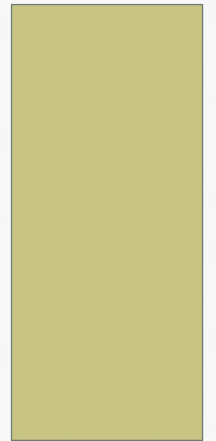


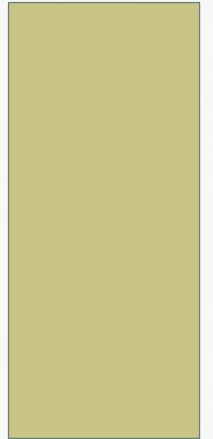
CASCADIA RISING

JUNE 1, 2016



EMERGENCY MANAGEMENT IN WASHINGTON

ALEXIS FOSTER, CITY OF POULSBO
SHELLEY KNEIP, KITSAP COUNTY



WHAT CONSTITUTES AN EMERGENCY?

- "Emergency or disaster" means
 - an event or set of circumstances which:
 - (i) Demands **immediate action** to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or
 - (ii) reaches such a dimension or **degree of destructiveness** as to warrant the governor declaring a state of emergency.



WHO RESPONDS?

- Local Response
 - City or County
 - Local legislative body – declaration of emergency
 - First responders:
 - DEM, fire, law enforcement, coroner, S&R, public works, local elected officials, medical community, utilities, etc.
 - Mutual aid agreements
 - Can include other jurisdictions
- State Response
 - Governor's proclamation
 - State Responders
 - State DEM, National Guard
- Federal Response
 - Presidential declaration
 - Federal assistance



LOCAL EMERGENCY RESPONSE ORG

- Joint Local Organization
 - Kitsap County, Bainbridge Island, Bremerton, Port Orchard, Poulsbo
 - Interlocal Agreement among jurisdictions
 - County & Municipal Code provisions
 - KCC Ch. 2.104
 - BMIC Ch. 2.44
 - BMC Ch. 2.26
 - Port Orchard Ordinance 05-16
 - PMC Ch. 2.60; 2.62



LOCAL ORGANIZATION

- Interlocal Agreement
- Comprehensive emergency management plan (CEMP)
- Local ordinances
 - Continuity of government
- Emergency Operations Center (EOC) activation
 - Internal Support/Partners (e.g., public works, Red Cross, volunteers, etc.)
- Requesting assistance from other jurisdictions
 - Other local agencies (mutual aid agreements)
 - State assistance (state DEM)
 - Federal Assistance (FEMA)

LOCAL DECLARATION

- Local ordinance determines who makes an emergency declaration
 - Mayor, County Commissioner, City Administrator, DEM director
- If a disaster or emergency as defined occurs, state law authorizes local jurisdictions to
 - Enter into contracts and incur obligations
 - As necessary to combat such disaster
 - To protect public health and safety
 - To protect property
 - To provide assistance to disaster victims
- May dispense with some procedures and formalities



STATE ORGANIZATION

- State Military Department/Division of Emergency Management = state organization
 - Overseen by State Emergency Management Council
- Upon a Governor's Declaration of Emergency:
 - State funds and assistance available
 - Jurisdictions authorized to command the service and equipment of citizens
 - If done, citizens are entitled to same privileges & immunities as regular emergency workers



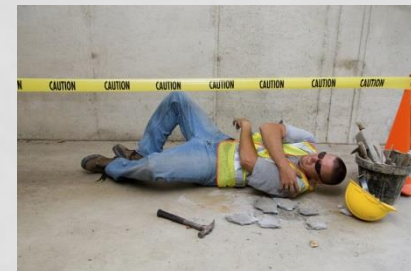
STATE/LOCAL LEGAL ISSUES

- No civil liability for local emergency organization, state or local government, emergency workers, supervisors, facilities, property owners where covered activity occurred
- State responsible for an legal liability for acts done by covered volunteer emergency workers, except:
 - Willful misconduct, gross negligence or bad faith
 - Where covered by United States government



STATE/LOCAL LEGAL ISSUES

- Emergency Worker Compensation Program
 - Statute sets up a worker's compensation program unique to emergency workers
 - Immunizes county, city from lawsuits for injury or death of emergency worker
- Americans with Disability Act
 - Applies to Emergency Planning & Response
 - Must consider all physical and cognitive disabilities in planning and response



OTHER LEGAL AUTHORITY

- Local Ordinances
 - General police powers
 - Broad unless otherwise preempted by state or federal law
 - Reasonably necessary in the interest of public health, safety and general welfare
 - Substantially related to the “evil sought to be cured” and equally applied to the public
 - Presumed constitutional
- Local Ordinances
 - Civil Emergency Powers
 - Curfew, closing certain public places and/or
 - Businesses, curtailing sale of certain products
 - KCC Ch. 2.04; RCW 35.33.08; BIMC 8.20; PMC 2.60;



OTHER LEGAL AUTHORITY

- Local Health Officer
 - Public Health emergencies
 - Broad power for boards of health and health officers in emergency situations
- Governor
 - RCW 43.06,210 – proclamation of state of emergency
 - RCW 43.06.220 – state of emergency, governor powers
 - Curfew, closing certain public places and/or businesses, curtailing sale of certain products
 - RCW 38.06 – state militia



COURT DECISIONS

- ***Cougar Business Owners Ass'n et al. v. State of Washington (1982)***
 - Challenge to governor's declaration of emergency closing areas before and after eruption of Mount St. Helens
 - Seminal case discussing emergency powers



COURT DECISIONS

- ***Burnett v. Tacoma City Light (2004).***
 - February 1996 severe flooding on the Nisqually River – 32 property owners sued for damages
 - Suit filed against Tacoma City Light, Thurston and Pierce Counties' Emergency Management Organizations
 - State defended the Emergency Management Organizations per RCW 38.52 indemnification



COURT DECISIONS

- ***Hauber v. Yakima County, (2002).***
 - Issue concerned a city firefighter who responded to a call as a rescue diver for the search & rescue team.
 - Wrongful death suit against Yakima County.
 - Issues:
 - Whether County was immune from liability under RCW 38.52; and
 - Whether Hauber was limited to compensation under the emergency worker compensation system set forth in RCW 38.52.



COURT DECISIONS

- ***In the Matter of Property Located at 14255 53rd Ave. S., Tukwila*** (2004)
 - Governor issued emergency declaration due to the escape of several invasive beetles in the area
 - State took action to destroy potential host trees on private property in the area.
 - Declaration of emergency valid, no compensable taking occurred.



COURT DECISIONS

- ***Communities Actively Living Independent and Free v. City of Los Angeles et al. (2011)***
 - Class action against the City and County of Los Angeles for violating the ADA in emergency planning and response
 - Court found city and county liable
 - Program did not address notification of people with auditory or cognitive disabilities; evacuation, transport and housing of disabled below.
 - Program should anticipate needs of all members of the public
 - Settled



QUESTIONS?

