

## **SUMMARY OF ENABLING LEGISLATION**

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Listed below are some of the legal authorities under which North Carolina Emergency Management (NCEM) functions. Generally, Chapter 166A of the North Carolina General Statutes, the North Carolina Emergency Management Act, provides the authority and responsibility of the Governor, State agencies, and local governments to plan, maintain and implement for all aspects of the State's emergency management program. Executive orders issued by the Governor for when the State is threatened or impacted by an emergency or disaster activate the plan and authorizes specific emergency response actions. In addition, NCEM operates under numerous formal and informal planning guidance documents issued by various federal agencies. Due to their number and complexity, these are only summarized below and is not an exhaustive list of emergency authorities. In the future, changing federal regulations, especially as concerns hazardous substance releases, will continue to prescribe conditions under which emergency management will function.

### **1. NORTH CAROLINA GENERAL STATUTES**

#### **A. Chapter 166A as amended**

Chapter 166A titled the North Carolina Emergency Management Act, sets forth the authority and responsibilities of the Governor, State agencies, and local government for emergency management in North Carolina. Under N.C. Gen. Stat. § 166A-19.11, the Secretary of the Department of Public Safety is made responsible to the Governor for all state emergency management activities. Pursuant to the duties enumerated in N.C. Gen. Stat. § 166A-19.12 the North Carolina Division of Emergency Management fulfills this role for the Governor and the Secretary.

#### **B. Chapter 166A, Article 1A, Part 1 N.C. Gen. Stat. § 166A-19.3(18)**

The State Emergency Response Team (SERT) is defined in this subsection. The team is the representative group of State personnel designated to carry out the emergency management support functions. The Director of the Division of Emergency Management is the leader of the SERT.

#### **C. Chapter 143B, Article 1, Part 1, N.C. Gen. Stat. § 143B-602**

N.C. Gen. Stat. § 143B-602 establishes the Secretary of the Department of Public Safety as the "chief coordinating officer for the state" for interagency involvement when responding to emergencies and disasters. The Secretary has delegated this role to North Carolina Emergency Management.

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**D. Chapter 166A, Article 1A, Part 1, N.C. Gen. Stat. § § 166A-19.3(6) and Part 4, 166A-19.20**

N.C. Gen. Stat. § 166A-19.3(6) defines the term "Emergency" which is an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber-incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident. An emergency may also be caused by a disruption in the supply chain that creates a significant threat to a local government's ability to acquire products or services required to provide essential services such as electricity and water to the populace or required to restore such essential services in the event of widespread or severe damage to the local government system used to provide such essential services.

N.C. Gen. Stat § 166A-19.20 defines a state of emergency is a gubernatorial or legislative finding that an emergency exists.

**E. Chapter 147, Article 3A, N.C. Gen. Stat. §147-33.2**

N.C. Gen. Stat. § 147-33.2 defines the emergency war powers of the Governor for defense, mobilization, rationing, etc. Emergency Management formulates and executes the plans and procedures required by this statute.

**F. Chapter 143, Article 21, Part 6 (County)**

These sections of the North Carolina General Statutes provide the authority to local governments to adopt floodway regulations. The National Flood Insurance Program (NFIP) in North Carolina is administered by North Carolina Emergency Management. Local building ordinances for those communities participating in the program must comply with federal regulations.

**G. Chapter 160D**

These sections enable local governments to establish zoning regulations. This allows communities to define construction in identified floodways, and thereby comply with NFIP regulations.

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**H. Chapter 143, Article 21, Part 6A (County)**

These sections give local governments the authority to make assessments for flood and hurricane protection works. Pre and post disaster hazard mitigation are the responsibility of emergency management.

**I. Chapter 160A, Article 8 (Municipal); Chapter 153A, Article 6 (County)**

These sections provide for the delegation and exercise of police powers to local and county governments, thereby enabling emergency protective actions to be implemented during an emergency. NCEM is responsible for developing model local ordinances for adoption by local elected officials.

**J. Chapter 143B, Article 13, Part 5, Subpart B N.C. Gen. Stat. § 143B-1010**

This General Statute establishes the North Carolina Center for Missing Persons within the Department of Public Safety.

**K. Chapter 14, Article 36A, N.C. Gen. Stat. § § 14-288.1 - 14-288.20**

§ 14-288.1-20 gives the legal parameters for dealing with riots and civil disorders.

**L. Chapter 115C, Article 17**

§ 115C-242(6) mandates the use of school buses for emergency management purposes in any state of disaster or local emergency. NCEM coordinates the use of school buses throughout the state in the event of an emergency.

**M. Chapter 15A-300.1**

Emergency Management Exception. This section allows an emergency management agency, as defined in G.S. 166A-19.3, the use unmanned aircraft systems for all functions and activities related to emergency management, including incident command, area reconnaissance, search and rescue, preliminary damage assessment, hazard risk management, and floodplain mapping.

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**2. FEDERAL LAWS AND DIRECTIVES**

**A. The Robert T. Stafford Disaster Relief and Emergency Assistance Act  
Public Law 93-288, as amended**

The Stafford Act is the primary Federal disaster relief legislation, which allows for Federal response and enables grant assistance to be given to individuals and public entities in the event of a major disaster declaration by the President. All grant assistance from the Federal government is administered by NCEM.

**B. Disaster Mitigation Act of 2000**

The Disaster Mitigation Act amended the Stafford Act and requires hazard mitigation plans as a pre-requisite for certain kinds of non-emergency disaster assistance. The Disaster Mitigation Act of 2000 also created the Pre-Disaster Mitigation Program and added incentives for states deemed “enhanced” who demonstrate increased coordination and integration of mitigation activities.

**C. The Homeland Security Act of 2002, Public Law 107-296, as amended**

The Department of Homeland Security with primary missions to prevent terrorist attacks, reduce the vulnerability of the US to terrorism at home. The agency also houses the Federal Emergency Management Agency and is the lead Federal agency for natural and manmade emergencies and disasters.

**D. Title VI of P.L. 109-295 (H.R. 5441), the Post-Katrina Emergency  
Management Reform Act of 2006**

Enacted after Hurricane Katrina, PKEMRA significantly reorganized FEMA, provided it substantial new authority to remedy gaps in response, and included a more robust preparedness mission for FEMA. This act:

- Establishes a Disability Coordinator and develops guidelines to accommodate individuals with disabilities;
- Establishes the National Emergency Family Registry and Locator System to reunify separated family members;
- Coordinates and supports precautionary evacuations and recovery efforts;
- Provides transportation assistance for relocating and returning individuals displaced from their residences in a major disaster; and

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- Provides case management assistance to identify and address unmet needs of survivors of major disasters.

**E. Public Law 109-308 (Pub.L. 109-308), H.R. 3858 (109<sup>th</sup>): Pets Evacuation and Transportation Standards Act of 2006**

This Act amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that state and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

**F. Public Law 113-2 ([Pub.L. 113-2](#), [H.R. 152](#), 127 [Stat. 4](#), enacted January 29, 2013), containing Division A: Disaster Relief Appropriations Act, 2013 and Division B: Sandy Recovery Improvement Act of 2013**

The Sandy Recovery Improvement Act made changes in how FEMA delivers disaster relief, including changes in PA and other programs.

**G. Public Law 115-254 ([Pub.L. 115-254](#)), enacted October 5, 2018, the Disaster Recovery Reform Act of 2018.**

The [Disaster Recovery Reform Act of 2018](#) contains 56 distinct provisions that require FEMA policy or regulation changes for full implementation, as they amend the [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#).

**H. Defense Production Act of 1950, as Amended.**

The Defense Production Act is the primary source of presidential authorities to expedite and expand the supply of materials and services from the U.S. industrial base needed to promote the national defense. DPA authorities are available to support: emergency preparedness activities conducted pursuant to title VI of the Stafford Act; protection or restoration of critical infrastructure; and efforts to prevent, reduce vulnerability to, minimize damage from, and recover from acts of terrorism within the United States.

**I. Code of Federal Regulations Title 44, Emergency Management and Assistance**

The implementing regulations for the Stafford Act.

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**J. Code of Federal Regulations Title 2, Part 200 Uniform Administrative Requirements**

**K. Presidential Policy Directive / PPD-8: National Preparedness**  
PPD-8 replaces Homeland Security Presidential Directive (HSPD)-8 and Annex I and identifies the strategic and tactical initiatives necessary to enhance the entire nation's security and resiliency capacities. Various Nationwide deliverables are a product of PPD-8 and include the National Preparedness Goal which identifies the 31 Core Capabilities, National Preparedness System, and National Planning Frameworks for each of the 5 mission areas that include Interagency Operational Plans.

**L. Other Federal Laws and Regulations**

There are many other laws related to Public Health and Security, Flood Control and Coastal Emergencies, Hazardous Materials, Nuclear Materials, Infrastructure protection, fire protection and control, Environmental Protections and more.