

Legal Issues in Hurricanes and Other Disasters

38th Annual NC Health Directors'
Legal Conference

April 17, 2019



UNC

SCHOOL OF GOVERNMENT

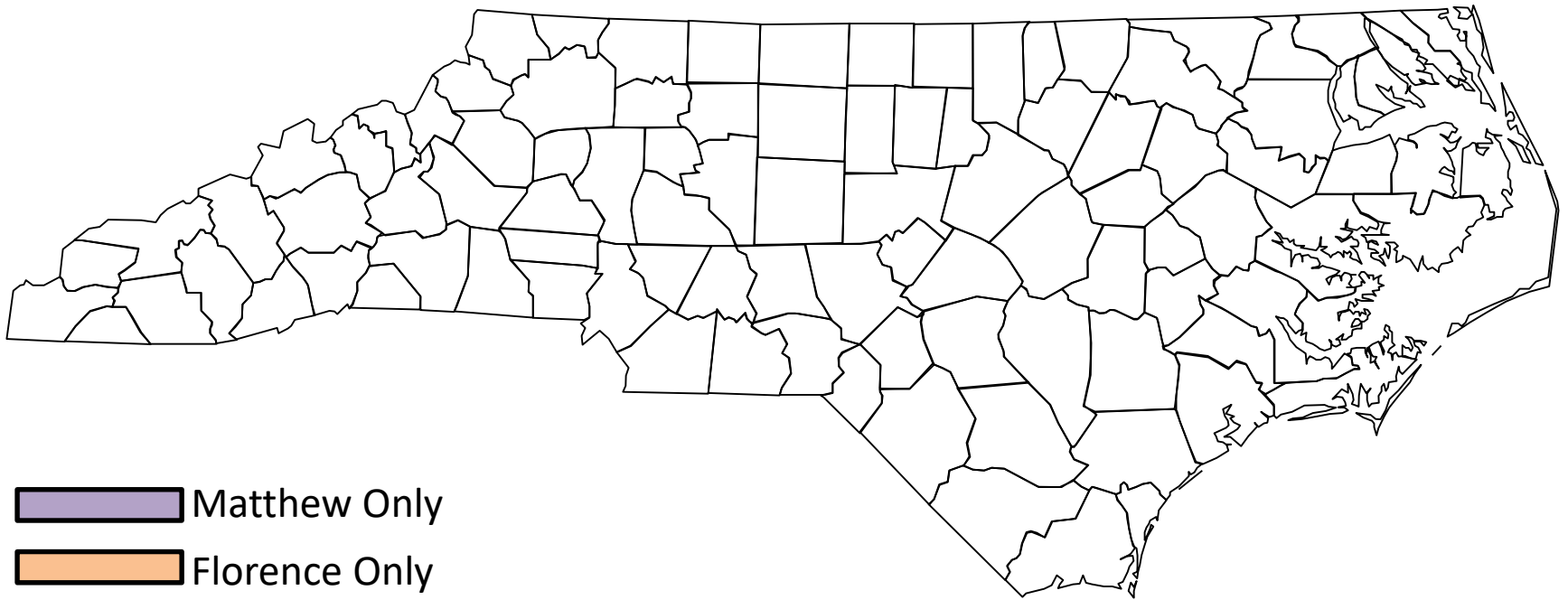
No One Is Immune From Disasters!



State of North Carolina

Cross-Sectional Display of Counties

Impacted by Hurricane Matthew, Hurricane Florence, and TS Michael



Total Counties Under Presidential Disaster Declaration:

Hurricane Matthew: 50

Hurricane Florence: 52

Tropical Storm Michael: 21

75 of 100 Counties impacted between 2016-2018

Source: NC Division of Emergency Management

Long-Term Recovery is Challenging



Fiscal Drain



Staff Capacity



Multiple Funding Sources



Public Expectations



EMERGENCY SHELTER ISSUES



Trigger Events

- Evacuations – impacts on receiving areas
- Hurricanes
- Flash flooding
- Wildfires
- Mudslides & rockslides
- Sustained power outages in severe weather
- Others?

Do You Have A Plan?

Have You Exercised the Plan?

Little Guidance in Statutes

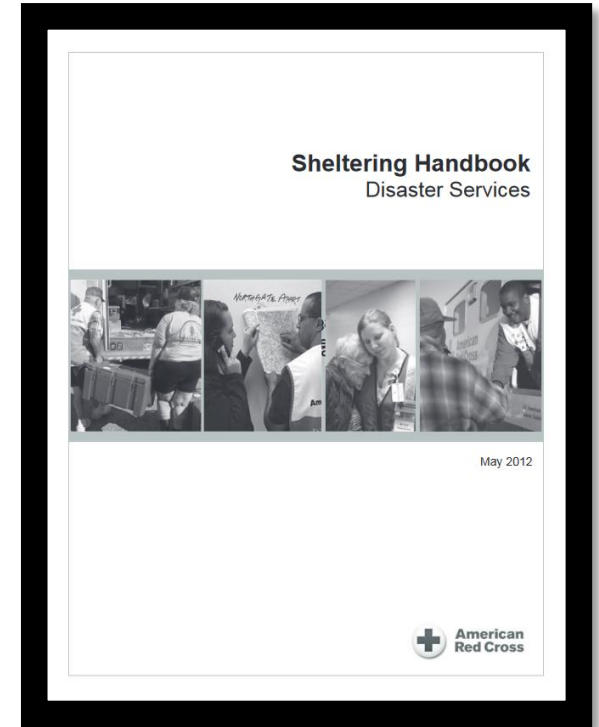
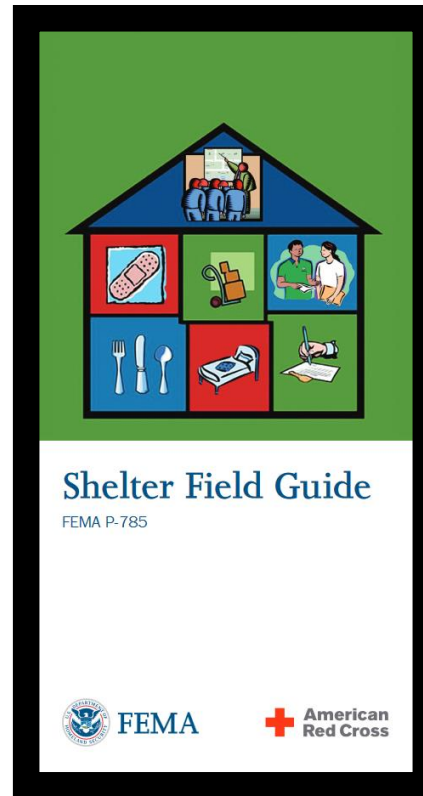
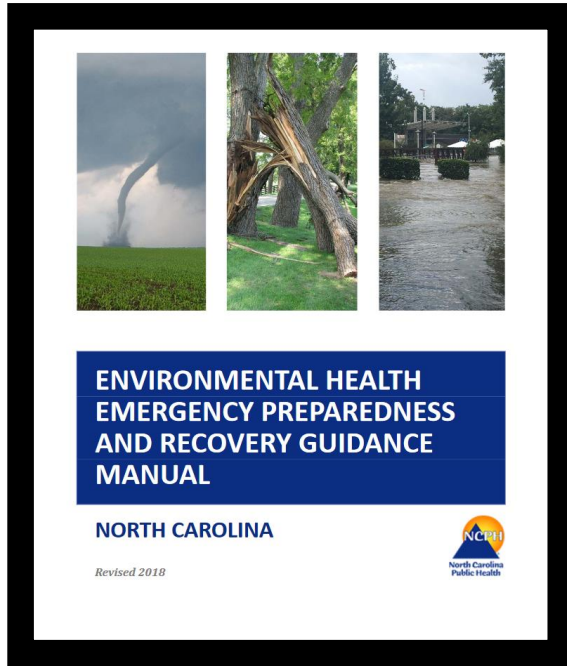
- Sheltering included in definition of emergency management for state, county/city, and non-profit emergency services

GS 166A-19.3(8), 166A-19.13(b)(2), 1-539.11(1a)

- Rules may be waived for adult care homes, hospitals, and health care facilities when such facilities are used as emergency shelters

GS § 131D-7, 131E-84, 131E-112

What Protocols Do You Use?



Liability

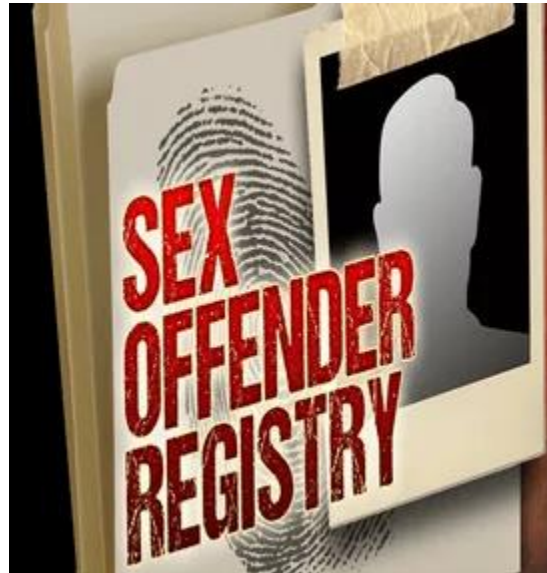
- Broad protection for emergency management functions (but, must be a *legitimate* EM function)
- Broad protection for emergency management workers
- Also protects volunteers if working under direction or control of government officials
- Does not protect against gross negligence, willful, wonton, or intentional acts

GS 166A-19.60

Shelter Challenges

A registered sex offender shows up at your emergency shelter at a high school.

What do you do?



Shelter Challenges

A shelter occupant becomes disruptive. You discover the occupant is in possession of and using illegal drugs.

What do you do?



Shelter Challenges

A reporter (hearing about sex offenders and drugs at your shelter) asks for all shelter occupant registration lists and intake forms.

What do you do?



Lessons Learned From Emergency Managers

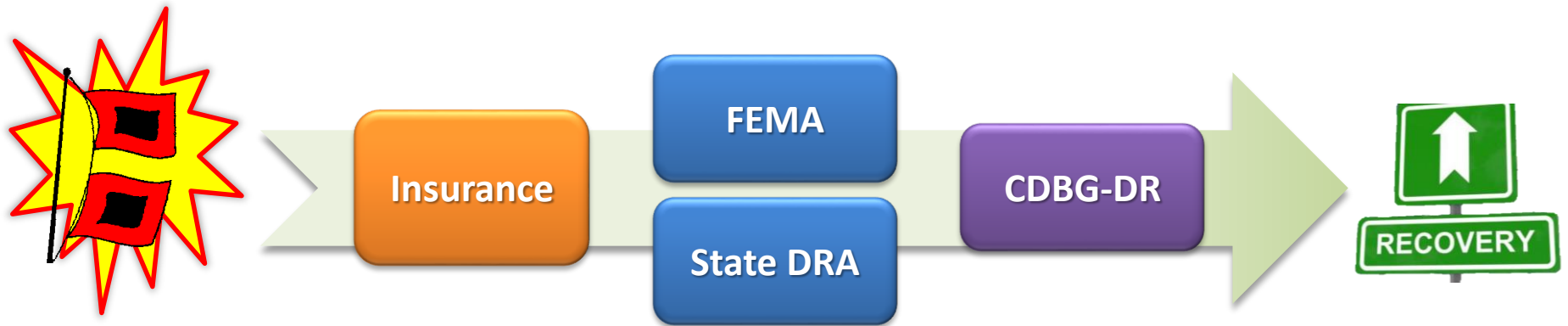
- CRES training ([NC Coastal Region Evacuation and Sheltering Standard Operating Guide](#))
- Special needs population shelter and transport
- Specialty health care staff (ex: administering medications and oxygen)
- Special shelter situations (hospitals, nursing homes, jails)
- Mass evacuations (impacts on receiving jurisdictions)
- Coordinating special needs registry
- Resources (food, supplies, staff, generators)
- Lack of local evacuation/sheltering plan
- Not exercising plans
- Public communications

Communications!

MAXIMIZING FISCAL RECOVERY



Recovery Funding



Most Common Reimbursement Pitfall

Noncompliance with **federal procurement requirements** most common reason for FEMA PA reimbursement denial

DHS OIG found over \$500 million in questionable PA reimbursement due to procurement violations

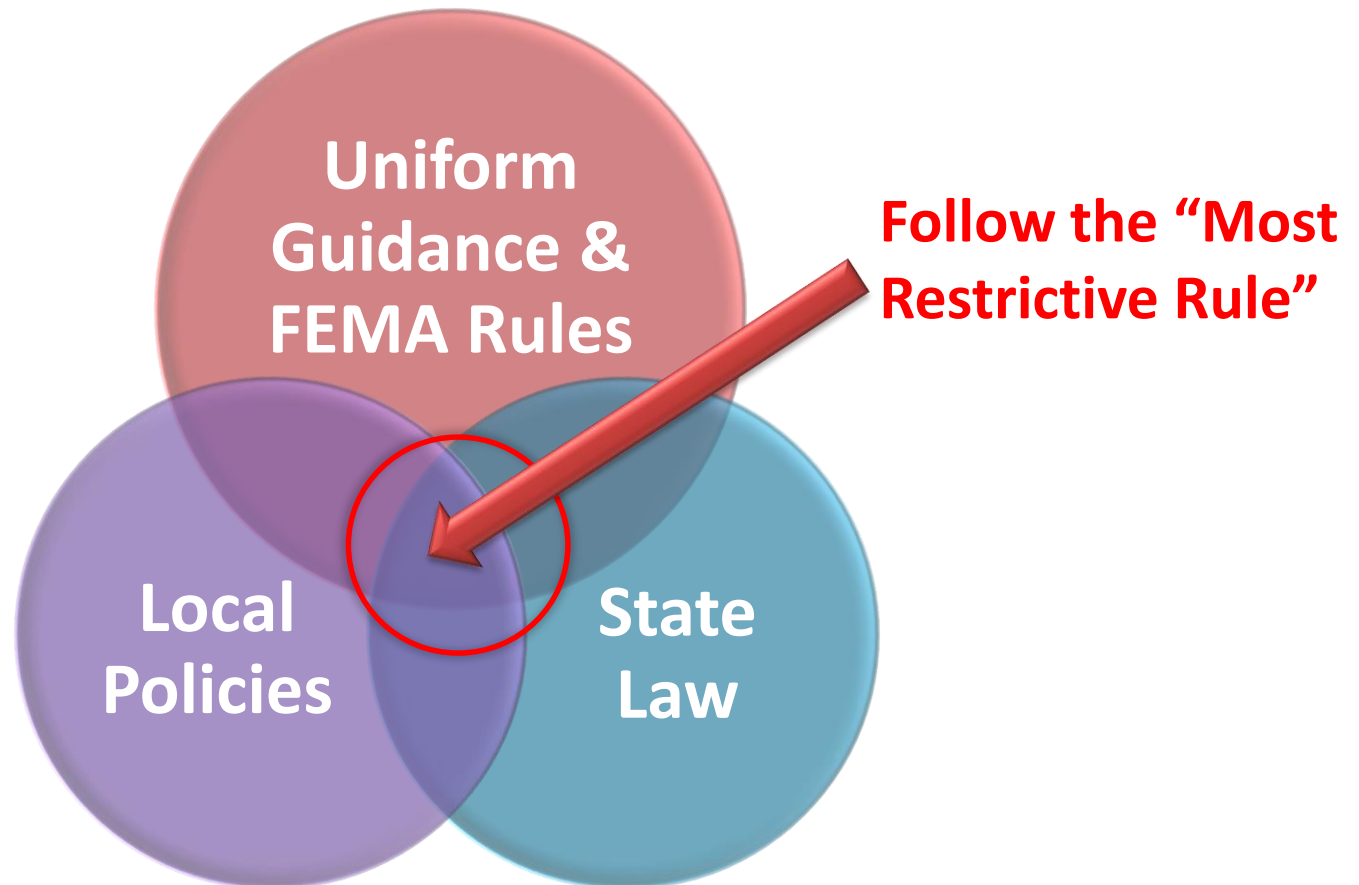
(2008-2016)*



*Source: <https://www.oig.dhs.gov/sites/default/files/assets/2017-11/OIG-18-06-Oct17.pdf>

Procurement Rules

Requirements apply to ALL categories of PA permanent work (CDBG-DR rules similar)



RESOURCES



SOG Emergency Management Website

www.sog.unc.edu/ncem

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EMERGENCY MANAGEMENT

- Hurricane Florence Information
- Laws and Authorities
- Sample Documents
- Legislative Updates
- Publications
- Blog
- Related Links

SEE ALSO

Are You Prepared?
Legal Issues Facing North Carolina Public Employers in Disasters and Other Emergencies

Are You Prepared? Legal Issues Facing North Carolina Public Employers in Disasters and Other Emergencies

MICROSITE

NC Emergency Management

Overview Contributors Roles / Topics

Welcome to the School of Government Emergency Management Law Microsite

The NC Emergency Management microsite provides information for North Carolina emergency managers and those interested in emergency management in North Carolina. The navigation links on the right-hand side of this page will take you to laws and authorities related to emergency management, sample documents such as template state of emergency declarations, legislative updates, School of Government publications, emergency management law blogs, and links to other emergency management resources.

Disaster Recovery Resources for Local Governments

- Hurricane Florence advisories and information at the Hurricane Florence Information...

SOG Purchasing Website

www.ncpurchasing.unc.edu

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REFERENCE MATERIALS

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- Statutes
- Legislative Updates

RESOURCES

- Tools
- Uniform Guidance Procurement Requirements**
- Forms
 - Sample Procurement Forms
 - Sample Property Disposal Forms
- Listserv
- Construction Contracting
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MICROSITE

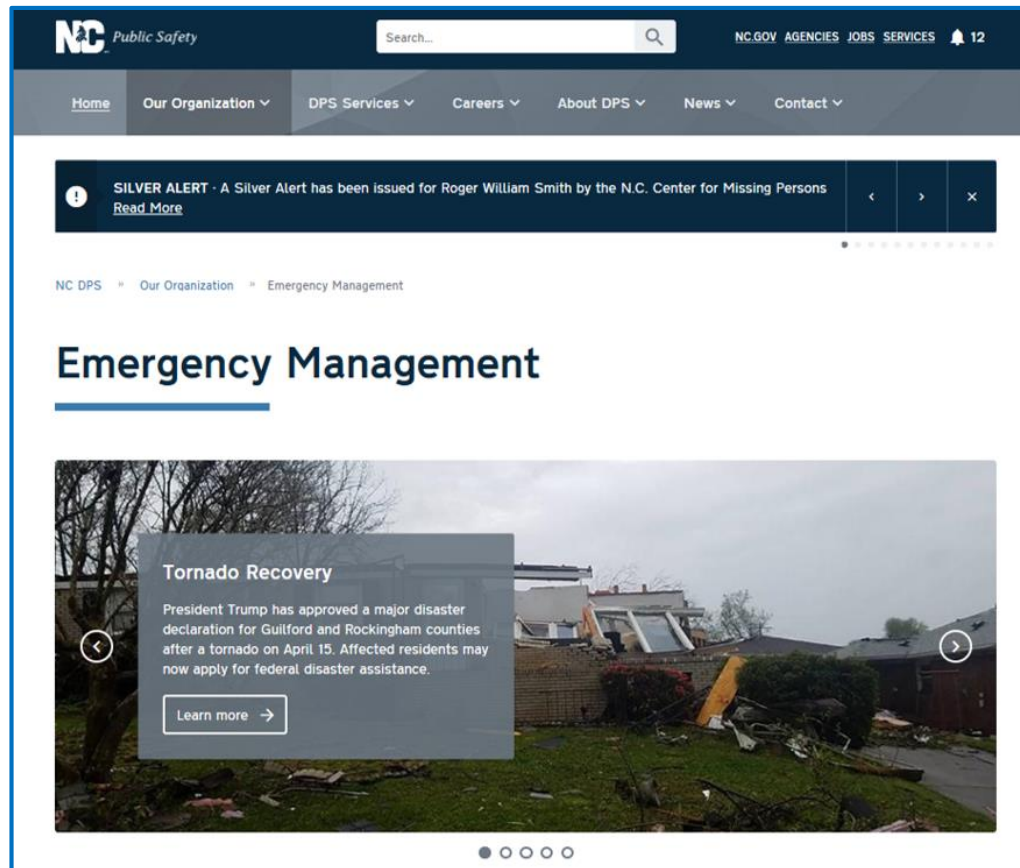
Local Government Purchasing and Contracting

Overview Contributors Roles / Topics

The Local Government Purchasing and Contracting microsite provides information and resources about local government contracting, including competitive bidding and other legal requirements for purchasing and construction contracting. Legal resources, sample forms, tools, and publications are available at the links in the left-hand menu of this page. For information about CLGPO Certification for North Carolina local and state purchasing professionals, see our Certifications and Organizations

NC Division of Emergency Management

www.ncdps.gov/Our-Organization/Emergency-Management/



The screenshot displays the website's header with the NC Public Safety logo, a search bar, and navigation links for NC.GOV, AGENCIES, JOBS, SERVICES, and a notification bell with the number 12. A secondary navigation bar includes Home, Our Organization, DPS Services, Careers, About DPS, News, and Contact. A dark banner below the navigation contains a 'SILVER ALERT' notification for Roger William Smith, with a 'Read More' link and navigation arrows. Below this is a breadcrumb trail: NC DPS » Our Organization » Emergency Management. The main heading 'Emergency Management' is underlined. The featured content is a large image of a destroyed building with a text overlay titled 'Tornado Recovery'. The text states: 'President Trump has approved a major disaster declaration for Guilford and Rockingham counties after a tornado on April 15. Affected residents may now apply for federal disaster assistance.' A 'Learn more' button with a right-pointing arrow is located at the bottom of the text overlay. The image has navigation arrows on the left and right sides and a series of five dots at the bottom center, with the first dot filled.

Good Luck!

A satellite image of a large hurricane or tropical storm over the Gulf of Mexico. The storm has a distinct eye and is surrounded by dense, swirling cloud bands. The surrounding ocean and parts of the Gulf of Mexico coastline are visible.

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