

Emergency Management Plans Required

By Kristen Collins, Staff Attorney, MMA

Several news reports in recent months have prompted municipalities around the state to consider the impact of new federal standards, which require communities to undergo training and implement various new procedural guidelines in order to receive federal emergency preparedness grants.

In fact, these “new” federal guidelines were introduced in 2003, when Homeland Security Director Michael Chertoff issued Presidential Directive HSPD-5. Among other measures, HSPD-5 authorized federal departments and agencies to withhold emergency preparedness grants in following years unless the applicant government had implemented the National Incident Management System, or “NIMS.” NIMS is a system designed by Homeland Security to improve local and regional coordination in the event of an emergency, through the use of the Incident Command System (ICS) and other standardized procedures. Homeland Security has since set various mandatory compliance standards to be accomplished by the end of fiscal Year 2006 (September 30, 2006). The failure of a local, county, or state government to comply with these standards by the end of fiscal year 2006 will result in its ineligibility for federal preparedness funding. However, FEMA has not indicated that disaster response money will be withheld on this basis, assuring that no municipality will be left helpless in the event of an emergency.

So, what, exactly, are the compliance standards which municipalities must implement by September 30, 2006? The NIMS Integration Center, a division of FEMA, has published a notice entitled “Tribal Government and Local Jurisdiction Compliance Activities: Federal Fiscal Year 2006 (October 1, 2005-September 30, 2006),” which is available on the web at www.fema.gov/nims/. Requirements to be met by the end of fiscal year

2006 are outlined in further detail in the notice, and include:

- Adopt NIMS at the community level for all government departments and agencies;
- Manage all emergency incidents and preplanned events in accordance with the NIMS Incident Command System;
- Coordinate and support emergency and event management through the development and use of multi-agency coordination systems;
- Implement procedures to communicate information to the public during an incident through a Joint Information System and Joint Information Center;
- Coordinate federal preparedness funding to implement NIMS across the community;
- Draft or revise emergency management plans to incorporate NIMS components, principles and policies;
- Participate in intrastate and inter-agency mutual aid agreements, to include agreements with the private sector and non-governmental organizations;
- Have applicable employees complete various training courses; and
- Participate in local and regional training and exercises which incorporate NIMS and ICS guidelines.

Municipalities are encouraged to review the above document carefully in order to guide their NIMS compliance activities, as it further details the training to be completed and standards to be implemented. It is also advisable to keep close track of NIMS requirements as they are implemented for fiscal year 2007 and beyond, since FEMA intends to continually revise its mandates.

As described above, FEMA is requiring municipalities to “adopt” and “implement” NIMS and ICS by September 30, 2006. It appears that for municipalities, FEMA intends that this “adop-

tion” be accomplished via an ordinance enacted by the legislative body, which would provide clear and binding guidance in the event of an emergency. The ordinance would provide that emergencies are to be managed in accordance with NIMS and ICS guidelines. It would then become the responsibility of the municipality’s emergency departments to plan, train and operate according to NIMS principles. FEMA is encouraging smaller communities, which may not have sufficient resources on their own, to pool their resources with other communities in order to satisfy the NIMS implementation requirements. The various training courses required by NIMS will provide officials with a good introduction to the relevant guidelines. The NIMS Integration Center and the Maine Emergency Management Agency are also available for assistance as necessary.

Other State Law Considerations

The recent NIMS compliance standards are not the first to require Maine municipalities to implement emergency management measures. The Maine Civil Emergency Preparedness Act, at Title 37-B, Chapter 13, has been in place for several years and sets forth guidelines for local and regional preparation for and response to emergencies. In particular, Section 781 requires that each municipality be served by a local or regional emergency management agency. Each local agency is to develop reciprocal arrangements with other municipalities in order to ensure cooperation and mutual assistance in times of emergency. There are no strict guidelines regarding the composition of the local agency, however, Section 782 requires each municipality to have a director of emergency management, appointed by the municipal officers. The director may not be a municipal officer or executive, but can be a town manager or clerk. He or she is responsible for coordinating the work of disaster mitigation, preparedness, response and recovery, and serving as liaison to the appropriate county or regional agency.


Many municipalities have begun their emergency planning in accordance with 37-B M.R.S.A. §783, which requires every municipality in Maine to prepare and keep current a comprehensive emergency management plan. Being administrative in nature, emergency management plans do not have to

be enacted as ordinances. Local emergency management officials may develop the plans pursuant to their authority under Title 37-B. Nevertheless, given the federal requirements discussed above, municipalities may want to incorporate some elements of their emergency management plan into their NIMS ordinance. Although various additional elements will likely be required as a result of NIMS and ICS, plans under Section 783 must include:

- Identification of the types of disasters to which the municipality may be vulnerable;
- Identification of procedures and operations necessary to prevent or minimize injury and damage in the event of each type of disaster;
- Identification of personnel, equipment and supplies required to implement the response procedures and the means to ensure timely availability of services;
- Recommendations to appropriate public and private agencies of all preventive measures found reasonable in light of their risk and cost; and
- Other elements that the Maine Emergency Management Authority may require from time to time.

Section 783 also requires municipalities to ensure that their emergency management plans are compatible with those of local hospitals. Of course, now that municipalities are required to be NIMS and ICS-compliant, those guidelines should be referred to when drafting or revising emergency management plans and/or ordinances.

Finally, municipalities should consider whether it is in their best interest to formulate a plan identifying the natural hazards, risks and vulnerabilities in the municipality and outlining processes for mitigating the resulting damage. If a municipal government has such a hazard mitigation plan in place, it may be eligible for increased federal funding in order to implement measures to prevent or limit future damage from anticipated hazards.

More information regarding the preparation of emergency management and hazard mitigation plans is available on the Maine Emergency Management Authority website, www.maine.gov/mema, and on the Federal Emergency Management Authority website, www.fema.gov/fima/planresource.shtm. 

Emergency Management Ordinance of the Town of Thorndike

Enacted March 20, 1999; Revised March 16, 2005

- 1. Short Title:** This Ordinance shall be known and may be cited and referred to as the "Emergency Management Ordinance of the Town of Thorndike". Authorized under Title 37-B M.R.S.A., Section 782.
- 2. Definition:** Emergency Management Director (EMD) shall mean the appointed town official responsible for performing the four phases of Emergency Management (preparedness, response, recovery and mitigation) and for liaison with the Waldo County Emergency Management Agency.
- 3. Establishment:** The Thorndike Office of Emergency Management (OEM) and the position of Emergency Management Director for the town of Thorndike is hereby created. The Selectmen may appoint additional OEM staff members, as needed.
- 4. Appointment, Term and Removal:** The Selectmen shall appoint the EMD. This appointment shall be annual and made by June 1st of each year. The Selectmen may remove the EMD for cause.
- 5. Oath of the Emergency Management Director:** Once the EMD has been appointed, the EMD shall take an oath of office before assuming any duties, pursuant to Title 30-A M.R.S.A., Section 2526.
- 6. Duties of the Emergency Management Director:** The EMD shall:
 - A. Prepare and update a Hazard Risk and Vulnerability Assessment.
 - B. Prepare and maintain the Thorndike Emergency Operations Plan.
 - C. Organize, activate and operate the Thorndike Emergency Operations Center (EOC).
 - D. Prepare and maintain a list of disaster resources.
 - E. Develop procedures for the operation of the Thorndike EOC.
 - F. Coordinate and maintain written disaster Mutual Aid Agreements with the approval of the Selectmen.
 - G. Provide Emergency Management training to town officials, planners, and responders.
 - H. Develop and implement a Disaster Exercise program.
 - I. Attend County Local Emergency Managers meetings.
 - J. Provide Disaster Preparedness information to town residents.
 - K. Complete and report Damage Assessments to WOEMA.
 - L. Complete and submit applications for FEMA disaster funds and grants.
- 7. Membership of the Emergency Operations Center:** When directed by any one of the Selectmen or by the EMD, the EOC will be established and manned. At the discretion of the Selectmen or EMD, the following town officials may be included on the EOC staff:
 - A. Selectmen
 - B. Emergency Management Director
 - C. Town Clerk and Treasurer
 - D. Code Enforcement Officer
 - E. Town Constable
 - F. Fire Chief or Deputy
 - G. Fire Warden
 - H. Road Commissioner
 - I. Animal Control Officer
- 8. Establishment of the National Incident Management System:** The Town of Thorndike hereby establishes the National Incident Management System (NIMS) as the municipal standard for incident management. This system provides a consistent approach for Federal, State, and municipal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity. NIMS will utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters. The NIMS Incident Command System (ICS) will be utilized by all Thorndike emergency and disaster responders for incident management.
- 9. Compensation:** The EMD shall be compensated for duties rendered by an annual stipend as appropriated at town meeting.
- 10. Training:** The EMD may take necessary training as provided by the Waldo County Emergency Management Agency (WOEMA), Maine Emergency Management Agency (MEMA), and FEMA.