

NATURAL DISASTER PREPAREDNESS AND LIABILITY

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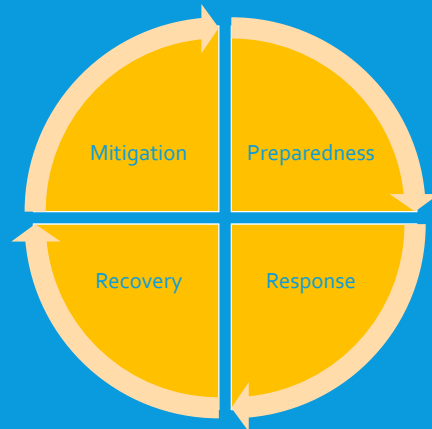
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OVERVIEW

- Natural disasters and emergency management
- Sources of liability and steps to reduce exposure
- PennDot perspective on liability and preparedness
- Case study examination
- Pennsylvania rules and regulations
- Attorney and Client Resources



EMERGENCY MANAGEMENT CYCLE



DISASTER RECOVERY REFORM ACT OF 2018

- Effective October 5, 2018
- FAA Reauthorization Act of 2018
- Amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act
- Contains more than 50 provisions requiring FEMA policy or regulation changes

SOURCES OF LIABILITY

- Examples:
 - CERCLA, and the Act of God Defense
 - CWA
 - Repairing and rebuilding stream bank requires Section 404 permit
 - Routing floodwater requires NPDES permit
 - Every medium has potential disaster-related exposure

STEPS TO REDUCE EXPOSURE

- Multi-disciplinary vulnerability assessments
- Public/private involvement in training and exercise programs
- Ensure compliance
- Invest in private hazard mitigation
- Insurance (e.g. flood/business continuity/pollution legal liability/clean-up cost cap policies)
- Comprehensive emergency management plan

RESOURCES

- Hazard Mitigation Grant Program
- ABA Ethics Opinion 482 (Ethical Obligations Related to Disasters)
- ABA YLD Disaster Legal Services
- FEMA independent study courses
- Heir Property Loss (USDA)



NATURAL DISASTER PREPAREDNESS AND LIABILITY – A PENNDOT PERSPECTIVE

In a disaster situation, transportation networks, much like utility systems and other critical services, can be severely impacted, closed or destroyed.

Understanding why PennDOT takes certain actions during emergencies, and preparing for them, is critical to ensure safety and to allow individual and businesses to operate during and after an emergency.

GOVERNOR'S PROCLAMATIONS

- Responsibilities of PennDOT
 - Waiver of Laws & Regulations
 - Interplay with Federal Proclamations
 - Assistance to local municipalities
- Responsibilities of citizens and businesses
 - Compliance with Proclamations
 - Waivers

LANDSLIDES

- Historic rains in 2018
- Closures and detours
- Criminal/civil penalties
- Case study: East Liberty Slide



COMMERCIAL RESTRICTIONS FOR WEATHER

- Justification
- Current use/plan

PROCUREMENT RULES DURING AN EMERGENCY

- Declaration not always needed
- Removes some competitive bidding requirements

RESOURCES

- Pennsylvania Emergency Management Agency
- PA 511



QUESTIONS

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