

Plans as Legal Documents

Emergency management is governed by laws. At the federal level these are often clear but broad. At state and local levels the laws become more specific. Unfortunately, local disaster preparedness plans for the care of animals and owners are diverse and some, frankly, are aberrant.

Federal Laws

The Federal Civil Defense Act of 1950, Public Law 920, 81st Congress as amended, is the legal basis for national civil defense and emergency management in the United States. This act of Congress establishes that the responsibility for national civil defense and emergency management is vested jointly in the federal and state governments and the political subdivisions in which the responsibility of local emergency management lies. Federal law describes how states and local communities become eligible for federal aid and assistance before, during, and after a disaster. This is essentially achieved by developing EOPs that meet certain formats and standards. In simple terms, if a community does not have a plan that meets federal guidelines and that community is struck by a disaster, the community may not be eligible for federal support.

Many states already have disaster preparedness plans that consider animals (usually animals that provide food for humans). These are the states that have nuclear power facilities or that are within a 50-mile radius (plume zone) of a nuclear power facility. These states have a federal mandate to develop and maintain EOPs that consider the care of animals in the event of a nuclear disaster. Typical nuclear accident plans address agricultural issues and include advice to farmers to move their animals away from potentially contaminated pastures, cover up water supplies, and ensure public safety by avoiding human exposure to radiation in the environment and through foods of animal origin (i.e., milk and meat). In support of traditional nuclear protection plans a wealth of information is available on the effects of radiation on livestock, therapy, pathophysiology, and food safety.

Little of the knowledge on radiation safety, however, addresses common and realistic issues that arise in disasters, such as owners failing to evacuate because of their pets, people evacuating without their pets and then trying to rescue them, and owners abandoning their pets. Nevertheless, states with mandates to have plans that address the care of animals because of nuclear reactors should consider these mandates as the starting point for all other disaster preparedness plans for the care of animals and their owners. Such mandates are also a potential aid in obtaining money for the development and maintenance of state and county animal care plans.

State Laws

State EOPs provide coordination of state resources, a framework for local planning, and the link between state and federal plans. State laws are written so as not to be in direct conflict with federal laws. In general state law defines the responsibilities of the state and local political subdivisions. State law also defines how local jurisdictions should introduce and maintain local emergency management laws or ordinances. This varies among states and is part of the reason that emergency management falls under so many apparently different agencies with wildly differing names, such as Emergency Management Agency (Indiana), Office of Emergency Services (California), National Guard (Michigan), and Department of Emergency Government (Wisconsin), just to name a few.

State laws that define how emergency management will operate can be permissive or

directive. Permissive legislation generally allows local jurisdictions to formulate and implement their own laws. Directive laws are usually specific and require certain action by local governments. A solid understanding of how state EMAs are legally authorized is important to acquire before embarking on the development of state plans. Understanding how state laws apply to disaster preparedness planning is part of the job of the EMA. Therefore, when developing any kind of plan for the care of animals, it is best to work with the official authorities of emergency management and determine the required legal format for an EOP.

In some state EOPs, a section with details about the care of animals is called an annex (e.g., Indiana); in others, it is called an emergency support function (e.g., Florida, Georgia).

Local Laws

The local law or ordinance gives the local EMA the legal authority to operate within its own jurisdiction. Local law defines the authority, duties, and specific responsibilities of emergency management personnel, both in the normal day-to-day operations of the local government and in a crisis. Usually one person or position in local government is given the responsibility for planning decisions that will affect future emergencies, as well as the final authority in actual emergency situations. This person may be the mayor, city manager, or county executive, and it is critical to contact him or her in the early stages of plan development. The identity of the person in authority can be found in the appropriate local ordinances or by asking the local director of emergency management.

Local EOPs provide a description of the community's approach to planning, organization, and operations in emergencies; a system tailored to community circumstances; and an identification of local resources and management systems.

Similar to the many variations on the theme of how emergency management is organized, different local communities also have different lead agencies that coordinate emergency preparedness. Examples are the local EMA, fire department, or police force. In most communities the legal entity that deals with stray animals is the department of animal care and control. This agency is responsible for all stray animals found in a community during a disaster or otherwise. Therefore local disaster preparedness plans must include Animal Control when considering what to do with lost and found animals after a disaster. Other groups can deal with animals whose owners are identified, and these are discussed in detail elsewhere. Appendices G and H are examples of local EOPs.

Mutual Aid Agreements and Memoranda of Understanding

At the federal and state levels, many of the laws and regulations affecting emergency management are broad because they are written to cover a variety of situations within diverse political subdivisions. Local laws or ordinances are usually more specific, defining exact duties, actions, or requirements. However, it is not always necessary or desirable to have laws that define every detail of emergency management. To gain flexibility and to incorporate local resources, mutual aid agreements can be developed. Mutual aid agreements are legal agreements between two or more local jurisdictions or corporations or agencies that plan to assist each other in cases of emergency. Such documents strive to designate who has what specific responsibilities in a disaster.

Mutual aid agreements should cover sharing of resources and services, definition of the extent to which resources and services will be provided, and other public safety actions. Usually the rules and standards of mutual aid agreements define who will declare that a state of emergency

exists, who will be in charge of the resources received, and who will provide compensation and death benefits for those injured or killed while rendering aid.

If there is a duplication or overlapping of duties, the expectations should be spelled out. A written memorandum of understanding between the agencies should be developed to avoid duplication of resources. By doing this in advance, groups avoid confusion over duty responsibilities, liabilities, and financial commitments. A memorandum of understanding also can serve to substitute for pending legislation until it is enforced.

Depending on the level of legal authority of a memorandum of understanding or mutual aid agreement, the appropriate persons need to have input to ensure that financial, liability, and implementation aspects of the agreement are binding. At the state level, liability issues should be reviewed and approved by the Attorney General. The Secretary of State approves issues that require reimbursements. The counterparts of these positions need to be involved for all participating organizations (e.g., attorneys for a state VMA or state animal care and control association). In most cases the office of the Director of Emergency Management has professional staff prepare these documents to meet a common format for the state.

At the local level, county attorneys and clerks are the government authorities who approve agreements. Similarly the

groups involved should have their boards of directors, attorneys, executive directors, or secretaries approve the agreement. The agreement is signed by the heads of the government agencies and organizations involved or their representatives. Appendix D is an example of a memorandum of understanding.