



The Next Chapter in Community Preparedness

Demonstrating Success & Using HMEP to Promote Emergency Preparedness Programs Through Meaningful Community Involvement

► Timothy R Gablehouse

Member, Colorado Emergency Planning
Comm. (SERC); Board Member Colorado
Emergency Preparedness Partnership, Inc.;
Past President & Board Member NASTTPO;
Attorney Gablehouse Granberg, LLC

WHAT YOU ARE GOING TO HEAR

- ▶ A “Civil Right” to emergency planning exists
- ▶ “Meaningful” Community Involvement is the Key
- ▶ EPCRA and LEPCs are important tools if applied to all-hazards planning programs
 - ▶ HMEP funding is critical to this planning.
- ▶ Measure Success of the Planning Process

CIVIL RIGHTS & ENVIRONMENTAL JUSTICE

[T]he fair treatment and meaningful involvement of all people ... [E]veryone enjoys:

- The same degree of protection from ... hazards, and

Equal access to decision-making in the planning process ...

A constitutional right enforced by the federal civil rights act and the ADA.

As sovereigns the ADA mostly doesn't apply to tribes. The Indian Civil Rights Act might.

MEANINGFUL INVOLVEMENT

There must be a **meaningful opportunity** to participate in planning decisions.

BUT IT'S ONLY MEANINGFUL when community concerns are considered in the process

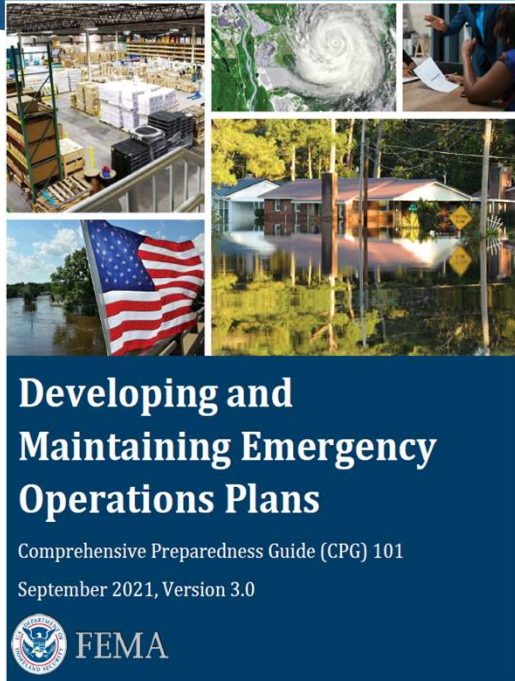
Decision makers must facilitate participation

This obligation is the most common failure.

HMEP funded projects are useful in fulfilling this obligation

POTENTIAL FOR LIABILITY IS CLEAR

CPG 101 Ver. 3.0



¹Look at *ada.gov* to understand the mandate.

In addition to the ADA, planners must comply with the Civil Rights Act ... and other ... anti-discrimination laws.

“In the nation’s system of emergency management, the local government acts first to address the public’s emergency needs. ...

At a minimum, these measures include priorities such as warning, emergency public information, evacuation, shelter, security, emergency medical care and tactical communications.”

▶ INCLUDES MUTUAL AID PLANS

Continuity Guidance Circular

“Planning across the full range of continuity operations is an inherent responsibility of every level of government.”

“Essential functions ... cannot be deferred during an emergency; ... legally mandated functions will be essential ...”



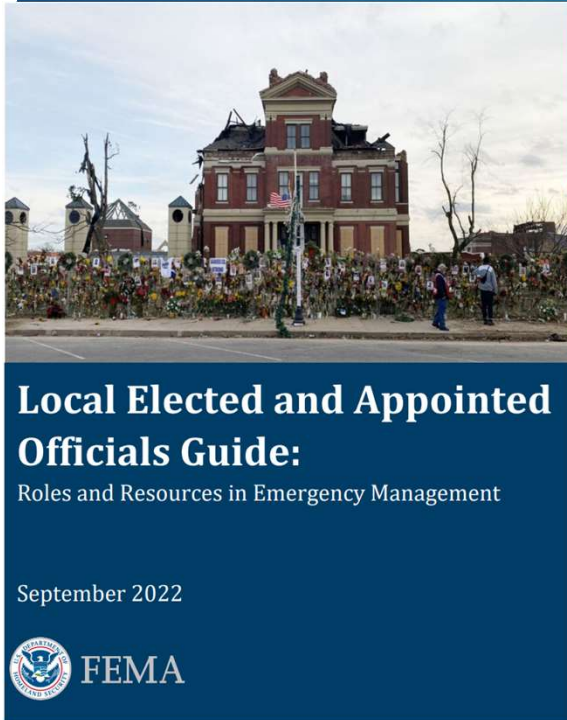
Continuity Guidance Circular
February 2018

FEMA National Continuity Programs



FEMA

LOCAL OFFICIALS GUIDE



A “One-Size-Fits-All” approach to emergency management planning, resourcing and information dissemination does not work

- Establishing a core planning team with ... representatives from among people with access and functional needs;
- Integrating people with access and functional needs through public outreach in local and regional plans, trainings and exercises;

Key Message:

Support equitable and comprehensive disaster preparedness, response and recovery.

WHAT IS NEW

- ▶ Adequate planning includes prevention and mitigation.
 - ▶ RMP “general duty” clause and State laws on recklessness
- ▶ The obvious gap is land use and zoning. (West Texas)
- ▶ EPA’s RMP rule requires facilities to inform local government about risks in land use and zoning.
- ▶ LA litigation currently in Federal Court Appeals
 - ▶ Land-use system discriminates on facility siting and transport.



HAZMAT ROUNDTABLE REPORT and RAIL TRANSPORT THOUGHT LEADERS

- ▶ 2021, 2022, 2023 & 2024 meetings
- ▶ Key findings/recommendations:
 - ▶ Local planning to identify, prioritize and fill capability gaps.
 - ▶ Emphasis on community awareness and public involvement.
 - ▶ LEPCs and TERCs are a foundational element in promoting community discussion and awareness
 - ▶ Measure success in filling capability gaps.



KEY STEPS

- ▶ **ENGAGE – BE PART OF THE COMMUNITY**
- ▶ **TELL PEOPLE WHAT YOU DO & WHY**
- ▶ **EXPLAIN HOW RESPONSE WORKS**
 - ▶ **ICS, PPE, PLUME MODELS, ETC.**
- ▶ **TELL PEOPLE WHAT YOU CANNOT DO**
 - ▶ **BE HONEST**
 - ▶ **CREATE APPROPRIATE EXPECTATIONS**

MEASURE SUCCESS

- ▶ Progress & success are demonstrated by measurable results
- ▶ Pick projects from the strategic plan designed to close gaps
 - ▶ Meaningful & relevant.
- ▶ Measure, evaluate and repeat
 - ▶ Exercises
 - ▶ Include community members – especially those that might have civil rights or ADA claims
- ▶ This planning process is our defense to civil rights liability.

HOW TO GET SUED

- ▶ Fail to seek out and facilitate engagement by people that will be using services.
- ▶ Fail to evaluate evacuation, sheltering, communication and transportation plans with community members.
- ▶ Fail to be certain that people have “access” to services.
 - ▶ Availability isn’t enough.
- ▶ Fail to involve non-English speaking communities.



Timothy Gablehouse

tgablehouse@gcglc.com

303.572.0050

Let me know if you want to be on the NASTTPO email list or want documents.