann Trommelen, and Chris Testa. These people gave hours of their time, their talent, and their experience, without which I would not have been able to complete this project. Thank you.

Thank you to my advisors, Lynda Peters and Nick Dew, for helping me along the way and to make my mark. To CHDS 1805/1806, I have been and remain humble to be a part of such a brilliant group of human beings. You made my brain hurt with thought and my stomach hurt with laughter; I am going to miss you all.

And finally, to my wife, Abigail, and my children, Adrianna and Cooper, thank you for allowing me this opportunity, for picking up the slack, and for supporting me fully. Stay in school, kids.

Remember, you're still learning
—Nick Dew

THIS PAGE INTENTIONALLY LEFT BLANK

I. INTRODUCTION

The story of emergency management in New Jersey is built on tragedy and disaster, on lost lives, damaged property, and shattered dreams. Though I had been a first responder for many years, my introduction to emergency management occurred not long after Hurricane Irene made landfall in southern New Jersey in 2011. I would not realize the lessons I learned that night as I clutched a rope and swam into the darkness of a flooded river in a feeble attempt to save a young life until much later, but I knew then that there was a bigger picture, a place where all the first response disciplines aligned, or sometimes fail to align, to solve the biggest problems, the most complex disasters.

Many of the major transitions in my life have taken a couple of years to complete, and my transition from a trooper assigned to general police patrol to emergency management was no different. Once in emergency management, I began to learn the laws and directives of emergency management and began to talk to experienced emergency managers, as well as manage incidents myself. It is not possible to change the events that happened that night. Celena should not have gone out driving that night during Hurricane Irene, but I learned what happened and why it happened, what worked as planned, and what failed. I now know how complex emergency management is and how awesome is the responsibility of emergency managers.

A. PROBLEM STATEMENT

Emergency management in the state of New Jersey has been guided largely by the New Jersey Civil Defense and Disaster Control Act of 1942 (the Act).¹ Portions of the associated legislation from the Act have been amended many times over the last 75 years, but the Act has not been systemically evaluated as a whole in decades. Emergency management in New Jersey has meanwhile been tested by—and has adapted as a result

¹ New Jersey Civilian Defense and Disaster Control Act, New Jersey General and Permanent Statutes Appendix A Emergency and Temporary Acts § chap. 9 (1942), Office of Legislative Services, <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>.

of—many incidents and disasters, including natural, technological, and man-made causes.

These incidents and disasters have revealed gaps in the legislation in several areas. The most notable gaps in the Act have been identified in after-action reports, such as the National Transportation Safety Board’s (NTSB) report on a train derailment and subsequent hazardous materials spill in 2012.² The report highlighted a need for the New Jersey Office of Emergency Management (NJOEM) to update the planning procedures and certification process for municipal emergency operations plans (EOPs). Further, the New Jersey Office of the State Comptroller (OSC) completed a review of the NJOEM directives, which are based on the Act, and concluded that all the directives must be reviewed and updated, specifically those associated with municipal emergency operations plans.³

The OSC report based its recommendation to review and update the NJOEM directives on the continued failure of roughly 13 percent of municipalities in the state to be compliant with the EOP certification requirements.⁴ Further, the OSC called for an analysis of the root cause of the failure and alluded to requirements found in other directives contributing to the problem, specifically residency requirements for emergency management coordinators (EMCs), which limit the pool of qualified candidates for the position.⁵

The two reports indicate the specific need for the NJOEM to review the municipal planning portion of the Act, but amending one portion of the legislation without systemically evaluating all the legislation is shortsighted. The Act was originally written

² National Transportation Safety Board, *Conrail Freight Train Derailment with Vinyl Chloride Release Paulsboro, New Jersey November 30, 2012*, NTSB/RAR-14/01 (Washington, DC: Department of Transportation, 2014), viii, https://www.nj.gov/dca/divisions/dfs/pdf/paulsboro_vinyl_chloride_rpt_by_antsb.pdf.

³ Philip J. Degnan, “Statewide Emergency Management Plans” (official memorandum, Trenton, NJ: Office of the State Comptroller, 2018), 1.

⁴ Degnan, 1.

⁵ Degnan, 2.

during World War II and evolved during the Cold War civil defense era as a means to prepare the state for and respond to a nuclear attack. New Jersey faces a much different threat spectrum now: it has been the target of terrorists, including bombings and anthrax attacks, in recent years, and the site of technological disasters, including hazardous material spills, aircraft crashes, and clandestine laboratories processing large quantities of fentanyl. New Jersey faces regular natural disasters, including a tremendous number of flooding incidents, wind events, hurricanes, and nor'easters. These events not only challenge the emergency management system in the state as it is now but also create opportunities to identify successes and failures.

With ever-increasing expectations being placed on state and local emergency managers by various stakeholders, including the general public, the laws and directives in the state of New Jersey governing emergency management must ensure a defined, understood, and achievable mission, and clearly delineated responsibilities at each level of government. Misinterpretation of home rule authority in the state often obscures these responsibilities, and the nuances of 12 different charters of municipal government used statewide further complicate operations and communications.

New Jersey needs a comprehensive evaluation of the Act and the corresponding NJOEM directives. Recommendations for innovative change require careful strategic planning to ensure implementation. Changing state legislation may affect the entire population of New Jersey. The number of beneficiaries of implementation is significant, and a coalition of supporters will be necessary to increase the likelihood of success. As the data begins to suggest change, the strategic planning process for implementation should begin.

B. RESEARCH QUESTION

How can emergency management in New Jersey be modified based on a comprehensive analysis of the New Jersey Civil Defense and Disaster Control Act of 1942 and the corresponding NJOEM directives?

C. LITERATURE REVIEW

The Department of Homeland Security (DHS) and the Federal Emergency Management Agency (FEMA) have provided several guidance documents for state, tribal, territorial, and local (STTL) governments in the area of emergency management. The documents form the overarching framework for emergency managers nationwide. The *National Preparedness Goal*, (the Goal), which includes the descriptive frameworks within the national preparedness system, is the vision for a more secure and resilient nation.⁶ The National Incident Management System (NIMS), which includes the Incident Command System (ICS), is a set of management tools designed to build a more robust, more consistent response among responders across the nation.⁷

The documents provide the modern frame for emergency and incident management nationwide. The Goal focuses on building core capabilities across five mission areas (prevention, protection, mitigation, response, and recovery) to achieve the Goal.⁸ The Goal requires including the whole community in each mission area. It also asks the community to determine the threats and hazards that pose the greatest risk and build the capabilities and systems needed to combat those risks.⁹

NIMS reiterates some themes introduced in the Goal, but better elaborates on many of the management tools; for example, the ICS, emergency operations center (EOC) structures, multiagency coordination groups (MAC groups), and Joint Information Systems (JIS).¹⁰ The key components of NIMS—resource management, command and coordination, and communications and information management—are the foundation of

⁶ Federal Emergency Management Agency, *The National Preparedness Goal*, 2nd ed. (Washington, DC: Department of Homeland Security, 2015), 6, https://www.fema.gov/media-library-data/1443799615171-2aae90be55041740f97e8532fc680d40/National_Preparedness_Goal_2nd_Edition.pdf.

⁷ Federal Emergency Management Agency, *National Incident Management System* (Washington, DC: Department of Homeland Security, 2017), 1, https://www.fema.gov/media-library-data/1508151197225-ced8c60378c3936adb92c1a3ee6f6564/FINAL_NIMS_2017.pdf.

⁸ Federal Emergency Management Agency, *The National Preparedness Goal*, 1.

⁹ Federal Emergency Management Agency, 2.

¹⁰ Federal Emergency Management Agency, *National Incident Management System*, 1.

what is needed to respond to and support incidents of all sizes and types.¹¹ Both guidance documents stress the concept of preparing for all-hazards.

In March 2007, FEMA formed a higher education working group charged with giving a more precise definition to many emergency management practices. The working group completed a short paper, *Principles of Emergency Management*, in September 2007.¹² The working group defined emergency management, and perhaps more importantly, articulated the mission of emergency management, which aligns with the Goal and NIMS' basic tenets. The working group agreed on eight principles of emergency management and defined each one: comprehensive, progressive, risk-driven, integrated, collaborative, coordinated, flexible, and professional.¹³ The paper is significant because it clarified many of the concepts good emergency managers were incorporating into the practice of the profession.

To receive disaster funding from the federal government after an incident has occurred, or in many cases, to perform pre-disaster mitigation work, states must follow the guidance of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Stafford Act) or risk ineligibility.¹⁴ The Stafford Act is a lengthy and detailed document, but it establishes the framework for presidential disaster declarations and the various assistance and funding options that follow a declaration. The importance of compliance with the Stafford Act cannot be overstated.

The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), Title III of the Superfund Amendments and Reauthorization Act (SARA Title III), is

¹¹ Federal Emergency Management Agency, 2.

¹² Federal Emergency Management Agency, *Principles of Emergency Management Supplement* (Emmitsburg, MD: Federal Emergency Management Agency, 2007), 3, https://www.fema.gov/media-library-data/20130726-1822-25045-7625/principles_of_emergency_management.pdf.

¹³ Federal Emergency Management Agency, 4.

¹⁴ Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, *U.S. Statutes at Large* 68 (1988), codified at *U.S. Code* 42 (1988), §§ 5121 et seq., and Related Authorities § (1988), <https://www.fema.gov/media-library-data/1519395888776-af5f95a1a9237302af7e3fd5b0d07d71/StaffordAct.pdf>.

another significant piece of federal legislation in emergency management.¹⁵ The EPCRA requires each state to establish a State Emergency Response Commission (SERC), which then divides the state (as the SERC sees fit) into emergency planning districts. New Jersey decided to use existing municipal boundaries to delineate its emergency planning districts. Each emergency planning district must establish a local emergency planning committee (LEPC) as defined by the EPCRA.¹⁶ The EPCRA requires each LEPC to have an emergency plan, to identify the resources needed to carry out the plan, and to exercise the plan.¹⁷ While the EPCRA focuses explicitly on identifying hazardous materials and such materials' facilities in a community, LEPC members must also consider other mandatory federal requirements.

Richard Sylves is a professor emeritus from the University of Delaware and a professor at George Washington University. He has written several books on disasters, disaster operations and policies, and emergency management. The second edition of his *Disaster Policy and Politics Emergency Management and Homeland Security* provides a historical evolution of emergency management from the implementation of the Federal Disaster Relief Act of 1950—the first measure to formalize the policy of federal assistance to states after disaster—through the Cold War civil defense period, the creation of FEMA, and ultimately, into the present homeland security era.¹⁸

Sylves advocates the current all-hazards approach to emergency management but contends that the DHS' hyperfocus on terrorism fails to capture the larger picture of the threats faced across the nation.¹⁹ A main theme in the book is that, historically, disaster response and recovery begin at the local level and rise to the federal level if conditions

¹⁵ Emergency Planning and Community Right-to-Know Act of 1986, Public Law 99-499, *U.S. Statutes at Large* 301 (1986):11001–11003, codified at *U.S. Code* 42 (1986), §§ 11001 et seq. § (1986), <https://www.govinfo.gov/content/pkg/USCODE-2014-title42/pdf/USCODE-2014-title42-chap116-subchapI-sec11002.pdf>.

¹⁶ Emergency Planning and Community Right-to-Know Act of 1986, 7237.

¹⁷ Emergency Planning and Community Right-to-Know Act of 1986, 7238.

¹⁸ Richard Terry Sylves, *Disaster Policy and Politics: Emergency Management and Homeland Security*, 2nd ed. (Washington, DC: CQ Press, 2015), xiii.

¹⁹ Sylves, 84.

warrant. This bottom-up approach places the federal government and the President in a role that supports state and local governments in coping with disaster. However, in the opinion of Sylves, the creation of DHS shifted the focus of the nation to terrorism prevention and a top-down approach to disaster response. Such a top-down approach features the leading role of the federal government and the President with state and local governments supporting federal efforts. Sylves conclusively demonstrates that this approach failed during Hurricane Katrina for many reasons.²⁰ The resulting Post-Katrina Emergency Management Act of 2006 reverted to the more traditional bottom-up approach for emergency management and returned much of the power FEMA lost when the agency was absorbed by DHS.²¹ Sylves does not emphasize specific states or state laws regarding emergency management. Although he writes of the emerging and changing threats to communities and the importance of understanding public policy for emergency management practitioners, his key contribution to this thesis is the emphasis on compliance with federal guidance to qualify for funding.²²

The views of Sylves regarding basic emergency management practices, specifically the bottom-up approach he described, are echoed in several other academic sources. Andrew Jones and Andrew Kovacich wrote in their book, *Emergency Management: The American Experience 1900–2010*, that emergency management is generally thought to have originated in the 1950s; however, they believe the formal profession of emergency management was being practiced at the local level for at least decades before the 1950s.²³ Jones and Kovacich described some problems faced during historical disasters of the early 20th century as reminders of the lessons that should have been learned. They wrote of challenges between centralized and decentralized decision-making capabilities, poor response and recovery plans, mitigation decision making

²⁰ Sylves, 54.

²¹ Post-Katrina Emergency Management Reform Act of 2006, Public Law 109-295, *U.S. Statutes at Large* 6 (2006), codified at *U.S. Code* 701 § (2006).

²² Sylves, *Disaster Policy and Politics*, 205.

²³ Andrew Jones and Andrew Kovacich, *Emergency Management: The American Experience 1900–2010*, ed. Claire B. Rubin, 2nd ed. (New York: Routledge, 2012), 7, <https://doi.org/10.1201/b11887>.

focused on profit, not science, and the varying capabilities of state governments in assisting local governments overcome disaster.²⁴ The importance of the historical perspective in emergency management, and specifically in the study of the Act, provides valuable lessons for emergency managers.

Numerous articles describe the importance of intergovernmental relationships and collaboration as being of vital importance to the practice of emergency management. Naim Kapucu et al. wrote two articles of significance on the subject, “Collaborative Emergency Management and National Emergency Management Networks,” and “Examining Intergovernmental and Interorganizational Response to Catastrophic Disasters: Toward a Network-Centered Approach.”²⁵ Kapucu et al. wrote of the importance of developing these collaborative networks before disasters to develop relationships, define roles and responsibilities, develop plans and procedures, and assist one another during response and recovery. Kapucu et al. understood that many agencies involved in disasters have varying authority and jurisdiction, and therefore, the need for all involved to understand the situation before disasters would have a valuable effect on responses after disasters. Canton shared this belief as well, which he demonstrated when he wrote in his book, *Emergency Management Concepts and Strategies for Effective Programs*, that shared problem solving was the most effective means of problem solving during a crisis.²⁶

In addition to collaboration and integration, emergency management needs to focus attention on management. “Applying Public Administration in Emergency Management: The Importance of Integrating Management into Disaster Education” by Heriberto Urby Jr. and David A. McEntire describes the management failures, real or

²⁴ Jones and Kovacich, 7.

²⁵ Naim Kapucu, Tolga Arslan, and Fatih Demiroz, “Collaborative Emergency Management and National Emergency Management Network,” *Disaster Prevention and Management: An International Journal* 19, no. 4 (August 2011): 452–68, <https://doi.org/10.1108/09653561011070376>; Naim Kapucu, Tolga Arslan, and Matthew Lloyd Collins, “Examining Intergovernmental and Interorganizational Response to Catastrophic Disasters: Toward a Network-Centered Approach,” *Administration & Society* 42, no. 2 (April 2010): 222–47, <https://doi.org/10.1177/0095399710362517>.

²⁶ Lucien G. Canton, *Emergency Management: Concepts and Strategies for Effective Programs* (Hoboken, NJ: Wiley-Interscience, 2007), 58.

perceived, which occurred during the response to Hurricane Katrina. Urby and McEntire stress the need for emergency managers to learn and understand public administration theory to become more proficient and raise the level of the profession.²⁷ Canton describes management during disaster as the “operational implementation” of strategically developed plans utilizing the resources and options available to the manager based on the nature of the crisis.²⁸

Any recommendation for change in New Jersey legislation needs to consider the state’s Home Rule Act of 1917.²⁹ The Home Rule Act has created the perception in New Jersey that municipalities have more decision-making power than the state constitution grants. Article IV, Section VII (11) of the New Jersey Constitution provides that laws in New Jersey affecting municipalities “shall be liberally construed in their favor.”³⁰ It goes on to state that municipalities have any powers not expressly prohibited by another law or the New Jersey Constitution. Interpretation of this portion of the New Jersey Constitution has bolstered the defense of home rule in the state. However, landmark New Jersey Supreme Court decisions have limited the powers of municipal governments.

Robert Holmes, in his article, “The Clash of Home Rule and Affordable Housing: The Mount Laurel Story Continues,” further debunked the misperception of home rule authority in New Jersey when he wrote about the Home Rule Act of 1917. Holmes stated the Home Rule Act of 1917 intended to consolidate municipal statutes, but that it has been misused as a basis to say New Jersey is a home rule state.³¹ He goes on to describe

²⁷ Heriberto Urby and David A. McEntire, “Applying Public Administration in Emergency Management: The Importance of Integrating Management into Disaster Education,” *Journal of Homeland Security and Emergency Management* 11, no. 1 (January 5, 2013): 58, <https://doi.org/10.1515/jhsem-2013-0060>.

²⁸ Canton, *Emergency Management: Concepts and Strategies for Effective Programs*, 60.

²⁹ Home Rule Act of 1917, New Jersey General and Permanent Statutes Title 40 § 42–4 (1917), Office of Legislative Services, <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>.

³⁰ New Jersey State Constitution of 1947 (1947), 16, <https://www.njleg.state.nj.us/lawsconstitution/constitution.asp>.

³¹ Robert C. Holmes, “The Clash of Home Rule and Affordable Housing: The Mount Laurel Story Continues,” *Connecticut Public Interest Law Journal* 12, no. 2 (2013): 339.

the misperception as the “home rule myth.”³² The New Jersey Supreme Court’s decisions in the Mount Laurel cases specifically limit the power of municipal government. Holmes wrote, “State supremacy, not home rule, is the law of the land” in New Jersey.³³

As a state law in New Jersey, municipalities cannot claim home rule authority exempts them from compliance when a portion of the Act is inconvenient to follow. However, municipalities know that the lack of an enforcement mechanism and the lack of punishment for failure to comply with any portion of the Act limit their risk. Andrew Bruck wrote in his article, “Overruled by Home Rule,” of the cost-saving potential of reducing the number of municipalities in New Jersey and encouraging the use of shared services, but contends that so many in the state are more concerned about “protecting home rule for themselves” that they fail to take action.³⁴

D. RESEARCH DESIGN

For this thesis, the statutes contained in the Act were evaluated to, first, develop a comprehensive map of emergency management in the state, and second, to determine the impact of modifying the laws to improve emergency management in the state. The 100 statutes within the Act are analyzed individually. For organizational purposes, the statutes are grouped by level of government: state, county, and municipal. The statutes in the state category may include items affecting only state government or items affecting all levels of government within the state. The distinction made between the levels of government is fundamental to prioritize recommendations and to effect change. Management of emergencies is in the domain of the local government until that local government is overwhelmed by the nature or magnitude of an incident. Therefore, particular attention was focused on the modifications needed at the municipal or local level of government.

³² Holmes, 357.

³³ Holmes, 358.

³⁴ Andrew Bruck, “Overruled by Home Rule: Why the New Jersey Legislature’s Latest Attempt to End the Waste, Corruption, and Inequality Created by Municipal Fragmentation Will Fail,” *Seton Hall Legislative Journal* 32, no. 2 (March 2008): 3.

Positive modifications made to the statutes and directives affecting municipal government and giving the municipal EMCs the tools they need to succeed will lessen the burdens on county and state emergency managers.

In this thesis, each statute is analyzed against five criteria created based on national, acceptable practice of emergency management and issues specific to New Jersey:

- Alignment with federal guidance
- Alignment with recommendations from reports issued to the NJOEM
- Significance to the practice and profession of emergency management
- Duplication between the Act and the NJOEM directives
- Language changes needed to correct errors and inconsistencies

Based on the aforementioned criteria, a final determination is made, and each statute marked as needing one of the following: no change, modification, or repeal. Once the analysis of the statutes of the Act is completed, the NJOEM directives are analyzed using the same criteria and given the same final determination marking.

Figure 1 is a sample of the analysis matrix. The full analysis matrix for the Act appears in Appendix A, and the full analysis matrix for the NJOEM directives appears in Appendix B. The analysis matrix also captured the most recent revision date (several statutes have been revised over the years), as well as suggested changes based on the criteria. Conclusions and recommendations for a path forward are based on a comprehensive evaluation of the Act and the NJOEM directives.

Statute – Short Title	Latest Revision	State, County, Municipal	Aligns with Federal Guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language Change Needed (Yes/No)	Suggested Change/ Comments	No change/ Modification needed/ Repeal
App. A:9-33 – Purpose of Civilian Defense Act and Disaster Control Act	1953	State	Yes	No	Yes	No	Yes	Short title does not match title of act. References to civilian population and activities do not align with modern EM language. Statute is important because it gives the governor emergency powers.	Modification needed
App. A:9-33.1 – Definitions	1953	State	No	No	Yes	No	Yes	Some of its definitions overlap. Add definition for incident (CPG101). Needs greater clarity for EOP and Directive improvement. Several statutes have definitions, but should be combined into a single statute. Remove "war emergency." NIMS is the foundation for definitions in emergency management, specifically emergency. See line 14 for changes to local disaster emergency definition.	Modification needed
App. A:9-34 – Emergency Powers of Governor	1953	State	Yes	No	Yes	No	Yes	Emergency powers of the governor vital to emergency management should not be diminished in any way. Language needs to align with A:9-33.1; change "avoid" to "prevent" and reflect current language regarding mission areas. Make the language gender neutral.	Modification needed

Figure 1. Sample of the Analysis Matrix

After completing the initial analysis, emergency management professionals representing various agencies and levels of government provided valuable input based on their knowledge and emergency management experience. The professionals were given copies of the Act and a draft of the analysis matrix and asked the following questions:

Thinking of the emergency response processes and capabilities in the organization you work for:

- What statutes within the New Jersey Civil Defense and Disaster Control Act enable the organization's emergency response processes and capabilities?
- What statutes within the New Jersey Civil Defense and Disaster Control Act limit the organization's emergency response processes and capabilities?
- What are sources of guidance and information for emergency managers?
- Describe the impacts of the proposed changes to the New Jersey Civil Defense and Disaster Control Act (found in the analysis matrix) to the organization's emergency response processes and capabilities?
- What additional modifications to the New Jersey Civil Defense and Disaster Control Act would enable the organization's emergency response processes and capabilities?

The responses were used to make additional changes to the analysis matrix. The result is a more thorough analysis based on input from a broad range of experienced users of the Act who know and understand how emergency management and the Act function in New Jersey.

Building the final draft of the analysis matrix was an iterative process consisting of conversations lasting several hours with 12 different professional emergency managers. Those professionals not only contributed a great deal of time, knowledge, and experience to this thesis, but they will ultimately help with implementation of the

recommendations because they know that they had input into the process and the product, and therefore, have a vested interest in the success of the project.

II. NEW JERSEY CIVIL DEFENSE AND DISASTER CONTROL ACT AND THE NJOEM DIRECTIVES

A. OVERVIEW OF EMERGENCY MANAGEMENT IN NEW JERSEY

Emergency management in New Jersey is, in theory, based on the concept that from time-to-time catastrophic events in communities will overwhelm the capabilities and resources of those communities, challenge first response agencies in ways that will require them to work with or through other agencies unfamiliar to them, or to solve problems that lack clear solutions. These efforts require partnerships and collaboration among all levels of government and between all agencies.

The practice of emergency management has evolved over the years from civil defense and preparations for attack during World War II to preparing for a response to nuclear attack during the Cold War, to the FEMA era of preparation and response to natural and man-made disasters, and finally, to the current homeland security era focused on both terrorism and natural and man-made disasters. The differences in each of the eras are in many ways dramatic, and yet, some of the fundamental elements of emergency management in New Jersey have not changed at all, nor will they in the recommendations of this thesis.

In 1979, the New Jersey Legislature approved the transfer of the Office of Civilian Defense from the Department of Defense to the Department of Law and Public Safety. Not long after, the Office of Civilian Defense was established in the Division of State Police, and the Colonel of the New Jersey State Police (NJSP) became the State Director of Emergency Management (State Director).¹ In response to the creation of FEMA, Governor Brendan Byrne issued Executive Order #101 in December 1980, which abolished the Office of Civilian Defense and created the NJOEM, effectively laying out the structure of emergency management in New Jersey as it is known today. Executive

¹ “The History of NJOEM,” ReadyNJ, accessed October 11, 2019, <http://ready.nj.gov/about-us/history.shtml>.

Order #101 charged the state director and NJOEM with performing “the emergency powers of the Governor.”²

The Act provides the Governor of New Jersey with significant power in times of disaster and makes the governor responsible for the health, safety, and welfare of the citizens of the state. However, each level of government—state, county, and municipal—shares responsibility in that regard. Each has similar power to declare a state of emergency if conditions warrant and to put into effect emergency protective measures to fulfill responsibilities to its citizens. Governor Byrne’s Executive Order #101 references Executive Order 12148 issued by President Carter that created FEMA and consolidated or reassigned emergency responsibilities of several federal agencies and offices into FEMA. Further, Executive Order #101 references “rigorous participation in civil emergency preparedness, mitigation, response, and recovery programs” and in implementing and coordinating those phases of emergency management with state agencies and local governments, the private sector, and volunteer organizations.³

The Act further lays out the structure for managing incidents within New Jersey and requires a network of personnel to assist the governor and the state director in fulfilling their responsibilities.⁴ This network requires each county board of chosen freeholders to appoint a county EMC and each municipal governing body to appoint a municipal EMC. The Act requires state and county agencies with roles in emergency management to work collaboratively in planning for, responding to, and recovering from disasters. The county and municipal EMCs act as chairpersons for their local LEPCs. The LEPC is a group representative of the whole community and plays a vital role in identifying risks and hazards, developing mitigation strategies, conducting emergency planning, responding to and stabilizing incidents, and conducting recovery efforts after

² Brendan Byrne, “Executive Order No. 101,” The New Jersey Digital Legal Library, December 17, 1980, <http://njlegallib.rutgers.edu/eo/docs/byrne/order101-/index.pdf>.

³ Byrne.

⁴ New Jersey Civilian Defense and Disaster Control Act, A:9-41.

disasters. This network is supplemented by various volunteer and private organizations providing services before, during, and after disasters.

The NJOEM directives are issued by the state director of emergency management. Directives are meant to detail specific tasks, positions, or activities associated with emergency management. The state director receives the authority to issue directives from the Act, specifically, statutes A:9–37, A:9–40, and A:9–45 grant the governor and the state director the power to issue rules and regulations that must be followed by all emergency management personnel, state agency personnel, first responders, and elected officials.⁵ Directives issued by the state director have helped, in a small way, to modernize the practice of emergency management in the state. However, even the current directives have been long overdue for analysis and update.

B. HISTORICAL OVERVIEW OF THE ACT

The Act originally passed in 1942 during the early stages of the United States’ active engagement in World War II. Senator Farley introduced the original bill, Senate Bill 250, in the New Jersey State Senate on May 18, 1942. The Legislative Index for that year describes it this way:

S 250 Farley May 18—(Without Reference) Creates office of civilian defense director appointed by Governor to serve at latter’s pleasure and to exercise defense powers and duties delegated to him by Governor; creates Governor’s war emergency cabinet; requires local cooperation in State defense measures.

May 18—Passed in Senate

May 18—Passed in Assembly

May 23—Approved, Chapter 251⁶

Look at the speed of the political process; the bill was introduced on May 18 and signed into law by the governor only five days later. To understand the mindset of the people and politicians in New Jersey, this researcher searched the Trenton, New Jersey

⁵ New Jersey Civilian Defense and Disaster Control Act, A:9–37, A:9–40, and A:9–45.

⁶ New Jersey Legislature, *New Jersey Legislative Index* (Somerville, NJ: Legislative Index of New Jersey, Inc., 1942), 537.

newspapers for the year 1942 using the keywords “civil defense.” Newspaper articles from the period, as shown in Figures 2 and 3, help gauge the mindset of the time. In another article, a new civilian defense director threatened to resign because the bill was not getting passed quickly enough due to the legislature’s normal recess.⁷



Figure 2. The Call for Civil Defense Volunteers in New Jersey.⁸

⁷ “Time to Stick Together,” *Trenton Evening Times*, May 5, 1942, 6.

⁸ Source: “Civilian Volunteers Needed for Trenton Defense,” *Trenton Sunday Times-Advertiser*, July 5, 1942.



Figure 3. Fear of Nazi Invasion in New Jersey.⁹

In the 75 years since its passage, the Act has been modified numerous times. However, no large-scale analysis has happened in recent decades. Several significant changes were made to the Act in 1989, including a title change to the Emergency Management Act of 1989. The research has found that one NJOEM directive and a small sampling of municipal EOPs reference the Emergency Act of 1989. However, emergency managers neither use this name nor do many in the state know anything about it.¹⁰

The Act forms the basis for all emergency management activity in the state and aids in assigning roles and responsibilities to the various involved agencies. A separate, companion list of statutes called the New Jersey Domestic Security Preparedness Act was passed in response to the domestic terrorist attacks of September 11, 2001. A majority of the statutes in the New Jersey Domestic Security Preparedness Act were written in late 2001. Although the Act and the New Jersey Domestic Security Preparedness Act overlap, such redundancy was not analyzed as part of this thesis, but should be addressed in future studies.

Very often emergency management is thought of as something needed to respond to hurricanes or earthquakes or to mitigate the effects of future disasters. Emergency management however also fills the void created when problems do not fit into proper problem spaces or when events occur in such a way that no plan or playbook exists to solve the problem. In recent years, New Jersey has evoked the emergency powers of the

⁹ Source: "U-Boat Strategy Seeks to Force Wide Dispersion of American Defenses," *Sunday Times-Advertiser, Trenton N.J.*, May 17, 1942.

¹⁰ New Jersey Civilian Defense and Disaster Control Act.

Act for several non-traditional events. In 2004, Governor McGreevey issued Executive Order #138, which evoked the emergency powers of the governor granted by the Act when the Department of Education's implementation of a new teacher certificate computer system failed. That event jeopardized nearly 1,000 new teachers from receiving their certificates in the time allowed by law and potentially affected hundreds of school districts and thousands of students. The Act made it possible for Governor McGreevey to take emergency protective measures to prevent an imminent burden to the health, safety, and welfare of the citizens of the state of New Jersey and extend the deadline for teachers, as well as take other actions to correct the computer system.¹¹

In 1994, Governor Whitman issued Executive Order #12, which evoked the emergency powers of the governor in response to a natural gas pipeline explosion. She ordered all natural gas pipeline operators in the state to lower the pressure in their lines by five percent until an investigation was completed and any found deficiencies corrected.¹² In addition, in 2009, Governor Corzine issued Executive Order #132, which evoked the emergency powers of the governor to extend the filing deadline for those seeking a seat on local school boards. The original deadline for filing documents associated with the upcoming election fell during a significant snowstorm and many could not file within the required window. The Act allowed the governor to make a rule change benefitting the residents of the state and the democratic process.¹³

C. FORMS OF MUNICIPAL GOVERNMENT IN NEW JERSEY

New Jersey has 12 forms of municipal government. While the form of government has no bearing on the Act or emergency management, the forms of government are important to emergency managers at all levels when dealing with municipal government. This section only lists the 12 forms and cites reference material

¹¹ James E. McGreevey, "Executive Order #138," State of New Jersey (October 12, 2004), <https://nj.gov/infobank/circular/eom138.htm>.

¹² Christine T. Whitman, "Executive Order #12," State of New Jersey (March 25, 1994), <https://nj.gov/infobank/circular/eow12.htm>.

¹³ Jon S. Corzine, "Executive Order #132," State of New Jersey (March 3, 2009), <https://nj.gov/infobank/circular/eojsc132.htm>.

for further study if additional information is desired. Figure 4 describes each form of government and serves to show the diverse and often challenging municipal landscape in New Jersey.

The first five forms of government are related to the type of municipality and are the historical forms of government following the 1875 state constitution: city, town, borough, township, and village. These forms of government are only available to municipalities that have incorporated by specifying one of those chartered forms of government.¹⁴ The next six forms of government are more modern creations and can be used no matter what type of incorporation charter the municipality operates under: commission, municipal manager, optional municipal charter law (OMCL): mayor-council, OMCL: council-manager, OMCL: small municipality, and OMCL: mayor-council-administrator. Finally, several municipalities use a special charter form of government that allows the municipality to create a unique structure and organization.¹⁵

¹⁴ Ernest C. Reock, Jr. and Raymond D. Bodnar, *The Changing Structure of New Jersey Municipal Government* (Trenton, NJ: State of New Jersey County and Municipal Government Study Commission, 1985), 13.

¹⁵ Reock and Bodnar, 13.

	Number of Municipalities	Total 2010 Population	Mean Average 2010 Population	Percentage of State Population	Largest Municipality	Smallest Municipality
City Form	15	209,185	13,946	2.4	East Orange (64,270)	Corbin City (492)
Town Form	9	128,439	14,271	1.5	Kearny (40,684)	Belvidere (2,681)
Borough Form	218	1,530,921	7,023	17.4	Sayreville (42,704)	Mantoloking (296)
Township Form	141	1,574,329	11,165	17.9	Lakewood (92,843)	Walpack (16)
Village Form	1	194	194	-	Loch Arbour (194)	Loch Arbour (194)
Commission Form	30	364,320	12,144	4.1	Union City (66,455)	Tavistock (5)
Municipal Manager Form (1923)	7	202,098	28,871	2.3	Clifton (84,136)	Teterboro (67)
Optional Municipal Charter Law: Mayor-Council Form	71	3,302,762	46,518	37.6	Newark (277,140)	Avalon (1,334)
Optional Municipal Charter Law: Council-Manager Form	42	964,478	22,964	11.0	Franklin Twp. (Som.) (62,300)	Beach Haven (1,170)
Optional Municipal Charter Law: Small Municipality Form	18	132,678	7,371	1.5	Stafford (26,535)	Island Heights (1,673)
Optional Municipal Charter Law: Mayor-Council-Administrator Form	3	79,775	26,592	0.9	North Brunswick (40,742)	Berkeley Heights (13,183)
Special Charters	11	302,715	27,520	3.4	Middletown (66,522)	Hardyston (8,213)
Total	566	8,682,661	15,340	100.0	Newark (278,980)	Teterboro (17)

Figure 4. Forms of New Jersey Government in Use as of July 1, 2011.¹⁶

D. HOME RULE AUTHORITY

New Jersey is a home rule state in many instances, but it is not a constant. Home rule “[p]owers have been granted to local government units and they have been

¹⁶ Source: Rutgers Center for Government Services, *Forms of New Jersey Government in Use as of July 1, 2011* (New Brunswick, NJ: Rutgers Center for Government Services, 2011), 2.

withdrawn for the local [government].”¹⁷ The New Jersey Constitution favors the sovereign right of municipalities to make their own decisions as long as those decisions fall within the framework of the Constitution and other applicable state laws.¹⁸ The legislature affirmed that right when it passed the Home Rule Act of 1917, which reads in a pertinent part:

Municipalities given fullest powers—In construing the provisions of this subtitle, all courts shall construe the same most favorably to municipalities, it being the intention to give all municipalities to which this subtitle applies the fullest and most complete powers possible over the internal affairs of such municipalities for local self-government.¹⁹

New Jersey is not a constitutional home rule state, as a few states are, meaning that in the absence of the specific rejection of a delegation of authority to municipalities, courts favor local government and “assume the authority exists.”²⁰

Home rule authority has been a part of New Jersey’s fabric since the colonial period of American history. From the beginning of New Jersey’s history, the state served as a transportation corridor between Philadelphia and New York City, and that has not changed. Today, the corridor includes Washington, DC, and is a significant component of the threat spectrum the state faces. In 2008, Andrew Bruck wrote about the many issues surrounding home rule authority and the fragmented municipal landscape that exists in New Jersey. Bruck describes the different settlers of the state and how they were concentrated by religion in different regions, but all shared a similar belief. He writes, “As these sects dispersed across the state, they established self-sufficient agricultural communities, and their highest priority was to be left alone.”²¹ Few would argue this sentiment of wanting to be left alone has changed much about the people of New Jersey.

¹⁷ Reock and Bodnar, 6.

¹⁸ New Jersey State Constitution of 1947, 16.

¹⁹ Home Rule Act of 1917.

²⁰ Jesse J. Richardson, “Dillon’s Rule Is from Mars, Home Rule Is from Venus: Local Government Autonomy and the Rules of Statutory Construction,” *Publius: The Journal of Federalism* 41, no. 4 (October 2011): 670, <https://doi.org/10.1093/publius/pjr030>.

²¹ Bruck, “Overruled by Home Rule,” 14.

Reock and Bodnar captured the essence of the argument when they wrote, “Local home rule in New Jersey is truly a state of mind.”²²

New Jersey has had three constitutions during its history, the most recent ratified in 1947. The 1947 constitution created a much stronger central government and began a very slow erosion of home rule authority that significantly strengthened the power of the governor.²³ The challenge most significant to emergency management is the number of municipalities, 565, that exist in the state. The Act requires all municipalities, large and small, to prepare in the same manner, have the same minimum staff, and have an emergency operations plan.²⁴ In many ways, home rule authority disadvantages some municipalities because they lack the population necessary to comply with the Act. This deficit may be further confused at the municipal level due to the home rule powers granted to municipalities to decide for themselves what government services they wish to offer to their residents (police, fire, public works).²⁵ Emergency management is not one of those optional services based on the language of the Act.

The 1947 constitution was amended in 1966 following the U.S. Supreme Court ruling in the case of *Reynolds v. Sims*.²⁶ This amendment further weakened home rule authority. The New Jersey legislature’s upper house had been composed of one representative from each county in the state with no regard for population. The arrangement pitted rural, republican counties against urban, democratic counties, and gave enormous power to the much smaller populations in rural areas. The U.S. Supreme Court ruling of “one man, one vote,” however, forced New Jersey to change to a more representative legislative district construction.

²² Reock and Bodnar, “The Changing Structure of New Jersey Municipal Government,” 9.

²³ Bruck, “Overruled by Home Rule,” 21.

²⁴ New Jersey Civilian Defense and Disaster Control Act, A:9-43.2.

²⁵ Reock and Bodnar, “The Changing Structure of New Jersey Municipal Government,” 9; New Jersey Civilian Defense and Disaster Control Act, A:9-40.1.

²⁶ Brett Avery, “New Jersey and How It Got That Way,” *New Jersey Monthly*, December 19, 2007, https://njmonthly.com/articles/towns-schools/new_jersey_and_how_it_got_that_way_november/; *Reynolds v. Sims*, 377 U.S. 533 (June 15, 1964).

The 1947 constitution also gave the state more power over local governments in three very important areas. First, the state controls the power to create new local governments. Second, the state controls the power over local government processes (the conduct of elections, administration of local finance, and method of enacting local ordinances). And finally, the state controls the power “by mandating uniform procedures for local taxation and borrowing.”²⁷

Article VII, Section IV, Paragraph 1 of the constitution states that the legislature will provide support for the free public education of children in New Jersey.²⁸ Interestingly, this paragraph further erodes home rule authority in New Jersey. Based on this paragraph, the State Supreme Court issued a series of Abbott District rulings, starting in 1985 with *Abbott v. Burke I* and ending in 2008 with *Abbott v. Burke XIX*, which requires fair funding to school districts throughout the state. In other words, funding from wealthier school districts has to be used to offset costs in less wealthy school districts.²⁹

Article IV, Section VI, Paragraph 2 of the Constitution gives the state legislature the power to pass laws affecting zoning ordinances in municipalities and justifies it by saying it is within the state’s police powers.³⁰ This article in the constitution resulted in another significant series of rulings by the State Supreme Court, known as the Mt. Laurel cases, which require municipalities to make fair housing decisions regarding their land-use rules for low and moderate income housing.³¹ These two examples show that the New Jersey courts are capable of ruling in favor of the state’s rights across a wide subject area.³² The fragmentation of political subdivisions in New Jersey has also weakened

²⁷ Reock and Bodnar, “The Changing Structure of New Jersey Municipal Government,” 8.

²⁸ New Jersey State Constitution of 1947, 43.

²⁹ Avery, “New Jersey and How It Got That Way”; Department of Education, “History of Funding Equity,” State of New Jersey, March 2011, <https://www.state.nj.us/education/archive/abbotts/chrono/>.

³⁰ New Jersey State Constitution of 1947, 12.

³¹ LexisNexis, “South Burlington County NAACP v. Mt. Laurel,” Law School Case Brief, 1975, <http://www.lexisnexis.com/community/casebrief/p/casebrief-s-burlington-county-naacp-v-mt-laurel>.

³² Richard Keevey, “New Jersey’s Laws and Fiscal Safeguards Make Municipal Bankruptcy Unlikely,” NJ Spotlight, October 28, 2013, <http://www.njspotlight.com/stories/13/10/19/new-jersey-s-laws-and-fiscal-safeguards-make-municipal-bankruptcy-unlikely/>.

home rule authority; many of the municipalities that “proudly cling to their political independence are, in fact, wholly dependent on regional or state-financed programs to remain afloat.”³³ Municipalities must follow the law and cannot use home rule authority as an excuse not to comply with state law requirements.

E. LEGISLATION AND DIRECTIVES: WHY BOTH?

The Act is the state law that creates, or should create, the framework for emergency managers at all levels of New Jersey government and in all agencies with emergency management responsibilities. On October 30, 2019, Captain Mario Sinatra (Executive Officer of the Emergency Management Section, NJSP) told me that, “The Act is like the constitution,” the framework of emergency management in New Jersey, and the “directives are the rules interpreting the constitution,” similar in concept to standard operating procedures, but at a higher level.³⁴ The directives need only action by the state director to be changed.³⁵ Therefore, the NJOEM has the flexibility and agility needed to stay current with emerging practices and conditions.

Unfortunately, the directives do not complement the Act as well as they should. The directives issued by the state director often duplicate or supplant what is in the statutes instead of supplementing them. Some directives listed as current and active were not readily available for analysis for this thesis, nor are they available to the emergency management community. Consequently, the content of those directives is unknown, and therefore, unhelpful to the emergency management community in New Jersey. The analysis and recommendations of this thesis will likely have more effect on changing the directives than on changing the statutes of the Act due to the fact that the state director can revise or issue new directives and the New Jersey Legislature will be required to modify the law.

³³ Bruck, “Overruled by Home Rule,” 13.

³⁴ Mario Sinatra, personal communication, October 24, 2019.

³⁵ New Jersey Civilian Defense and Disaster Control Act, A:9-37.

III. THE ANALYSIS MATRIX

This chapter is broken down into two sections, building the analysis matrix and application of the analysis matrix. Building the analysis matrix argues for the criteria being used to evaluate the Act and justifies the inclusion of the criteria. Further, it explains how those criteria are used to analyze the Act. The goal of the analysis matrix is to organize and understand the statutes and then to apply the criteria to determine whether the statutes should remain in the Act with no changes, remain in the Act with modifications, or be repealed from the Act.

Application of the analysis matrix was an iterative process. The criteria were applied to the Act and the first set of results were found and documented on the analysis matrix. Emergency managers from New Jersey representing all levels of government—state, county, and municipal—as well as representatives from state agencies with emergency management responsibilities, received copies of the analysis matrix and answered five questions:

Thinking of the emergency response processes and capabilities in the organization you work for:

- What statutes within the New Jersey Civil Defense and Disaster Control Act enable the organization’s emergency response processes and capabilities?
- What statutes within the New Jersey Civil Defense and Disaster Control Act limit the organization’s emergency response processes and capabilities?
- What are sources of guidance and information for emergency managers?
- Describe the impacts of the proposed changes to the New Jersey Civil Defense and Disaster Control Act (found in the analysis matrix) to the organization’s emergency response processes and capabilities?

- What additional modifications to the New Jersey Civil Defense and Disaster Control Act would enable the organization's emergency response processes and capabilities?

Their responses appear in the final version of the analysis matrix. The emergency managers who contributed their time and experience to the development of the analysis matrix include one state level emergency manager with 25 years of experience in the NJSP, 17 of which were assigned to the NJOEM, five county EMCs each with more than 20 years of experience and representing the three regions of the state (north, central, and south), as well as a diverse cross-section of county features (rural farming communities, suburban communities, oceanfront communities, and urban communities), and one municipal EMC with more than 20 years of experience.

Three other state government representatives, who offered much more limited information to specific sections of the Act, also contributed to the analysis matrix. The State Hazard Mitigation Officer from the NJOEM provided input on questions related to recovery statutes, specifically related to emergency protective measures taken as a result of flooding. The emergency management liaisons from the New Jersey Department of Environmental Protection (NJDEP) and New Jersey Department of Labor provided input related to a special beach erosion fund found in one statute and several workmen's compensation statutes, respectively. The combined experience for this sampling of emergency management professionals totals nearly 200 years.

A. BUILDING THE ANALYSIS MATRIX

The analysis matrix is the key analytical tool and basis for all findings and recommendations presented in this thesis with three organizing criteria, four analytical criteria, and three action-indicated columns in the analysis matrix. The organizing criteria are made up of a naming column, which includes the statute number and the short title as found in the Act, a column for the year the statute was written or the year of the most recent revision, and a column indicating the level of government most affected by the statute: state, county, or municipal. The state indicator can mean that the statute affects all levels of government or that it specifically affects only state government.

The four analytical criteria are:

- Alignment with federal guidance
- Alignment with reports issued to the NJOEM
- Significant to emergency management
- Duplicated in statute and directive

These columns have the most influence over the decision to retain, modify, or repeal a statute.

The first of the action-indicated columns tells whether a change in language is needed based on the analytical criteria. The suggested changes or comments column contains the most information. The language changes suggested are to align the language in the existing statute with modern language, as indicated in the federal guidance and significant to emergency management columns. Also found in this column is an indication about duplicate statutes, conflicting statutes, or statutes found with more detail or common use in other titles in New Jersey law. Further, justifications for recommendations for change or repeal also appear in this column. The final column of the analysis matrix indicates whether the statute should remain in the Act with no change, remain in the Act with modifications, or be repealed from the Act. The same matrix criteria were applied to the directives issued by the state director. The full, final contents of the analysis of the statutes appear in Appendix A, and the full, final contents of the analysis of the directives appear in Appendix B.

1. Federal Guidance

In selecting federal guidance documents for analysis in this thesis, a series of questions about the documents were used to determine the validity of each document. The subsections that follow very briefly describe the federal guidance documents and answer the following questions. Why was this guidance document selected? Why is this guidance document important to New Jersey law? What, specifically, from the guidance document is being used to analyze the individual statutes in the Act?

a. *The National Preparedness Goal*

The Goal, shown in Figure 5, focuses on building core capabilities across five mission areas (prevention, protection, mitigation, response, and recovery) to achieve the Goal.³⁶ The Goal requires including the whole community in each mission area. It also asks the community to determine the threats and hazards that pose the greatest risk and to build the capabilities and systems needed to combat those risks.³⁷

A secure and resilient Nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk.

Figure 5. The National Preparedness Goal.³⁸

An important distinction of the Goal is the shift of emphasis away from the traditional emergency management phases (preparedness, mitigation, response, and recovery) to a capabilities-based system. Capabilities fall into categories called mission areas. Phases of emergency management remain important; however, phases are discussed much more infrequently in federal guidance documents. The Act neither makes mention of the Goal nor mission areas.³⁹ However, Executive Order #101, Byrne (1980) states that the justification for making changes in 1980 was to cooperate with emergency policies of the federal government. Therefore, it seemed continued cooperation with the federal government would be implied.⁴⁰

The Goal identifies 32 core capabilities as essential for achieving the goal. The core capabilities are not written for or assigned to any specific agency but represent what

³⁶ Federal Emergency Management Agency, *The National Preparedness Goal*, 1.

³⁷ Federal Emergency Management Agency, 1.

³⁸ Source: Emergency Management Agency, 1.

³⁹ Federal Emergency Management Agency, 1.

⁴⁰ Byrne, "Executive Order No. 101."

is required from the whole community, and therefore, must be individually assigned or completed by the correct level of government, private sector, or volunteer organization.⁴¹

b. The National Preparedness System

The *National Preparedness System* details the methods, tools, and programs used to achieve the Goal. The methods, tools, and programs are designed to address assessment of risk faced by a community, evaluate current capabilities, and analyze gaps in those capabilities. The *National Preparedness System* details the steps necessary for planning to close the identified gaps in capabilities, and ultimately, deliver valid capabilities during incidents to “build, sustain, and deliver those core capabilities in order to achieve the goal of a secure and resilient Nation.”⁴² The *National Preparedness System* integrates with other FEMA programs like NIMS and the Homeland Security Exercise and Evaluation Program (HSEEP) and requires in-depth coordination with training programs.⁴³

The *National Preparedness System* stresses the inclusion of the whole community in each step of the process. The process includes risk assessment, planning, training, exercising, and the evaluation and improvement of plans, all of which help communities build capabilities. Further, the *National Preparedness System* encourages collaboration between various stakeholders to achieve the goal. These concepts are essential to emergency management in general and will be detailed in the significance to emergency management section later in this thesis. The Act, and perhaps more specifically, the NJOEM directives, should contain elements of these concepts, not only for federal guidance alignment, but also because of their significance to emergency management.

⁴¹ Federal Emergency Management Agency, *The National Preparedness Goal*, 1.

⁴² Federal Emergency Management Agency, *The National Preparedness System* (Washington, DC: Department of Homeland Security, 2011), 1, https://www.fema.gov/media-library-data/20130726-1828-25045-9792/national_preparedness_system_2011.pdf.

⁴³ Federal Emergency Management Agency, 1.

c. The National Incident Management System

NIMS is designed to help the nation work and communicate better before, during, and after emergencies and disasters have occurred. The goal of NIMS is to improve response to incidents by providing a common or interoperable language for responders to use to communicate by streamlining resource-sharing capabilities, and by encouraging the use of a formal, objectives-based management system.⁴⁴ The most applicable concepts from the latest revision of NIMS are flexibility, standardization, and unity of effort as they apply to the basic tenets of emergency management: save lives, stabilize the incident, and protect property and the environment.⁴⁵ The Act's structure gives enormous power to the governor, the county emergency management coordinator, and the municipal emergency management coordinator. However, flexibility within the Act's structure must also allow for all hazards and all threats. The Act was written during a period when perceived threats were few, but the spectrum has since grown significantly.

To remove complexity from the Act, to increase understanding, and to define roles and responsibilities better, standardization of language, structure, and mission are important to the analysis of the Act. Given the number of years the Act has been in existence, language and definitions have changed meaning. NIMS uses precise definitions for "deputy" and "assistant," for example, so the Act needs to be compatible with those definitions.

The NIMS concept of unity of effort is important to the analysis of the Act because the Act should consist of legislation that establishes the common effort or common objective described in NIMS.⁴⁶ The Act should guide all agencies, all levels of government, the private sector, and volunteer organizations when working together to achieve the priorities of NIMS: saving lives, stabilizing the incident, and protecting property and the environment.⁴⁷

⁴⁴ Federal Emergency Management Agency, *National Incident Management System*, 1.

⁴⁵ Federal Emergency Management Agency, 3.

⁴⁶ Federal Emergency Management Agency, 3.

⁴⁷ Federal Emergency Management Agency, 3.

The second pillar of NIMS is command and coordination.⁴⁸ This pillar is important to the analysis of the Act because of the nature of emergency management in New Jersey. Local resources handle the vast majority of incidents in the state. Local resources also receive assistance from mutual aid from other municipalities, or from county resources through previously established agreements. However, when events or circumstances exceed the capabilities of the local resources, emergency management begins to get involved in the response. The NIMS command and coordination component details “the systems, principles, and structures that provide a standard, national framework for incident management.”⁴⁹ These same systems, principles, and structures aid in providing the framework for incident management in New Jersey as well.

The third pillar of NIMS is communications and information management. The Act has been analyzed to determine whether it addresses the importance of information sharing and establishes the needed pathways of communication for making information sharing possible.⁵⁰

According to Andrew Jones and Andrew Kovacich, “NIMS provided the doctrine to enable command and control, align structures, define terminology, and specify operational protocols.”⁵¹ The details of NIMS guidance have changed several times since 1994 and will likely change again in coming years. In an effort to increase the longevity of changes to the Act, as much detailed NIMS guidance as possible should be contained in the NJOEM directives with only broad-based components captured in legislation to facilitate changes more quickly as the guidance changes.

⁴⁸ Federal Emergency Management Agency, 19.

⁴⁹ Federal Emergency Management Agency, 19.

⁵⁰ Federal Emergency Management Agency, 50.

⁵¹ Jones and Kovacich, *Emergency Management*, 178.

d. The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988

In Title I of the Stafford Act, Congress recognized the potential impact on people and communities, normal governmental function, and damage to or loss of property or income in the event of a disaster, no matter what the cause. Thus, in passing the Stafford Act, Congress standardized the way the federal government assists state and local governments before, during, and after a disaster has occurred. The Stafford Act, however, places responsibility to “alleviate the suffering and damage” from disasters squarely on state and local governments.⁵² Thus, the states, including units of local government, must work in partnership with the federal government.

The Stafford Act encourages and funds disaster preparedness programs, requires coordination between all levels of government, and encourages individuals and governments to be fully insured and to mitigate against threats. The most recognized application of the Stafford Act is the disaster relief and recovery programs for individuals and governments, or individual assistance and public assistance.⁵³ The Stafford Act builds the mechanism for state and local governments and individuals to receive public assistance, as outlined in Section 406 of the Stafford Act, or individual assistance, as outlined in Section 408 of the Stafford Act. It also enables funding through the Hazard Mitigation Grant Program (HMGP) as outlined in Section 404 of the Stafford Act, and Predisaster Mitigation Program (PDM) as outlined in Section 203 of the Stafford Act.⁵⁴

In 1994, Congress repealed the Federal Civil Defense Act of 1950 and moved the last remaining civil defense legislation to Title VI of the Stafford Act. Likewise, it lifted the restrictions for preparing solely for nuclear attacks, and FEMA began to prepare for all types of disasters, including the threat of terrorism.⁵⁵ The repeal of the Federal Civil

⁵² Robert T. Stafford Disaster Relief and Emergency Assistance Act, 1.

⁵³ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 1.

⁵⁴ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 1.

⁵⁵ Sylves, *Disaster Policy and Politics*, 78.

Defense Act of 1950 ended the use of the term civil defense in federal guidance documentation in favor of emergency management.

The Stafford Act details the process and procedure for a state or tribal government to request an emergency declaration or major disaster declaration from the President. Further, it specifies the recovery mechanisms that the President can put in place as a result of the declaration, as well as allowing for hazard mitigation funding to reduce the effects of future disasters. Failure to comply with the requirements of the Stafford Act could seriously jeopardize aid for a state or tribe in the event of a disaster. The statutes within the Act must allow New Jersey to gather the necessary information and take the appropriate actions before, during, and after a disaster, to be eligible for assistance from the federal government, and to receive a presidential emergency or major disaster declaration.

Title VI of the Stafford Act requires governments at the federal, state, and local levels to build and maintain a system of comprehensive emergency preparedness for all hazards.⁵⁶ The Stafford Act defines emergency preparedness as all actions taken to prepare for an incident, mitigate the effects of future incidents, “deal with the immediate emergency conditions” created by an incident by taking emergency protective measures, and then begin restoring vital critical infrastructure and services to stabilize an incident. This definition encompasses all the traditional phases of emergency management. The Stafford Act provides detailed descriptions of actions within each of the phases. Of particular interest to the analysis matrix is the requirement for emergency operations plans for each level of government. However, in addition to plans, the Stafford Act also requires personnel to be adequately trained and equipped to carry out the plans, and requires the plans be exercised and updated based on the outcome of the exercises.⁵⁷

Under the Stafford Act, state and local governments must develop and submit, for approval by the President, hazard mitigation plans that identify risks, hazards, and vulnerabilities. Mitigation plans must also include descriptions of prioritized projects that

⁵⁶ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 59.

⁵⁷ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 59.

could be completed if monies were allocated for funding the projects. The hazard mitigation plans require a coordinated effort on the parts of all levels of government to work together to submit plans worthy of approval by the President.⁵⁸

The Stafford Act is a pivotal piece of legislation for emergency management. Programs ranging from the presidential disaster declaration process to pre- and post-disaster and mitigation grant programs are incredibly important to state and local governments before, during, and after disasters. Modification to the Act or the NJOEM directives must fall within the guidelines of the Stafford Act to avoid a loss of future funding.

e. Emergency Planning and Community Right-to-Know Act of 1986

The EPCRA is federal legislation significant to all states and local governments, as well as the industry that uses, stores, or transports hazardous materials. The EPCRA came about in response to the horrific hazardous materials incident in Bhopal, India, in 1984, which caused the deaths of more than 2,000 people and injuries to many more.⁵⁹ The EPCRA requires states to form a SERC and allows the governor to designate an existing state emergency response agency as the SERC. The SERC is responsible for dividing the state into planning districts, appointing LEPCs, and establishing procedures regarding information access to the public.⁶⁰

Elected officials, first responders, public health officials, the media, the public, and facility operators comprise the LEPCs. Their primary purpose is to create emergency response plans appropriate to the community and the risks—based on the types and quantities of chemicals in the facilities—faced by the community. The EPCRA requires the emergency response plan to be reviewed by the LEPCs annually or more often if changes occur at facilities. Emergency response plans require the identification of the facilities and the materials in use, the coordination of response procedures for facility

⁵⁸ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 22.

⁵⁹ “What Is EPCRA?: Overviews,” Office of Land and Emergency Management, July 24, 2013, <https://www.epa.gov/epcra/what-epcra>.

⁶⁰ Emergency Planning and Community Right-to-Know Act of 1986, 7237.

personnel with community first responders, the designation of facility and community points of contact, methods for notifying the public of an incident or chemical release, and its impact on the community, evacuation plans, training of personnel on the details of the plan, and the execution of the plan.⁶¹

In New Jersey, the state director is a member of the SERC, the NJOEM is responsible for preparing a response to a facility, and the NJDEP is responsible for identifying and monitoring facilities governed by the provisions of the EPCRA. The SERC designated the planning districts in New Jersey along existing geopolitical borders and assigned the role of chairperson for the LEPC to the municipal EMC in each municipality. While many of the components of the emergency response plans (ERPs) and the EOPs are similar, the two plans are not the same and serve much different purposes.

ERPs are plans specific to hazardous materials facilities and detail such things as the types of hazardous materials used, stored in, or transported to and from those facilities. ERPs assign responsibilities to facility owners or operators and to community first responders. Further, ERPs require threat assessment and capabilities assessment for the community, evacuation routes, and training and exercise programs. EOPs, on the other hand, are written from an all-hazards perspective; in other words, they contain much more generalized information not solely focused on hazardous materials. The facilities with ERPs should be identified within the EOP; however, less detailed evacuation procedures are required for EOPs. The NJOEM recommends, and the New Jersey Office of the Attorney General (OAG) affirms, that ERPs and emergency operations plans are to be kept separate. The EPCRA requires ERPs to be available for public review in a controlled setting. Executive Order #21, McGreevey (2002), however, protects the contents of an emergency operations plan from public review and open public records act requests.⁶²

⁶¹ Emergency Planning and Community Right-to-Know Act of 1986, 7238.

⁶² James E. McGreevey, "Executive Order #21," State of New Jersey (July 8, 2002), <https://nj.gov/infobank/circular/eom21.shtml>.

The Act contains a statute titled, local emergency management council (App. A:9–41), which is very similar to the requirements for an LEPC as defined in the EPCRA. The NJOEM directives 102, 103, and 104 each have components of App. A:9–41 and the EPCRA; however, consistency and clarity is overly lacking. Any changes to reduce the complexities of planning should increase compliance with planning requirements. The EPCRA must be a consideration in the modification of the Act due to the strict requirements on communities for planning and preparing for hazardous materials incidents.

2. Recommendations from Reports Issued to the New Jersey Office of Emergency Management

Two reports have emphasized the weakness in the NJOEM’s guidance and procedures for municipal EMCs. The reports demand that the NJOEM take action to correct the issues found in municipal EOPs and certification of the plans to make them relevant for inclusion in the analysis matrix.

a. NTSB Report on Paulsboro Train Derailment

On November 20, 2012, less than one month after Hurricane Sandy made landfall in New Jersey, a hazardous materials incident occurred in a small southern New Jersey town. Seven railcars from a train derailed as the train crossed a moveable span bridge. Four of the seven derailed cars plunged into the creek below, and one car, partially submerged in the water, breached, and released approximately 20,000 gallons of vinyl chloride.⁶³ The local municipality responded poorly and needlessly exposed numerous first responders and nearby residents to the hazardous material. The NTSB made many recommendations to the various agencies involved, but the NTSB made specific recommendations to NJOEM.

At the time of the accident, the municipal EOP for that town had been more than two years overdue for an update. The NTSB report indicated that at least four municipalities in the state had plans in place lacking recertification in over four years.

⁶³ National Transportation Safety Board, *Conrail Freight Train Derailment*, viii.

Figure 6 shows the municipal EOP compliance rate at the time of the NTSB report. The NTSB report criticized the NJOEM’s policies and recertification procedures and stated the statistics indicated that numerous municipalities in the state were “likely unprepared for emergencies that could occur in their jurisdictions.”⁶⁴

Region	County	Number of Municipalities	Municipality Compliance Rate (%)
North	Bergen	70	83
	Essex	22	91
	Hudson	12	92
	Morris	39	77
	Passaic	16	75
	Sussex	24	79
	Warren	23	60
Central	Hunterdon	26	100
	Mercer	13	85
	Middlesex	25	80
	Monmouth	53	85
	Ocean	33	85
	Somerset	21	95
	Union	21	57
South	Atlantic	23	100
	Burlington	40	73
	Camden	37	95
	Cape May	16	100
	Cumberland	14	93
	Gloucester	24	79
	Salem	15	100

Figure 6. New Jersey Regions and Compliance Rate of EOP.⁶⁵

The NTSB report stressed the importance of planning for hazardous materials incidents by using a risk-based assessment for both hazardous materials facilities and transportation routes, then honestly assessing the communities’ response capabilities and identifying gaps in those capabilities so that regional and statewide response planning can occur. Interestingly, although much of the home rule issue stems from residents’ state of mind, especially in emergency planning situations, the report noted that home rule authority in New Jersey often contributes to poor regional and statewide planning. The report indicated municipal EOP hazardous materials annexes often do not go into depth

⁶⁴ National Transportation Safety Board, 51.

⁶⁵ Source: National Transportation Safety Board, 52.

about the true risks or give valid capability gaps. The importance of this type of planning is based on the fact that a local municipality will be on its own for some period of time at the beginning of an incident, and the EOP is “specific tangible evidence of being prepared.”⁶⁶

The report criticized NJOEM’s EOP certification process and stated the process failed to ensure communities accurately assess their risks, their capabilities, or their response gaps, and ultimately, that the process “fails to adequately provide for responses to releases of hazardous materials in transportation.”⁶⁷ According to the report, NJOEM must ensure its EOP approval and recertification procedures provide “adequate accountability, quality control measures, and audit methods to ensure that communities maintain accurate, appropriate, and current plans.”⁶⁸

b. New Jersey Office of the State Comptroller’s Report

The New Jersey OSC completed a review of NJOEM directives in September 2018. The review focused on municipal EOP compliance and examined the need for and value of an EOP to a municipality in preparing for and responding to a disaster. The OSC reviewed the format and certification procedures for municipal EOP compliance. It reaffirmed the NJOEM’s responsibility for “coordinating response and resources between state, county, and municipal” Offices of Emergency Management (OEMs) given by Executive Order #101, Byrne (1980), as a means of reducing risk to the citizens of New Jersey.⁶⁹

The OSC report highlighted the risk to the community at large and the first responders within the community but further emphasized the risk communities face in receiving federal pre- and post-disaster funding when non-compliant with EOP requirements. What began as a review searching for a solution to EOP compliance

⁶⁶ National Transportation Safety Board, 53.

⁶⁷ National Transportation Safety Board, 53.

⁶⁸ National Transportation Safety Board, 53.

⁶⁹ Degnan, *Statewide Emergency Management Plans*, 2.

morphed into an analysis of the root cause of non-compliance and an analysis of all NJOEM directives. The OSC report concluded with the following recommendations:

- Direct all municipalities to maintain a certified EOP.
- Form a working group to review and evaluate the EOP certification system.
- Review all NJOEM directives.
- Eliminate the residency restriction on municipal EMCs.
- Allow county OEMs to function as municipal EMC for smaller communities.
- Encourage shared service agreements to improve minimum efficient scale on municipal services.
- Publish a list of non-compliant municipalities.
- Withhold recovery grant funding from municipalities without certified EOPs.⁷⁰

The OSC review emphasizes the significance of disaster planning and preparation for all communities in New Jersey and places the burden of success and compliance on the NJOEM. The OSC recommends a coalition of stakeholders to review all the directives to produce more balanced results and greater ease of implementing suggested changes.

3. Significance to Emergency Management

Emergency management is the discipline that brings all other disciplines involved in disaster and crisis management around the table and is charged with building a

⁷⁰ Degnan, 5.

consensus and a shared vision for the community.⁷¹ This sharedness is no easy task and requires emergency managers to be well versed in many disciplines and have an understanding of the competing objectives and authorities of all the other agencies involved. No one discipline can possibly deal with all the many threats and hazards the residents of New Jersey are faced with, and emergency management is significant to the analysis of the Act and the NJOEM directives for this reason.

In 2007, a FEMA working group set out to develop a consensus on a description of the principles of emergency management. The working group constituted several emergency management practitioners from across the country. Accordingly, the group produced a list of eight principles important to emergency management along with some descriptive text. It also produced a consensus definition of emergency management, a vision for the future of emergency management, and a mission statement for emergency management, as shown in Figure 7. The agreed upon definition from this document forms the basis for how modern emergency managers approach their profession. The mission found in this document determines current practice and provides a straightforward direction emergency management should be taking in the United States.⁷²

⁷¹ Canton, *Emergency Management: Concepts and Strategies for Effective Programs*, 338.

⁷² Federal Emergency Management Agency, *Principles of Emergency Management Supplement*, 4.

Definition

Emergency management is the managerial function charged with creating the framework within which communities reduce vulnerability to hazards and cope with disasters.

Vision

Emergency management seeks to promote safer, less vulnerable communities with the capacity to cope with hazards and disasters.

Mission

Emergency management protects communities by coordinating and integrating all activities necessary to build, sustain, and improve the capability to mitigate against, prepare for, respond to, and recover from threatened or actual natural disasters, acts of terrorism, or other man-made disasters.

Figure 7. Definition, Vision, and Mission of Emergency Management.⁷³

The principles include the following:

- Comprehensive—emergency managers consider and take into account all hazards, all phases, all stakeholders, and all impacts relevant to disasters.
- Progressive—emergency managers anticipate future disasters and take preventive and preparatory measures to build disaster-resistant and disaster-resilient communities.
- Risk-driven—emergency managers use sound risk management principles (hazard identification, risk analysis, and impact analysis) in assigning priorities and resources.
- Integrated—emergency managers ensure unity of effort among all levels of government and all elements of the community.
- Collaborative—emergency managers create and sustain broad and sincere relationships among individuals and organizations to encourage trust, advocate a team atmosphere, build consensus, and facilitate communication.
- Coordinated—emergency managers synchronize the activities of all relevant stakeholders to achieve a common purpose.
- Flexible—emergency managers use creative and innovative approaches in solving disaster challenges.

⁷³ Source: Federal Management Agency, 4.

- Professional—emergency managers value a science and knowledge-based approach based on education, training, experience, ethical practice, public stewardship and continuous improvement.⁷⁴

The principles of emergency management and the mission of emergency management were significant drivers of the analysis of the Act.

Increasingly, emergency management has been moving away from centralized command and control structures to decentralized, collaborative networks built on the understanding that agencies working together in a coordinated manner can increase efficiency and effectiveness and be more responsive to the citizens represented. The decentralized nature of the structure lets the network be built from the bottom up.⁷⁵ These collaborative networks demonstrate additional principles of emergency management, including integration and flexibility, which are keys to the successful management of disasters.⁷⁶ The analysis of the Act focused on several of these crucial topics in emergency management. Although the Act is a state law and therefore central in structure that gives significant power to the governor, it also accommodates decentralized control of incidents and encourages, or in some cases requires, municipalities to build collaborative emergency management networks for all phases and mission areas of emergency management.

The requirement of the Act for all municipalities to appoint a municipal EMC and have an LEPC, which is, by definition, a collaborative network, builds the bottom-up framework for success in emergency management. The emergency powers granted to the municipal EMC to declare a state of emergency within its municipal borders gives local officials decision-making ability in disasters. However, if a municipality is facing an incident exceeding its capacity to manage or stabilize using regular municipal resources and mutual aid, then the EMC must interact with other collaborative networks. Network-

⁷⁴ Federal Emergency Management Agency, 4.

⁷⁵ Kapucu, Arslan, and Demiroz, “Collaborative Emergency Management and National Emergency Management Network,” 455.

⁷⁶ Kapucu, Arslan, and Demiroz, 455.

to-network interaction is the basis of mutual aid from one municipality to another, from a county to a municipality, from the state to a county, and from one state to another. Collaborative emergency management network interaction of this nature depends on the communication of accurate and timely situation assessment and information sharing between the networks at all levels of government.⁷⁷

As noted earlier, during the civil defense era, preparations focused exclusively on sheltering and evacuations related to a nuclear attack. Retired persons with military, police, or fire department experience with mostly tactical backgrounds generally filled the EMC positions, so planning and operations were tactical in nature. Modern emergency management is moving away from tactical planning and operations toward strategic planning focused on jurisdiction-wide network coordination.⁷⁸ Moreover, modern emergency management must be part of a community's "long-term vision" for the future and not merely address short-term response efforts after a disaster has happened. This long-term strategic approach incorporates traditional response and incident stabilization measures, but also heavily focuses on risk reduction against future disaster.

While the United States is not a signatory to the Sendai Framework for Disaster Risk Reduction 2015–2030 due to several issues related to technology transfer, mandatory aid requirements, and disenfranchisement of private sector partners, the United States does support the concept of disaster risk reduction.⁷⁹ One of the intended outcomes of the Sendai Framework is to "prevent and reduce hazard exposure and vulnerability to disaster, increase preparedness for response and recovery, and thus strengthen resilience."⁸⁰ Risk reduction is achieved through mitigation planning and

⁷⁷ Kapucu, Arslan, and Demiroz, 456.

⁷⁸ Canton, *Emergency Management: Concepts and Strategies for Effective Programs*, 65.

⁷⁹ "Explanation of Position of the United States for the Sendai Framework for Disaster Risk Reduction 2015–2030," U.S. Mission to International Organizations in Geneva, March 19, 2015, <https://geneva.usmission.gov/2015/03/19/sendai-framework-for-disaster-risk-reduction-2015-2030/>.

⁸⁰ United Nations, *Sendai Framework for Disaster Risk Reduction 2015–2030* (Geneva, Switzerland: United Nations Office for Disaster Risk Reduction, 2015), 12, https://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf.

projects, as well as building and sustaining a community to be more resilient after a disaster through smart reconstruction practices, economic recovery measures, and smart zoning practices.⁸¹

The civil defense era called for command and control of incidents and attempted to build structures and hierarchies to maintain control of incident planning and response.⁸² Incident response for local governments dictates the involvement of multiple agencies, many with varying degrees of statutory responsibility and authority for the incident that must work together with other agencies in a coordinated manner.⁸³ As discussed earlier, one of the main pillars of NIMS is command and coordination, not command and control. The nation is using NIMS to integrate resources from all agencies and all levels of government or the private sector to aid in a coordinated response to incidents, no matter the size or complexity.⁸⁴

In 2017, New Jersey answered the call for help from Puerto Rico after the territory was devastated by Hurricanes Irma and Maria. New Jersey deployed a multi-agency team through the Emergency Management Assistance Compact (EMAC) to aid in response and recovery efforts. The coordinated effort included personnel and equipment from agencies representing all levels of government in New Jersey; more than 30 different agencies functioned together under a single command structure and operated from one incident action plan (IAP). The statutes of the Act made this possible when Governor Christie issued Executive Order #233 to declare that a state of emergency existed for reasons of bringing the needed agencies together to work directly for the state director.⁸⁵ Governor Christie specifically referenced statute A:9-34 when he called on all agencies to provide personnel, assistance, and coordination to accomplish the mission to

⁸¹ Canton, *Emergency Management: Concepts and Strategies for Effective Programs*, 16.

⁸² Canton, 58.

⁸³ Canton, 58.

⁸⁴ Federal Emergency Management Agency, *National Incident Management System*, 19.

⁸⁵ Chris Christie, "Executive Order #233," State of New Jersey, September 29, 2017, <https://nj.gov/infobank/circular/eocc233.pdf>.

Puerto Rico.⁸⁶ Further, he specifically referenced statute A:9–40 when he wrote that “no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance or resolution that will or might in any way conflict with any of the provisions of this Order.”⁸⁷

The need for mechanisms to assess an incident rapidly is also of vital importance to emergency management. The mechanisms need to tap into established networks in the community to gain information from first responders and communication centers, as well as other whole community partners. The assessment mechanisms must include a vetting process to help determine the magnitude of the incident and to prioritize response. The results of the assessment must be communicated to those with strategic decision-making abilities, and be used to enact a plan to use available resources effectively to stabilize the incident or acquire the resources necessary to stabilize the incident.⁸⁸ Since agencies often have limited experience in dealing with disasters and cannot always recognize when an incident has grown to the scale of a disaster, the need for the rapid assessment, using a collaborative emergency management network, is vital to a community and must be part of crisis or emergency planning.⁸⁹ Conversely, state and county OEMs must also prioritize the resource and informational needs of the municipal OEMs and ensure they are sharing information vertically and horizontally to develop a clear situational assessment.⁹⁰

On one occasion, I received a call to respond to an incident involving the clamming industry in Southern New Jersey. A hospital in Pennsylvania indicated a patient seen three days earlier had injuries consistent with burns from mustard gas. The patient was a worker on a clamming vessel and had been exposed to mustard gas;

⁸⁶ New Jersey Civilian Defense and Disaster Control Act, A:9–34.

⁸⁷ Christie, “Executive Order #233”; New Jersey Civilian Defense and Disaster Control Act, A:9–40.

⁸⁸ Canton, *Emergency Management: Concepts and Strategies for Effective Programs*, 61.

⁸⁹ Canton, 58.

⁹⁰ Finland Ministry of Defense, *The Security Strategy for Society* (Lonnberg, Finland: Lonnberg Print, 2017), 16.

however, not much else was known with any degree of certainty about the incident. The possibility of mustard gas contamination within the food supply chain needed to be determined quickly before people consumed the clams.

The pertinent information was gathered and vetted for accuracy and notifications of the incident were made to the appropriate state and county agencies. A clamming vessel from New Jersey dredged several canisters of mustard gas from the ocean floor off the coast of New Jersey, and one of the crew members handling a canister was exposed to the contents, which caused burns. The likely contaminated clams were removed from the vessel in New Jersey, transported to Delaware by a tractor trailer, processed at a plant in Delaware, and were in transit to Massachusetts when the call was received. The incident was resolved by applying several of the principles of emergency management, and developing a collaborative emergency management network of stakeholders from two states and the U.S. Coast Guard. The collaborative network was able to account for all the clams, the involved tractor trailers, the processing plant, and the vessel; the efforts of this network ensured the integrity of the food supply chain and prevented the incident from becoming more significant.

This story provides an example of how the concepts and principles of an emergency stretch beyond the normal bounds of the other first response agencies and disciplines to solve problems that may not have clear solutions and do not fit neatly into any one specific discipline's area of responsibility. This example also illustrates the fact that incidents occur that have not been imagined or planned for and an all-hazard, problem-solving mindset, like that of a good emergency manager, is needed to resolve them.

B. APPLICATION OF THE ANALYSIS MATRIX

Speaking to all the emergency management professionals who contributed to this thesis revealed one remarkable and unexpected outcome. At some point during the discussion regarding the analysis matrix, several of the professionals spoke of finding a statute in the Act unknown to them that could have helped during an incident or disaster at some time during their careers. A member of the NJOEM Mitigation Unit was

surprised when he read A:9–51.2, which allows local governments the ability to restrict reconstruction of properties damaged during a disaster. He said the National Flood Insurance Program (NFIP) grants very similar powers. Therefore, he has never needed to advise any local governments on the use of the statute, but he also suggested keeping the statute in place as written.⁹¹

One county EMC indicated that he would have been able to apply statute A:9–51.5 if he had known it was in the Act. The statute allows access to private property to take emergency protective measures before, during, or after an incident. He said he frequently obtained assistance from the NJDEP under the County Environmental Health Act to enter properties in instances related to illegal dumping to take emergency protective measures.⁹² Another county EMC coordinator (retired) said he wished he would have known about statute A:9–51.5, which would have allowed him to take emergency protective measures on properties along the Delaware Bay to prevent flooding incidents.⁹³

The exercise uncovered a lack of familiarity with the contents of the Act prior to the respondents reading the copy of the Act and the draft analysis matrix provided to them. Although somewhat surprising given the experience level of this group of professionals, it is likely the configuration of the Act may be responsible for the lack of understanding. One respondent said the Act, in its current configuration, is a series of statutes being held together with “band-aids.”⁹⁴ Another echoed this sentiment by saying the Act has received “additions over the years due to incident specific events that may not pertain [to emergency management] ... and are unrealistic” in application.⁹⁵ The statutes do not flow logically from one subject to another for the most part, and therefore, gaining

⁹¹ Chris Testa, personal communication, September 2019.

⁹² Jeffery Pompper, personal communication, October 29, 2019.

⁹³ Joseph Sever, personal communication, October 29, 2019.

⁹⁴ Sinatra, personal communication.

⁹⁵ Michael Oppegard, personal communication, November 20, 2019.

a full grasp of the law without careful study and cross-reference for additional statutes regarding the same subjects proves quite difficult.

Several comments concerned the residency restrictions on a municipal coordinator. Most agreed the restrictions should be lifted to allow more qualified people to fill the role of municipal coordinator and thereby improve the quality of all aspects of emergency management in the state.⁹⁶ This suggestion seems to align perfectly with the main recommendation of the OSC report. However, the opportunity to expand the pool of candidates for the position of municipal coordinator already exists through a shared services agreement with a neighboring municipality or with the county office of emergency management, as evidenced by the possibility of entering into a shared services agreement found in A:9–40.1. Statute A:9–40.1, though, conflicts with Directive 102 regarding the rules governing shared service agreements as they relate to municipal coordinators. Based on the confusion and conflicting guidance, action must still be taken to reduce the complexity of this issue and provide useable solutions for municipalities. Regarding lifting the residency restrictions for municipal coordinators, most agreed on the need for options and flexibility in eligibility requirements; however, all agreed on the need for continued connection to the community and a representative for emergency management in each town.

The professionals from the county and municipal levels of government were also concerned about funding for emergency management, specifically unfunded mandates, and workmen’s compensation for volunteers performing emergency management duties before, during, or after an event.⁹⁷ The funding issue fell outside the scope of this thesis but does demand further research to bring clarity to the issue. Captain Sinatra answered the question of workmen’s compensation. New Jersey Statutes Title 34 Labor and Workmen’s Compensation, specifically 34:15–43—Compensation for Injury in the Line

⁹⁶ Sinatra, personal communication; Chuck Murtaugh, personal communication, November 18, 2019; Oppegaard, personal communication; Maryann Trommelen, personal communication, December 12, 2019.

⁹⁷ Pompper, personal communication; Sever, personal communication; Murtaugh, personal communication; Dennis McNulty, personal communication, November 18, 2019; Ray Evans, personal communication, November 19, 2019; Oppegaard, personal communication; Trommelen, personal communication.

of Duty—includes emergency management volunteers and supersedes App. A:9–57—App. A:9–57.27.⁹⁸

The final major issue of concern among the respondents was the Act’s lack of an enforcement mechanism. Two county coordinators referred to municipalities with expired EOPs several years old and their inability to punish the municipality except to send them an expiration letter.⁹⁹ One coordinator suggested withholding all state aid, including school funding, to municipalities that fail to comply with the requirements of the Act.¹⁰⁰ Another county coordinator suggested failing to submit a plan for certification should be sufficient cause for removal of the municipal coordinator by the state director.¹⁰¹ The New Jersey Domestic Security Preparedness Act, which was not a part of this research, has a significant enforcement statute, as does the New Jersey Fire Service Resource Emergency Deployment Act.¹⁰² Participants suggested adding similar language and enforcement mechanisms to the Act to mitigate this concern.

The analysis matrix in Appendix A summarizes the research, including the input from conversations with several emergency management professionals. Although the professionals had disagreements and conflicting views on some subjects, the final version synthesizes all data collected. Decisions regarding the categorization of statutes or directives, as well as recommended changes, came from the research found in this section.

⁹⁸ Sinatra, personal communication.

⁹⁹ Murtaugh, personal communication; Trommelen, personal communication.

¹⁰⁰ Murtaugh, personal communication.

¹⁰¹ Oppegaard, personal communication.

¹⁰² “New Jersey Domestic Security Preparedness Act,” New Jersey General and Permanent Statutes Appendix A Emergency and Temporary Acts § chap. 9 (2001), Office of Legislative Services, <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>; “Fire Service Resource Emergency Deployment Act,” New Jersey General and Permanent Statutes Title 52 § chap. 28 (2003), Office of Legislative Services, <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>.

The results of the application of the analysis matrix section identified three categories for each of the statutes of the Act: no changes, modifications needed, and repeal. Figure 8 shows the percentage of statutes in each category.

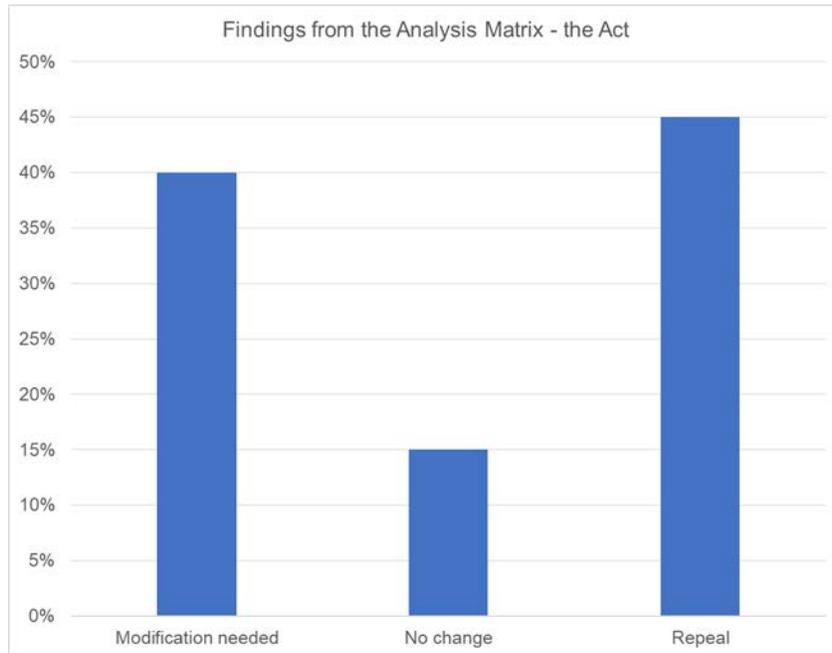


Figure 8. Findings from Analysis—Statutes

The results of the Application the Analysis Matrix section identified three categories for each of the directives: no changes, modifications needed, and repeal. Figure 9 shows the percentage of directives in each category.

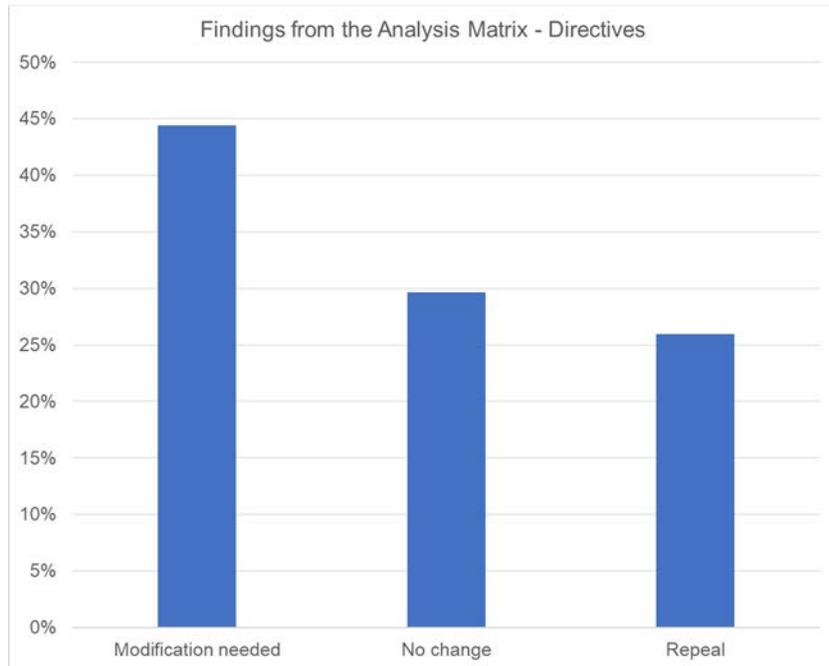


Figure 9. Findings from Analysis—Directives

1. No Change

Of the 100 statutes in the Act, 15 require no change. These 15 align with federal guidance, are significant to emergency management, or both, and require no modifications. The concepts addressed in the statutes vary but include the importance of communication of information between all levels of government, municipal cooperation with the state and federal government, and the compliance with grant requirements and mutual aid agreements. App. A:9–40.4 describes the duties of the municipal EMC. Although the statute needs no changes, the companion Directive 102 needs to be modified to include more details and to clarify roles and responsibilities.

Of the 27 directives issued by NJOEM, eight require no change. The eight directives are significant to emergency management or align with federal guidance or both, and require no modifications. Four of the eight directives deal directly with the auxiliary police program used in a small number of counties in the state. Although these are among some of the oldest directives, their content is still used and effective for the purposes served. Two of the eight directives were recently updated and therefore require

no change; Directive 51 was updated in 2016, and Directive 105 was updated in 2018. Directive 105 deals with the use of NIMS as a standard incident management system in the state, and although it was the most recently updated directive, it may require further modification due to recent updates to NIMS and ICS training.

2. Modifications Needed

Of the 100 statutes in the Act, 40 are categorized as modification needed. Seven statutes fail to align with federal guidance and yet remain significant to emergency management. Of the statutes that fail to align with federal guidance, modifications to definitions and compliance with NIMS and EPCRA concepts, as well as the removal of civil defense specific terms, are the only modifications needed. Making the statutes gender-neutral throughout is also required.

Several additional areas of importance stood out in this category:

- Modify statutes in the Act altered in content or meaning by Executive Order #101, Byrne (1980).
- Modify residency restrictions for municipal EMCs and align changes with Directive 102.
- Modify local emergency management council requirements to LEPC requirements of EPCRA.
- Modify statute A:9-42.2 to affirm the legal authority for county EMCs to declare a county state of emergency.
- Modify planning statutes to clarify roles and responsibilities across all levels of government, to remove complexity from the planning requirements, and to streamline the certification process, as well as make it more transparent while also protecting the integrity of the plans.
- Modify statutes to change civil defense terms to emergency management terms.

Of the 27 directives issued by NJOEM, 12 needed modifications. Of the 12, seven do not align with federal guidance and yet are significant to emergency management. Directives 100 and 102, respectively, deal directly with the county EMCs and municipal EMCs. These directives are very important, but require a great deal of modification to align with changes made in the Act: to address residency restrictions, to align with EOP and LEPC requirements, and to encourage collaborative emergency management network development. Directives 100 and 102, which detail the standards for county and municipal EMCs, need to be modified to align with Directive 61 that outlines the duties and powers of each coordinator. The differences are minimal but important and can cause confusion.

The Act creates a framework for emergency management to function, to an extent, within the description found in the Significance to Emergency Management section of this thesis. However, modification will improve performance, most notably at the municipal level. Incidents occur locally and are most often managed with local resources. The local resources may be augmented or supplemented with county, state, federal, private sector, or non-governmental organizations (NGOs), but ultimately, management of an incident is a local responsibility. This responsibility is reiterated in the literature and federal guidance, specifically the Stafford Act. Therefore, modifications to the statutes affecting the municipal EMC and other municipal emergency management programs should have the most dramatic effect on emergency management in New Jersey.

Prioritizing the suggested modifications to A:9–40.1 is a necessary first step to ensuring the traditional bottom-up approach for emergency management described by Sylves.¹⁰³ A municipal EMC or a shared coordinator must remain between two municipalities or the county OEM. However, other acceptable options exist. Ideally, a qualified municipal resident would be the first choice, but if not possible, then the hierarchy would be a county resident or full-time employee of the municipality. Based on the various intricacies of the geopolitical nature of New Jersey, possibilities exist to

¹⁰³ Sylves, *Disaster Policy and Politics*, 54.

extend the selection process outside the county to a contiguous county or municipality with a shared border to identify the most qualified candidate to fill the role of municipal EMC. These modifications satisfy the recommendations of the OSC.

Modifications to the qualifications of the coordinator and the subsequent continuing education requirements should help to ensure that the best candidate is selected for the position and further professionalize emergency management, as suggested in the Principles of Emergency Management. Conversely, modifications to A:9–40.2 would shift one responsibility of the Governor and empower the State Director of Emergency Management to remove a coordinator, with cause. Full agreement was not reached among the professionals regarding the shift in power to the state director. However, the state director needs more involvement in day-to-day operations and influence over emergency management in the state. This modification lessens political influence over the decision to remove a municipal EMC. Justification for this modification is obvious, A:9–42.1, without modification, already grants the state director the power to remove a county EMC for cause. Cause for removal of an EMC is not defined in the Act and does not necessarily need to be defined; however, the suggestion from one county EMC to consider failure to have a certified EOP as cause for removal is a reasonable suggestion.

Currently, conflict exists between the requirements for a local emergency management council, A:9–41, and the requirements for a local emergency planning committee, EPCRA. The conflict is easily correctible and should remove some complexity, as it relates to planning in the state. The two different requirements are virtually identical in content and purpose, and therefore, merging them into a single requirement is a seemingly obvious solution. Modification of A:9–41 to mirror the EPCRA provides the legal framework for developing a collaborative emergency management network, as described by Kapucu. The purpose of the LEPC as a collaborative emergency management network cannot be overstated. Modifications to A:9–41 must include minimum recommended membership in the LEPC, as well as minimum yearly meeting requirements. Specific details of the roles and responsibilities of the LEPC are to be captured in Directives 100, 102, 103, and 104, as appropriate. The

changes in the directives should detail the objectives of the LEPC, which must include the production of both an EOP and an ERP as necessary.

Modifications to A:9–41 and communicating the importance of the collaborative emergency management network is critical to correcting the EOP problems detailed in the NTSB report and the OSC report. The suggested modifications to A:9–43.2 and A:9–43.3, which address municipal EOPs, are generally minor. However, these three statutes need modification before corrective action can be taken to modify Directive 101. The suggested modifications for Directive 101 include making the planning checklist available for use by municipal EMCs. The current checklists were not analyzed as part of this thesis; however, they should be in the future. In addition to an analysis of the checklists, future attention should be afforded to municipal EOP template formats to ensure the plans produced are valid, reliable, and relevant to the municipalities and truly provide the “specific tangible evidence of being prepared” called for in the NTSB report.¹⁰⁴

The modifications to the three EOP statutes and Directive 101, as well as the development of meaningful checklists and templates, perhaps even enhanced with technological solutions, should lessen the challenges for municipal EMCs and increase compliance with EOP requirements. The missing piece of the solution is an enforcement mechanism. Three enforcement mechanisms were discussed during this research. The first would be to mirror the enforcement mechanisms found in the New Jersey Domestic Security Preparedness Act or the Fire Service Resource Deployment Act. The second would be to withhold state aid and recovery funding from municipalities without a certified EOP. And the third would be to remove the municipal EMC for failure to have a certified EOP. The OSC report suggests periodically notifying residents of municipalities without a certified EOP, which is not necessarily an enforcement mechanism, but may serve as a valuable tool for compliance.

The literature and federal guidance are in clear agreement that a key component of preparedness is a program to test the validity of plans by exercising the plans. This

¹⁰⁴ National Transportation Safety Board, *Conrail Freight Train Derailment*, 53.

thesis did not focus on gap analysis of the Act. It became clear as the research progressed however that no statutes in the Act are related to exercising or requiring municipalities to exercise. Statute A:9-40.4 describes the duties of the municipal EMC and is marked as no change required on the analysis matrix. This statute may be the appropriate statute to modify to include exercise requirements for municipalities. Directives 74, 99, 100, and 102 include exercise requirements and need modification. Several different federal guidance documents, including the *National Preparedness Goal*, the *National Preparedness System*, and the *National Incident Management System*, indicate that the inclusion of the whole community in exercising is of paramount importance to building a culture of preparedness. Modification to the exercise requirements in the various directives, therefore, must mandate and encourage the inclusion of the whole community in exercises.

3. Repeal

Of the 100 statutes in the Act, 45 were categorized as needing to be repealed. Eight of those statutes align with federal guidance and are significant to emergency management. Four statutes contain definitions, and all definitions should be moved to one location within the Act for clarity, A:9-33.1. The other four statutes contain information already covered in more detail in another statute of the Act. Of the 45 statutes in this category, two did not align with federal guidance, but were significant to emergency management. App. A:9-51.9 Payment of Claims out of Special Beach Erosion Fund should be repealed because the fund does not exist, and in consultation with the NJDEP, the fund could not be located as a line item in the state budget for decades. The other statute, App. A:9-58, is covered more thoroughly in A:9-37 and A:9-37.1.

Twenty-eight statutes, A:9-57—A:9-57.27, pertain to workmen's compensation benefits for civil defense volunteers. Workmen's compensation for volunteers is necessary; however, changes made to Title 34 of the New Jersey Statutes Annotated (NJSA) in 1995 superseded these statutes.

Of the 27 directives issued by the NJOEM, seven were categorized as repeal. Two of the seven were not located for an analysis in this thesis and have been essentially

repealed by history. Directive 68—Procedures for Reporting Crashed Enemy Aircraft and Personnel, and Directive 71—Protection Policy for New Jersey School Population, are both important in concept and were marked as significant to emergency management; however, the content of these directives requires so much revision that starting anew is warranted.

THIS PAGE INTENTIONALLY LEFT BLANK

IV. RECOMMENDATIONS AND IMPLEMENTATION STRATEGY

New Jersey has experienced numerous natural, technological, and man-made disasters over the years and has, for the most part, successfully prepared for, responded to, and recovered from those disasters. New Jersey has also taken steps to mitigate the effects of disaster through numerous projects designed to reduce the impact of future events. The Act has provided the foundation for all levels of government in New Jersey to accomplish this mitigation over the last 75 years and has helped to protect the health, safety, and welfare of the citizens of New Jersey. However, the profession of emergency management, the science behind mitigation, the organization and priorities of response, and the need and level of planning have all changed throughout the years. Thus, the Act needs significant revision to continue to be relevant and useful.

A. RECOMMENDATIONS

During a conversation on October 24, 2019, with Major Louis Bucchere (Commanding Officer of the Emergency Management Section, NJSP) regarding my analysis of the Act, he began reading the matrix, then stopped and said, “Why has [the Act] stood the test of time? How can we ensure changes [we suggest] will also stand the test of time?”¹⁰⁵ With these questions in mind, I make the following recommendations in an attempt to answer my research question.

The first set of recommendations requires no legislative action and can be implemented immediately by the NJOEM. The overall lack of familiarity with the Act and directives indicates the need to improve training. For training purposes, the statutes of the Act could be grouped more appropriately by subject or relation and presented within a course of study with the appropriate directives in a more logical manner. Revision of the NJOEM Basic Workshop in Emergency Management, a course required for all emergency managers in the state, or inclusion of these blocks of statutes and

¹⁰⁵ Louis Bucchere, personal communication, October 30, 2019.

related directives in future intermediate or advanced workshops, would increase the general knowledge of the Act and provide reference points for the emergency management community in the state.

Three apparent deficiencies of the Act have already been corrected by means other than legislative changes. The first are the changes made by the issuance of Executive Order #101, Byrne (1980). Executive Order #101 altered many of the questions of authority within the Act and changed civil defense terminology; however, for clarity and to avoid future confusion, those changes also should be captured in the legislation. The second is the failure of the Act to provide authority to county EMCs to declare a county state of emergency, despite clear authority given to the governor and to municipal EMCs. The problem has long been identified and Directive 61 grants the power to county EMCs, but this power should have also been codified in legislation. And lastly, the supersession of 28 statutes related to worker's compensation for emergency management volunteers need to be addressed. Title 34 of the NJSA has covered emergency management volunteers since 1995, yet the Act still contains these defunct statutes.

The statutes of the Act addressing EOP creation, development, certification, and improvement do not require significant changes. However, Directive 101—Rules and Regulations for the Development, Submission and Approval of Emergency Operations Plans—does require significant modification. The suggested changes to Directive 101, however, cannot be made in a vacuum because of the collective and interrelated nature of Directives 103 and 104, which establish the guidance for use of collaborative emergency management networks, or LEPCs. Collaborative emergency management networks are pivotal to proper planning and EOP development and are a requirement of the EPCRA. These areas must be changed collectively to improve planning guidance from the NJOEM, provide consistent templates and checklists, increase participation of the collaborative networks, and improve compliance with planning requirements. This area should be addressed more thoroughly in the future. A clear objective for the purpose and use of plans must be established to guide improvement in this area.

The addition of an enforcement mechanism for compliance not only with planning requirements but with all emergency management program requirements would help the NJOEM to ensure communities are prepared for disasters and are fulfilling their local obligations to protect the health, safety, and welfare of their citizens. Perhaps, more important than an enforcement mechanism would be a funding mechanism. The Act has programs, some of which are relatively new, that lack a funding mechanism, and therefore, are not delivered at any level of government.

Finally, the issue of residency for municipal EMCs must be addressed. The Act provides for the possibility of shared services for coordinators with neighboring municipalities and the county; however, this constraint narrows municipalities to only those options, when other options exist, and could provide a more robust emergency management program. All would agree that the person who holds the position of coordinator in a municipality should have strong ties to the community and ideally be a resident with the knowledge and experience to excel in the position. When the pool of candidates for the position however is too small given the population of the municipality, or for other reasons, then other options must be able to be considered. The options should be prioritized in the following order: municipal resident, county resident, full-time employee of the municipality, or contiguous county or municipality resident (shared border even if in another county). Nothing in this hierarchy would preclude a shared service agreement with a neighboring municipality or with the county; this flexibility simply provides more options.

Emergency management is often a complex profession that requires significant knowledge and experience in all mission areas. Many of the emergency managers in the state of New Jersey neither are full-time employees nor spend full days on emergency management. Many are volunteers or are appointed with very small stipends compared to the responsibilities and requirements of the position. The goal of this thesis was not to change the laws in New Jersey; it was to provide the least complex rules and regulations for emergency managers, especially the volunteers, at the local level, so that they can do their jobs with a better sense of responsibility to the community served, so they can understand why emergency management is essential, and so they have the tools needed to

be successful in providing for their communities. The detailed recommendations for specific changes to the Act and directives are found in Appendices A and B, respectively. The contents clearly show how emergency management in New Jersey can be modified by the comprehensive analysis of the Act and the directives.

B. STRATEGY FOR IMPLEMENTATION

The strategy for implementation of the recommendations began with the formulation of the coalition of professionals who contributed their time, knowledge, and experience. The iterative nature of developing the analysis matrix through the use of several emergency management professionals has given ownership to that entire group of people for some portion of this thesis. Not all the participants will agree with the final version of the analysis matrix or every recommendation of this thesis. They will however be able to identify their contributions to this effort. I do not believe the contents of the analysis matrix are final in any way. This process of iteration must be continued and broadened to a wider audience before final changes to the Act can be recommended to legislators, who ultimately have the power to change laws.

This thesis only analyzed the existing statutes of the Act and the existing NJOEM directives and made recommendations for modification. It did not analyze the Act or directives for missing items that must be added to fill gaps in the legislation, and it certainly did not solve the issues of emergency planning in the state. The coalition created to contribute to this thesis will help in those areas, but a wider coalition needs to be developed to address those concerns and likely many other concerns that have not yet been imagined.

The strategy for implementation includes the following actions:

- Increase the number of NJOEM personnel with a broader experience base to provide feedback on the analysis matrix.
- Increase the number of county EMCs to provide feedback on the analysis matrix.

- Increase the number of municipal EMCs to provide feedback on the analysis matrix.
- Expand the coalition to include members of the League of Municipalities, who represent elected officials at the municipal level.
- Identify state legislators who have an interest in emergency management to sponsor a new bill.
- Recommend the appropriate changes to the directives to the state director.

If all these steps happen and political will supports such change, then several other important strategic aspects must be considered. The communication of changes must be broadcast to the emergency management community. Such broadcasting will need to take shape in several ways. The NJOEM would have to train all personnel, internally, first to make personnel proficient with changes and also help to explain changes to others. Next, the county and municipal coordinators would need to be trained. The NJOEM Basic Workshop in Emergency Management course would need to be altered to include changes. Corrections to the public-facing NJOEM website would also need to be made. And finally, all other aspects of the emergency management program would need careful review to, at a minimum, note the legislative changes.

On the night Hurricane Irene made landfall in New Jersey, I distinctly remember the sound of wind and the force of rain as it hit my face in the near zero visibility conditions of the storm. These factors contributed to the two separate vehicles driving into a flooded roadway. After I saved one person from the flooded river, I swam back into the darkness in a hopeless search for the second person until I heard those tending my lifeline scream out to me that I could go no farther. There, in the thick canopy of a flooded forest river, all was calm and disturbingly quiet. I thought of all possibilities to search the vast darkness of water, but I knew, I was at the end of my rope.

I wrote this thesis to bring light and visibility to issues that have long been discussed in the emergency management community in New Jersey in the hopes that solutions can be found, networks can be developed, and problems can be solved

collaboratively that will benefit the citizens of the State of New Jersey. Although I know I will likely never swim down a flooded river again, my hope is that this thesis starts the needed conversations so that municipal EMCs never feel they are at the end of their rope.

APPENDIX A. ANALYSIS MATRIX—STATUTES

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–33. Purpose of Civilian Defense Act and Disaster Control Act	1953	State	Yes	No	Yes	No	Yes	Short title does not match title of act. References to civilian population and activities do not align with modern EM language. Statute is important because it gives the governor emergency powers.	Modification needed
App. A:9–33.1. Definitions	1953	State	No	No	Yes	No	Yes	Some of its definitions overlap. Add definition for incident (CPG101). Needs greater clarity for EOP and Directive improvement. Several statutes have definitions, but should be combined into a single statute. Remove “war emergency.” NIMS is the foundation for definitions in emergency management, specifically emergency. See line 14 for changes to local disaster emergency definition.	Modification needed
App. A:9–34. Emergency Powers of Governor	1953	State	Yes	No	Yes	No	Yes	Emergency powers of the governor vital to emergency management should not be diminished in any way. Language needs to align with A:9–33.1; change “avoid” to “prevent” and reflect current language regarding mission areas. Make the language gender neutral.	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–37. Civilian defense director; subordinate offices	1953	State	Yes	No	Yes	No	Yes	Executive Order 101, Byrne (1980) makes the recommended changes below. Civilian defense director should be the state director. The State Department of Defense is disbanded; reference to civil defense activities should be replaced with defined emergency management activities. A:9–43.8 is the only current statute to define “Director,” but does not use language of Executive Order 101 naming the Colonel of the State Police as the State Director of Emergency Management.	Modification needed
App. A:9–37.1. Duties of civilian defense director	1984	State	No	No	Yes	No	Yes	Civilian defense director should be state director; reference to chain of command is wrong; state disaster control director is not a position nor does the term appear anywhere else within the Act.	Modification needed
App. A:9–38. Deputies or assistants	1942	State	No	No	Yes	No	Yes	Use of deputies and assistant’s language should align with NIMS language referring to qualifications; however, NIMS has changed and the language of the law needs to last. Executive Order 101, Byrne (1980), grants the State Director of Emergency Management the authority to appoint deputies and assistants.	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–40. Co-operation by public officials	1953	State	Yes	Yes	Yes	No	Yes	Civilian defense director should be state director; similar to A:9–34; important to remove Home Rule questions. A:9–34 speaks more to the personnel and A:9–40 speaks to rule making, both of which are important. Add the requirement to follow all NJOEM directives issued by the State Director of Emergency Management.	Modification needed
App. A:9–40.1. Municipal emergency management coordinator	2013	Municipal	Yes	No	Yes	Yes	Yes	Remove reference to Home Study Course and replace with Basic Workshop in Emergency Management; State Director of Emergency Management. The OSC Report prioritized modifying the residency restriction on municipal emergency management coordinators. Options for municipal EMC should be tackled first, but also focused on the highest quality candidate: municipal resident, county resident, full-time employee of the township, or contiguous county/municipality resident. Emergency managers in the State are unaware of the shared services portion of the statute allowing municipalities to have service agreements with other municipalities or the county. Many people advocate for this	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
								option that exists in the statute. A:9–40.1 and Directive 102 conflict over the shared services agreement and must be aligned with one another. Shared plans rather than shared coordinators might be a better use. Since shared services are done in different ways in different places, configurations include one coordinator with two separate EOPs, and two separate municipal coordinators with one EOP.	
App. A:9–40.2. Removal of municipal emergency management coordinator	1989	Municipal	Yes	No	Yes	Yes	Yes	Change “Governor” to “State Director” throughout except in last sentence. The State Director needs more influence and control over day-to-day operations. The power to remove a municipal coordinator for cause without the Governor’s approval makes the State Director much more influential and reduces political influence when removal becomes necessary. The State Director already has the power to remove a county coordinator for cause (A:9–42.1 and Directive 100).	Modification needed
App. A:9–40.3. Deputy municipal disaster control director	1953	Municipal	No	No	Yes	Yes	Yes	“Disaster Control Director” should change to Emergency Management Coordinator; include NIMS-compatible language for deputy and allow for multiple deputies; statute should	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
								include section for removing a deputy. Numerous unanswered questions concerned the NJ Civil Service title for deputy emergency management coordinators; this research did not address this issue.	
App. A:9–40.5. Proclamation of state of local disaster emergency within municipality; powers coordinator	1989	Municipal	Yes	Yes	Yes	Yes	Yes	A:9–33.1 defines “local disaster emergency;” however, practitioners in the state do not use this language, making it confusing. Recent revisions of the NJOEM Basic Workshop in Emergency Management have clarified the usage as follows: the state - State of Emergency, the county—County State of Emergency, and for a municipality—municipal State of Emergency. Title language should be changed to match A:9–33.1; “Proclamation of a municipal state of emergency; powers coordinator.” Remove gender pronouns; change “resources” to “well-being.” Some respondents felt the statute should require municipal coordinators to consult with the mayor of their town before declaring a state of emergency, but NJOEM has long recommended, but not required this practice because some incidents require immediate	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/pepeal
								action and elected officials may not always be available.	
App. A:9–41. Local emergency management council	1989	Municipal	No	No	Yes	Yes	Yes	The Local Emergency Management Council Statute is almost identical to LEPC of EPCRA and used interchangeably in NJ and reflected in the latest NJOEM Basic Workshop course materials. This change removes confusion and duplication of effort and should be applied to this statute. Change “council” to “committee” throughout; add reference to LEPC; counties use the same planning structure and should be added to the language of the statute. The description of roles and responsibilities is inadequate. LEPC make up or membership should align with EOP planning committee and allow for Annex and ESF leads. Define the minimum meeting requirements.	Modification needed
App. A:9–42.1. County emergency management coordinator; appointment; term of office	1989	County	Yes	Yes	Yes	Yes	Yes	The statute should clarify the relationship between the State Director of Emergency Management and the county emergency management coordinator in terms of “supervision and control.” It is unclear whether this applies only to disaster or day-to-day operations.	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–421b. Filling of deputy emergency management coordinator position.	2008	County	Yes	No	Yes	Yes	Yes	Numbering concession is incorrect. NIMS-compatible use of the term “deputy.” Numerous unanswered questions concerned the NJ Civil Service title for deputy emergency management coordinators; this research did not address this issue.	Modification needed
App. A:9–42.2. Duties of county emergency management coordinator	1989	County	Yes	Yes	Yes	Yes	Yes	Remove “mutual aid;” add “the duty to declare a county state of emergency within all or part of their county as necessary.” This statute provides a good framework for the responsibilities of coordinator. More details should be added to Directive 100 to increase clarity of roles and responsibilities.	Modification needed
App. A:9:43–1. State Emergency Operations Plan.	2017	State	Yes	No	Yes	Yes	Yes	Statutes regarding EOPs overemphasize the Department of Agriculture and Health. The reference to A:9–43.2 removes responsibility from state department of health, putting evacuation planning on county and municipal EMCs. The reference to notifying the public is unnecessary given the much more detailed version in A:9–43.9.c. the inclusion of county and municipal requirements are included in a State focused statute. This statute needs more clearly defined roles and responsibilities for planning,	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/ repeal
								which will help alleviate confusion. To reduce confusion and create consistency, state EOP certification should be on a four-year certification cycle to match county and municipal EOP certification requirements.	
App. A:9–43.2. County, municipal written emergency operations plans; coordination.	2006	County	Yes	No	Yes	Yes	Yes	Municipalities should be able to enter into shared services agreements with other municipalities or the county, for municipal EOPs. a. (1)—clarify at what level of government planners are to consult (state, county, municipal Department of Agriculture; most municipalities and several counties do not have a Department of Agriculture. Department of Health must take a more active role in compliance with a. (2).c. should include language about compliance with Directives.	Modification needed
App. A:9–43.3. Guidelines for Emergency Operations Plans.	2000	County	Yes	No	Yes	Yes	Yes	Remove sentence regarding deputy chiefs and battalion chiefs responding to an incident to support command structure. Clarify the phrase regarding reviewing and updating plans every two years. Directive 101 states plans need to be re-certified every four years, but reviewed by the LEPC every year.	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–43.4. Approval by State Office of Emergency Management.	2010	State	Yes	No	Yes	Yes	Yes	No need to indicate the submission can be in an electronic format. Reword sentence regarding no plan taking effect without approval, because it is contradicted later when it is indicated that if NJOEM takes no action in 60 days, the plan takes effect.	Modification needed
App. A:9–43.9. Annual public awareness program.	2011	State	Yes	Yes	Yes	No	Yes	The specific details of the statute should be moved to a directive where changes in messaging, technology, or method can more easily be adjusted. Part c. wording is poor. Duplicate (in part) with A:9–43.1	Modification needed
App. A:9–43.10. Appointment of commission.	2011	State	Yes	No	Yes	No	Yes	Statute does not mention the Department of Education, yet using schools and evaluating future school construction for sheltering are concerns of the Department of Education. Department of Health and Senior Services’ name has changed to Department of Health. Change wording to match updated language for local disaster emergency. Language makes it sound as if a state of emergency must be declared to open a shelter. Questions created, not answered, about who does the evaluation and who is the commission? Does not address long-term housing.	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/repel
App. A:9–43.11. Duties of director.	2011	State	Yes	Yes	Yes	No	Yes	Change Director to State Director of Emergency Management.	Modification needed
App. A:9–43.12. Identification of critical infrastructures.	2011	State	Yes	No	Yes	No	Yes	Change Director to State Director of Emergency Management. Align with Directives 100 and 102 and add to a new Directive.	Modification needed
App. A:9–43.13. Central registry for residents with special needs.	2017	County	Yes	No	Yes	No	Yes	Unfunded public awareness program. Makes counties instead of municipalities responsible. Population of a municipality may be an important gauge to distinguish between municipalities that are required to have a registry and those that “may” have a registry. Some DAFN people don’t mind registering with local OEM, but do not want to be registered with the state.	Modification needed
App. A:9–43.14. Implementation of lane reversal strategy.	2011	State	Yes	No	Yes	No	Yes	Several other roadways in the State have lane reversal strategies in place, but the statute only lists the Atlantic City Expressway and the Garden State Parkway. Retain portions of this statute as a framework for lane reversal, but move the details to a new directive.	Modification needed
App. A:9–43.16. Findings, declarations relative to emergency preparedness.	2017	State	Yes	Yes	Yes	No	Yes	The contents of this statute exist throughout the Act. It serves no additional purpose. Section c emphasizes pieces found in EOP statutes. Check for possible language changes to those	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
								statutes. This is the purpose of hazard mitigation plans.	
App. A:9–43.17. Definitions; county storm preparedness funding program.	2017	State	Yes	No	Yes	No	Yes	Much of this statute’s requirements are already completed in state and county (which include each municipality) hazard mitigation plans. Definitions moved to A:9–33.1.b.(2) is unclear in terms of public damage or private damage or a combination. b.(3) agricultural disaster must be defined. b.(6) tasks the BPU with compiling data which may not be available or it may not be compelled to gather. b.(10) seems arbitrary and not possible to actually comply with for counties. A mechanism to fund the requirements of this statute does not exist. Sections b., c., and d. are not definitions.	Modification needed
App. A:9–43.19. Plan for issuance of Code Blue alert.	2017	County	Yes	Yes	Yes	No	Yes	Clarity is needed to define roles and responsibilities of county and municipal OEM, as it reads now, there is confusion.	Modification needed
App. A:9–43.20. Declaration of Code Blue alert.	2017	County	No	No	Yes	No	Yes	The statute begins with “A coordinator shall,” but it is unclear what level of government this references: county or municipal.	Modification needed
App. A:9–43.21. Review of weather forecasts.	2017	County	No	No	Yes	No	Yes	Similar confusion as above in reference to which coordinator (county or municipal) is responsible for the requirements	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/repel
								of this statute.	
App. A:9–44. Private civilian defense agencies to be approved	1953	State	Yes	No	Yes	No	Yes	This statute assumes government agencies completely manage disasters and discounts citizens helping citizens and emergent systems that appear in disaster. The Governor, State Director, County Coordinator, and/ or municipal coordinator need to know and manage these groups, but for some portion of the response, they will likely exist without official knowledge. This phenomenon should encourage more preplanning.	Modification needed
App. A:9–45. Orders, rules, and regulations; black-outs, air raids, etc.; posting	1989	State	Yes	Yes	Yes	No	Yes	Repeal the following sections: a., b., f., and g. Remove reference to “air raids and blackouts” from c., and change “civil defense” to “emergency management,” but retain. Change “civilian defense director” to “State Director of Emergency Management.” Remove requirement to send information or orders to the municipal clerk. Remove language regarding air raids in d. and e.	Modification needed
App. A:9–46. Reciprocal orders, rules, and regulations	1942	State	Yes	No	Yes	No	Yes	The language is vague concerning which states the reciprocal orders should apply to. Add New York, Pennsylvania, and Delaware.	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–48. Emergency commander	1989	State	Yes	No	Yes	No	Yes	The Governor already has this power and already has designated the State Director as the person to whom power is delegated during a state of emergency.	Modification needed
App. A:9–49. Violations as disorderly conduct; penalty; prosecution	1982	State	No	No	Yes	Yes	Yes	Repeal section d. Remove language about “air raid warden,” and “civilian protection worker” language from entire statute. Add directives issued by the State Director to section h. Extend authority to county and municipal OEM to enforce consultation with the State Director. Add section regarding following evacuation orders and recommend repeal of Directive 79.	Modification needed
App. A:9–59. Mutual aid agreements with other states	1951	State	Yes	No	Yes	No	Yes	Only the Governor can enter into state-to-state mutual aid agreements. EMAC is the current standard for state-to-state mutual aid during states of emergency.	Modification needed
App. A:9–60. Mutual aid agreements between political subdivisions	1951	State	Yes	No	Yes	No	No	Change Director of Civil Defense to State Director of Emergency Management. A current county-to-county mutual aid agreement in NJ exists through an MOU with no expiration date. Several counties and municipalities have current mutual aid agreements in other states.	Modification needed

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–61. Powers and duties of members of civil defense forces	1951	State	Yes	No	Yes	No	Yes	Change “civil defense” to “emergency management.”	Modification needed
App. A:9–62. Acceptance of services, equipment, supplies, or funds from Federal government	1951	State	Yes	No	Yes	No	Yes	Change “civil defense” to “emergency management.” Related to surplus property program.	Modification needed
App. A:9–63. Acceptance of services, equipment, supplies, or funds from individuals, firms or corporations	1951	State	Yes	No	Yes	No	Yes	Related to VOAD, NGO, and other volunteer programs. Change “civil defense” to “emergency management.”	Modification needed
App. A:9–35. Co-operation with state and federal authorities	1975	State	Yes	No	Yes	No	No	A comprehensive emergency management system requires cooperation between state and federal government. The federal guidance and literature for all phases and mission areas of emergency management reiterate this need.	No change
App. A:9–36. Information may be required	1942	State	Yes	Yes	Yes	No	No		No change

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–40.4. Duties of municipal emergency management coordinator	1989	Municipal	Yes	Yes	Yes	Yes	No	This statute provides a good framework for the responsibilities of coordinator. More details should be added to Directive 102 to increase clarity of roles and responsibilities.	No change
App. A:9–40.6. Aid in time of disaster or emergency	1989	Municipal	Yes	Yes	Yes	No	No		No change
App. A:9–43. Other local agencies or instrumentalities	1953	State	Yes	No	Yes	No	No		No change
App. A:9–43.5. Grants to municipalities, counties for development of Emergency Operations Plans	1989	State	Yes	Yes	Yes	No	No		No change
App. A:9–43.6. Technical assistance, planning grants to municipalities	1989	State	Yes	Yes	Yes	No	No		No change
App. A:9–50. Aiding or abetting violation	1942	State	No	No	No	No	No	Retain despite all noes.	No change
App. A:9–51.2. Prohibition by ordinance of construction or repair of buildings during emergency	1962	Municipal	Yes	No	Yes	No	No	NFIP has similar requirements that are used regularly for mitigation.	No change

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–51.3. Contents of ordinance; exceptions	1962	Municipal	Yes	No	Yes	No	No	NFIP has similar requirements that are used regularly for mitigation.	No change
App. A:9–51.4. Duration of ordinance	1962	Municipal	Yes	No	Yes	No	No		No change
App. A:9–51.5. Construction or repair of protective barriers in municipalities bordering Atlantic ocean or Delaware bay	1962	Municipal	Yes	No	Yes	No	No	The powers granted in this statute already exist in a municipal state of emergency. A state of emergency is declared is to take emergency protective measures; however, Executive Order 140, Christie (2013) specifically referenced this statute during response and recovery from Hurricane Sandy.	No change
App. A:9–51.6. Agreements with state or federal government; provisions	1962	Municipal	Yes	No	Yes	No	No	Statute gives permission for a municipality to enter into an agreement with the state or federal government to take emergency protective measures. Statute may be necessary to make formal agreements.	No change
App. A:9–51.7. Compensation for taking of property	1962	Municipal	Yes	No	Yes	No	No	Statute repeats that a property owner will be compensated for property taken during state of emergency. Important element of law.	No change
App. A:9–52. Liability for injury to persons or property.	2017	State	Yes	No	Yes	No	No		No change

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–42.1a. Coordinator appointed prior to Jan. 21, 1986, exception; term	1989	County	No	No	No	No	No	Repeal, unnecessary	Repeal
App. A:9–43.7. Emergency plans, electronic submission by certain entities permitted.	2010	State	No	Yes	No	Yes	Yes	Unnecessary to have a statute describing plan submission methods. Submission requirements are found in Directive 101. School plans are filed with the Department of Education. Hazard mitigation plan submission should be addressed.	Repeal
App. A:9–43.8. Definitions relative to coastal evacuation.	2011	State	Yes	No	Yes	No	Yes	Move all definitions to statute A:9–33.1. Director definition needs to align with actual usage. Special needs should be re-termed disability, access, and functional needs (DAFN). Long-term shelter of six months should be temporary housing.	Repeal
App. A:9–43.15. Definitions relative to emergency evacuation.	2013	State	Yes	No	Yes	No	Yes	Move to definitions to A:9–33.1. Change language from “emergency or local disaster emergency” to match A:9–33.1. Define service animals.	Repeal
App. A:9–43.18. Definitions relative to Code Blue alert plans.	2017	County	Yes	No	Yes	No	Yes	Move definitions to A:9–33.1.	Repeal

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/pepeal
App. A:9–45.1. Officers to perform duties in accordance with rules and regulations	1989	County	Yes	No	Yes	No	Yes	This statute seems repetitive and does not introduce anything new. Add language “and directives issued by the State Director” to the last sentence.	Repeal
App. A:9–47. Suspension of motor vehicle or other regulations	1953	State	Yes	No	Yes	Yes	Yes	The Governor has already been empowered to change or suspend regulations throughout the State during a state of emergency; additional statutes do not need to say the same thing. Remove references to air raids and blackouts.	Repeal
App. A:9–49.1. Towing, transportation of boats prohibited during emergency evacuations.	2011	State	Yes	No	Yes	No	Yes	This statute is nearly identical to A:9–43.14b. Further Title 39 (motor vehicle statutes) duplicates the language. One or both A:9 statutes should be repealed. Issue directive informing LE of the appropriate Title 39 violation to enforce as needed.	Repeal
App. A:9–51. Extraordinary emergencies; powers; compensation boards; proceedings for compensation	1989	State	Yes	Yes	No	No	Yes	Define “natural person.” a. and b. are very important; however, the details of those sections have already been covered in other statutes, A:9–33, and A:9–34 (in part). An emergency compensation board may or may not exist in counties, repeal: c., d., and e. No known use of a compensation board at any level in history of Act.	Repeal

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/repeal
App. A:9–51.1. Definitions	1962	State	Yes	No	Yes	No	Yes	Move definitions to A:9–33.1.	Repeal
App. A:9–51.8. Satisfaction of financial obligations; guarantee of bonds by county	1963	Municipal	No	No	No	No	Yes	This statute speaks only of how a municipality can acquire and repay a bond. While paying for emergency protective measures is certainly important and should be considered in emergency management, clear purchasing, bonding, and repayment rules are already in place which better cover this topic.	Repeal
App. A:9–51.9. Payment of claims out of Special Beach Erosion Fund	1962	State	No	No	Yes	No	Yes	The Department of Conservation and Economic Development has been renamed the Department of Environmental Protection. While DEP actively manages the coastline of NJ, the provision of this statute have largely been transferred to the U.S. Army Corps of Engineers. All emergency actions listed in the statute are still possible under a state of emergency. DEP reports they have no Special Beach Erosion Fund as a line item and cannot determine when or if this Fund has ever been used.	Repeal
App. A:9–53. Appropriations	1942	State	No	No	No	No	Yes	Statute written to shift money from one budget to another in 1942, no longer relevant.	Repeal

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/repeal
App. A:9–54. Term of person appointed by or with approval of Governor	1942	State	No	No	No	No	Yes	Contradicted by more recent and relevant statutes setting terms of appointment for the various positions and coordinators.	Repeal
App. A:9–55. Partial invalidity	1942	State	No	No	No	No	Yes	No parts of the Act have been deemed invalid since 1942, which would jeopardize any other portions of the Act.	Repeal
App. A:9–56. Repeal; local agencies approved by New Jersey Defense Council and rules of such Council continued	1942	State	No	No	No	No	No	The NJ Defense Council does not exist any longer.	Repeal
App. A:9–57. Effective date	1949	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15-7—34:15-48 and should be repealed.	Repeal
App. A:9–57.1. Definitions	1952	State	No	No	No	No	Yes	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15-7—34:15-48 and should be repealed.	Repeal
App. A:9–57.2. Benefits to civil defense volunteers	1995	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15-7—34:15-48 and should be repealed.	Repeal
App. A:9–57.3. Schedule of benefits	1969	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15-7—34:15-48 and should be repealed.	Repeal

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
App. A:9–57.4. Benefits unpaid at time of death	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.5. Minors deemed sui juris; labor law	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.6. Benefits not assignable; exemption	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.7. Persons entitled to benefits	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.8. Workmen’s compensation benefits preclude benefits hereunder	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.9. Notice of claim	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.10. Submission of notice of claim; contents	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.11. Physical examination of claimants	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/repeal
App. A:9–57.12. Refusal of claimant to accept proffered medical and surgical treatment	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.13. Proof of claim; forms	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.14. Process of claims; investigation of claims; rules and regulations; employees; payment of benefits	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.15. Special fund for civil defense volunteers	1995	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.16. Insurance or reinsurance	1995	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.17. Special fund the sole source for payment of benefits	1995	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.18. Reserves	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/pepeal
App. A:9–57.19. Expense of administering act	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.20. Reduction of benefits where United States furnishes benefits	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.21. Medical, surgical or hospital treatment furnished by United States precludes similar treatment under act	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.22. No benefits payable where United States will furnish equivalent benefits in absence of benefits under act	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.23. False statements or representations	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.24. Partial invalidity	1952	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal

Statute–Short title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/repeal
App. A:9–57.25. Civil defense forces of other states; powers, duties and privileges	1953	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.26. Emergency management volunteers and their dependents; disability, death, medical and hospital benefits	1989	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–57.27. Repeal	1953	State	No	No	No	No	No	Statutes A:9–57—A:9–57.27 have been superseded by NJSA 34:15–7—34:15–48 and should be repealed.	Repeal
App. A:9–58. “Director of Civil Defense” defined	1951	State	No	No	Yes	No	Yes	Director of Civil Defense should be changed to State Director of Emergency Management. Covered under A:9–37 and A:9–37.1 more thoroughly.	Repeal

APPENDIX B. ANALYSIS MATRIX—DIRECTIVES

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/repeal
28—Governor’s Proclamation on Auxiliary Police Powers	1986	State	No	No	Yes	No	Yes	The 1986 revision of Directive 28 references a 1954 Executive Proclamation issued by Governor Meyner authorizing use of auxiliary police during emergencies. It grants full police powers during emergencies and training for emergencies and grants all rights to auxiliary police as civil defense volunteers. The format of the Directive does not match the other Directives and essentially says see Executive Proclamation. The language of the Proclamation needs to be updated to reflect current language. Replace “Civil Defense Plan with Emergency Operations Plan,” and “State Civilian Defense Director” with “State Director of Emergency Management.”	Modification needed
33—Procedures in Requesting Aid as a Result of Fires	1981	Municipal	Yes	No	Yes	No	Yes	This directive needs to be cross-referenced with the Fire Service Resource Emergency Deployment Act. Local Fire Disaster Emergency should be Local State of Emergency and can only be declared by the municipal coordinator. Unknown when this directive was last updated, but it	Modification needed

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
								replaces a 1981 version. This directive is consistent with the Fire Service Resource Emergency Deployment Act. Interestingly, that act grants an Incident Commander the authority to declare a Local Fire Disaster Emergency, which then directs the local emergency management coordinator to activate the local EOP. The latter contradicts A:9–40.5, Directive 61, and Directive 102 in regard to who can declare an emergency in a municipality. A declaration is made to take some type of emergency protective measures, but the Act does not mention this, and no legal documents follow a fire official’s declaration. The Act then goes on to describe the local EMC’s functions, which are consistent with normal functions, leave the power to declare an emergency with the EMC. The Fire Service Resource Emergency Deployment Act has an excellent penalties and enforcement section.	
61—Duties and Powers for Municipal Emergency Management Coordinators and County	1986	County/ Municipal	Yes	No	Yes	Yes	Yes	“Local Disaster Emergency” should be changed to “Local State of Emergency” or “County State of Emergency,” as appropriate, for simplicity of language. This directive is very important to the County EMC because it allows him	Modification needed

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
Emergency Management Coordinators								or her to declare a County State of Emergency. This power is not in the Act.	
74—Approval of Emergency Management Exercises	?	State	No	No	Yes	No	Yes	The requirement to use the 95–44 form should be removed. The 95–44 form does not align with current EOP templates and therefore this requirement creates unnecessary confusion.	Modification needed
84—Damage Assessment Reporting Procedures	1975	State	Yes	No	Yes	No	Yes	Reference to the “Disaster Operations Field Manual” should be removed as this document is nearly impossible to locate, and is likely not located in any emergency operations plans, nor is the information accurate and reliable.	Modification needed
86—Use of New Jersey National Guard Armories in Disaster Situations	1986	State	Yes	Yes	Yes	No	No	It is unknown if National Guard Armories are still available for use during emergencies, this information should be updated regularly for shelter and operations planning purposes.	Modification needed
99—Rules and Regulations Concerning Expenditures for Radiological Emergency Response	2009	State	Yes	Yes	Yes	No	Yes	Significant typographical error from page one into page two.	Modification needed

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
100—Standards for County Emergency Management Coordinators	?	County	No	No	Yes	No	Yes	<p>This directive is very detailed and important; however, the large section of dated material needs to be revised. Replace “State Emergency Management Director” with “State Director of Emergency Management.” The State Director does not “exercise supervision and control” of county coordinators unless a State of Emergency has been declared. II. B. duplicates Directive 61. III C. and D. seem unnecessary and out of place in this document. IV. needs drastic revision; many of the required courses do not exist anymore. V.A. 3. update to reflect Emergency Management Agency Assistance (EMAA) grant program. 9. HICA/MYDP is not a current program, THIRA may be more appropriate. V.B. aligns with old EOP format for counties. The entire section needs to be updated to reflect current ESF formatting for county EOPs. See recommended changes in Directive 103 for cross-reference.</p>	Modification needed

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
101—Rules and Regulations for the Development, Submission and Approval of Emergency Operations Plans	1990	State	No	No	Yes	Yes	Yes	<p>This directive is of vital importance to emergency management, but needs drastic revision. The Emergency Management Act refers to the Civil Defense and Disaster Control Act that was renamed in 1989, although not customarily used as the name of the Act. This directive is dated 1990; however, footnotes reference changes made in a 1996 revision. This updating seems poor and potentially confusing to a reader; make the corrections and post the 1996 version of the directive. Several references throughout the directive detail the Region Office submitting a review letter, remove this. Numerous references to planning checklists means that these should be made available and perhaps included in the directive for easy reference.</p>	Modification needed
102—Standards of Municipal Emergency Management Coordinators	1990	Municipal	No	No	Yes	Yes	Yes	<p>Significant formatting issues in this directive may cause confusion for the reader. Residency requirements for municipal emergency management coordinators should be updated to allow options to recruit the best candidate for the assignment. II.B. repeats the contents of Directive 61, but not in exact form, which is confusing. The same information is also in the</p>	Modification needed

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
								Act. Condense this information into one directive. Residency and training sections need to be updated. In section V., some information appears to have been copied directly from Directive 100 and has language more appropriate for county EMC.V.B. lists the annexes needed by municipal coordinators and their EOPs; however, the checklist for EOPs uses letters not numbers for the naming convention and has additional annexes; this should be consistent. LEPC meeting recommendations and minimum requirements should be addressed in this Directive.	
103— Establishment of County Emergency Management Councils	1987	County	No	No	Yes	No	Yes	Should be re-titled Establishment of County Local Emergency Planning Committee to conform to EPCRA requirements. At the end of this directive, it states, “This Directive supplements Directive 100, Section V.” Change Directive 100, this is poor. Directive 100 Section V. needs to updated, but it is very lengthy, and it is unclear how this “supplements” that section in any way. Municipal local emergency planning committees are not addressed but are required to exist and to develop Emergency Response Plans (ERPs) for	Modification needed

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
								facilities in their community as per EPCRA.	
104—Joint Emergency Management Councils	1988	Municipal	No	No	Yes	Yes	Yes	Change title to “Joint Local Emergency Planning Committee.” Format differs from all other directives. Should allow for shared coordinators and deputies. Should not create a new position of “Executive Coordinator.” Although a good idea, it does not align with App. A:9–40.1, nor does it align with App. A:9–41. The planning section needs to expand and be more clear regarding expectations and align with App. A:9–43.2 recommendations.	Modification needed
30—Procedures for Training Auxiliary Policemen with Regular Police Forces	1986	State	No	No	Yes	No	No	Unable to locate the Civil Defense and Disaster Control Auxiliary Police Code.	No change
51—Development, Maintenance, Exercising and Management of Continuity of Operations Plans (COOPs) and the State Continuity of Government Plan (SCOG)	2016	State	Yes	Yes	Yes	No	No	No changes.	No change

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
73—Military Liaison with Emergency Management Agencies	1986	State	Yes	Yes	Yes	No	No	No changes.	No change
89—Frequency Allocations	1986	State	Yes	Yes	Yes	No	No	No changes.	No change
96—Mutual Aid Procedures—Auxiliary Police	1986	State	Yes	Yes	Yes	No	No	No changes.	No change
97—Residency Requirements—Auxiliary Police	1986	State	No	No	Yes	No	No	No changes.	No change
98—Auxiliary Police on-the-Job Training	1985	State	No	No	Yes	No	No	No changes.	No change
105—Required Use of the Incident Command System (ICS) as a Standard Incident Management System for Emergency Management	2018	State	Yes	Yes	Yes	No	No	Reference to Executive Order 50 (Codey, 2005)—the executive order needs to be updated to reflect changes to current NIMS guidelines.	No change
68—Procedures for Reporting Crashed Enemy Aircraft and Personnel	1986	State	No	No	Yes	No	Yes	Some procedures and contact information included in this directive must be confirmed. The crash of an enemy aircraft outside of a war would be difficult for a civilian, first responder, or EMC to determine and would likely prompt a response similar to any other	Repeal

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
								aircraft crash. A more likely scenario for these procedures to apply would be a terror- related incident, which would prompt a Federal law enforcement response. Significant updates needed.	
70—Identification and Movement of New Jersey Army and Air National Guard during Emergencies	?	?	?	?	?	?	?	Unable to locate a copy of this directive.	Repeal
71—Protection Policy for New Jersey School Population	1986	State	No	No	Yes	No	Yes	This directive is important, but needs to be completely rewritten. The threat spectrum to schools and school children is drastically different now and this directive should reflect the true and current spectrum. No one knows or uses the siren warning system referenced. The section on fallout shelters is likely inaccurate and definitely untested in recent decades. The focus on nuclear attack and sheltering needs to change. Communications need to be updated.	Repeal
77—Restricted Uses of Emergency Management (Civil Defense) Personnel, Insigne and Equipment	?	?	?	?	?	?	?	Unable to locate a copy of this directive.	Repeal

Directive—Title	Latest revision	State, County, Municipal	Aligns with federal guidance (Yes/No)	Aligns with reports issued to NJOEM (Yes/No)	Significant to emergency management (Yes/No)	Duplicated in statute and directive (Yes/No)	Language change needed (Yes/No)	Suggested change/comments	No change/modification needed/peal
79—Rule and Regulations—Citizens Duty to Evacuate	?	State	No	No	Yes	Yes	Yes	Language is confusing in places. Directive is unnecessary. While A:9–49 does not specifically mention evacuation, it does talk about following lawful orders during emergencies. App. A:9–49 needs modification, would suggest specifically adding evacuation language into the statute.	Repeal
94—Facility Deletions/Requests for Survey	1986	State	No	No	No	No	No	This is no longer a program or process in emergency management. Repeal	Repeal
95—Auxiliary Police Training—Firearms	1986	State	Yes	Yes	Yes	No	No	No changes.	Repeal

LIST OF REFERENCES

- Avery, Brett. "New Jersey and How It Got That Way." *New Jersey Monthly*, December 19, 2007. https://njmonthly.com/articles/towns-schools/new_jersey_and_how_it_got_that_way_november.
- Bruck, Andrew. "Overruled by Home Rule: Why the New Jersey Legislature's Latest Attempt to End the Waste, Corruption, and Inequality Created by Municipal Fragmentation Will Fail." *Seton Hall Legislative Journal* 32, no. 2 (March 2008): 1–46.
- Byrne, Brendan. "Executive Order No. 101." The New Jersey Digital Legal Library, December 17, 1980. <http://njlegallib.rutgers.edu/eo/docs/byrne/order101-/index.pdf>.
- Canton, Lucien G. *Emergency Management: Concepts and Strategies for Effective Programs*. Hoboken, NJ: Wiley-Interscience, 2007.
- Christie, Chris. "Executive Order #233." State of New Jersey (September 29, 2017). <https://nj.gov/infobank/circular/eocc233.pdf>.
- Corzine, Jon S. "Executive Order #132." State of New Jersey (March 3, 2009). <https://nj.gov/infobank/circular/eojsc132.htm>.
- Degnan, Philip J. "Statewide Emergency Management Plans." Official memorandum. Trenton, NJ: Office of the State Comptroller, 2018.
- Department of Education. "History of Funding Equity." State of New Jersey, March 2011. <https://www.state.nj.us/education/archive/abbotts/chrono/>.
- Federal Emergency Management Agency. *National Incident Management System*. Washington, DC: Department of Homeland Security, 2017. https://www.fema.gov/media-library-data/1508151197225-ced8c60378c3936adb92c1a3ee6f6564/FINAL_NIMS_2017.pdf.
- . *Principles of Emergency Management Supplement*. Emmitsburg, MD: Federal Emergency Management Agency, 2007. https://www.fema.gov/media-library-data/20130726-1822-25045-7625/principles_of_emergency_management.pdf.
- . *The National Preparedness Goal*. 2nd ed. Washington, DC: Department of Homeland Security, 2015. https://www.fema.gov/media-library-data/1443799615171-2aae90be55041740f97e8532fc680d40/National_Preparedness_Goal_2nd_Edition.pdf.

- . *The National Preparedness System*. Washington, DC: Department of Homeland Security, 2011. https://www.fema.gov/media-library-data/20130726-1828-25045-9792/national_preparedness_system_2011.pdf.
- Finland Ministry of Defense. *The Security Strategy for Society*. Lonnberg, Finland: Lonnberg Print, 2017.
- Holmes, Robert C. “The Clash of Home Rule and Affordable Housing: The Mount Laurel Story Continues.” *Connecticut Public Interest Law Journal* 12, no. 2 (2013): 325–360.
- Jones, Andrew, and Andrew Kovacich. *Emergency Management: The American Experience 1900–2010*, ed. Claire B. Rubin. 2nd ed. New York: Routledge, 2012. <https://doi.org/10.1201/b11887>.
- Kapucu, Naim, Tolga Arslan, and Fatih Demiroz. “Collaborative Emergency Management and National Emergency Management Network.” *Disaster Prevention and Management: An International Journal* 19, no. 4 (August 2011): 452–68. <https://doi.org/10.1108/09653561011070376>.
- Kapucu, Naim, Tolga Arslan, and Matthew Lloyd Collins. “Examining Intergovernmental and Interorganizational Response to Catastrophic Disasters: Toward a Network-Centered Approach.” *Administration & Society* 42, no. 2 (April 2010): 222–47. <https://doi.org/10.1177/0095399710362517>.
- Keevey, Richard. “New Jersey’s Laws and Fiscal Safeguards Make Municipal Bankruptcy Unlikely.” *NJ Spotlight*, October 28, 2013. <http://www.njspotlight.com/stories/13/10/19/new-jersey-s-laws-and-fiscal-safeguards-make-municipal-bankruptcy-unlikely/>.
- LexisNexis. “South Burlington County NAACP v. Mt. Laurel.” Law School Case Brief, 1975. <http://www.lexisnexis.com/community/casebrief/p/casebrief-s-burlington-county-naacp-v-mt-laurel>.
- McGreevey, James E. “Executive Order #21.” State of New Jersey (July 8, 2002). <https://nj.gov/infobank/circular/eom21.shtml>.
- . “Executive Order #138.” State of New Jersey (October 12, 2004). <https://nj.gov/infobank/circular/eom138.htm>.
- National Transportation Safety Board. *Conrail Freight Train Derailment with Vinyl Chloride Release Paulsboro, New Jersey November 30, 2012*. NTSB/RAR-14/01. Washington, DC: Department of Transportation, 2014. https://www.nj.gov/dca/divisions/dfs/pdf/paulsboro_vinyl_chloride_rpt_by_ntsb.pdf.

- New Jersey Legislature. *New Jersey Legislative Index*. Somerville, NJ: Legislative Index of New Jersey, Inc., 1942.
- Office of Land and Emergency Management. “What Is EPCRA?: Overviews.” July 24, 2013. <https://www.epa.gov/epcra/what-epcra>.
- ReadyNJ. “The History of NJOEM.” Accessed October 11, 2019. <http://ready.nj.gov/about-us/history.shtml>.
- Reock, Ernest C., Jr., and Raymond D. Bodnar. *The Changing Structure of New Jersey Municipal Government*. Trenton, NJ: State of New Jersey County and Municipal Government Study Commission, 1985.
- Richardson, Jesse J. “Dillon’s Rule Is from Mars, Home Rule Is from Venus: Local Government Autonomy and the Rules of Statutory Construction.” *Publius: The Journal of Federalism* 41, no. 4 (October 2011): 662–685. <https://doi.org/10.1093/publius/pjr030>.
- Rutgers Center for Government Services. *Forms of New Jersey Government in Use as of July 1, 2011*. New Brunswick, NJ: Rutgers Center for Government Services, 2011.
- Sunday Times-Advertiser, Trenton N.J.* “U-Boat Strategy Seeks to Force Wide Dispersion of American Defenses.” May 17, 1942.
- Sylves, Richard Terry. *Disaster Policy and Politics: Emergency Management and Homeland Security*. 2nd ed. Washington, DC: CQ Press, 2015.
- Trenton Evening Times*. “Time to Stick Together.” May 5, 1942.
- Trenton Sunday Times-Advertiser*. “Civilian Volunteers Needed for Trenton Defense.” July 5, 1942.
- U.S. Mission to International Organizations in Geneva. “Explanation of Position of the United States for the Sendai Framework for Disaster Risk Reduction 2015–2030.” March 19, 2015. <https://geneva.usmission.gov/2015/03/19/sendai-framework-for-disaster-risk-reduction-2015-2030/>.
- United Nations. *Sendai Framework for Disaster Risk Reduction 2015–2030*. Geneva, Switzerland: United Nations Office for Disaster Risk Reduction, 2015. https://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf.
- Urby, Heriberto, and David A. McEntire. “Applying Public Administration in Emergency Management: The Importance of Integrating Management into Disaster Education.” *Journal of Homeland Security and Emergency Management* 11, no. 1 (January 5, 2013): 39–60. <https://doi.org/10.1515/jhsem-2013-0060>.

Whitman, Christine T. "Executive Order #12." State of New Jersey (March 25, 1994).
<https://nj.gov/infobank/circular/eow12.htm>.

INITIAL DISTRIBUTION LIST

1. Defense Technical Information Center
Ft. Belvoir, Virginia
2. Dudley Knox Library
Naval Postgraduate School
Monterey, California