
OFFICE OF GOVERNOR RONNIE MUSGROVE
INTEROFFICE MEMORANDUM

TO: RENICK
FROM: RILEY
SUBJECT: MDOT'S STATUTORY AUTHORITY FOR REVERSE LANING
DATE: 9/24/2002
CC: MAYO, SEWELL, BOYD

Due to Peyton's being tied up with tort reform, Lee Ann asked me to do a statutory review of our emergency management powers. Remember I am no attorney, so this is basically just a report of the statutes with no legal interpretation. Basically, it appears to me that the Governor and MEMA are in charge in the event of an emergency and the Governor has the authority to require the assistance of all state agencies, including the authority to suspend any agency rules and regulations that hinder emergency management activities. MDOT's reverse laning would hinder such activities because it would not be coordinated with shelter, emergency response and general law enforcement activities.

We have to remember that devastating winds, rain and surf impact the area to the east of a hurricane's landfall. Thus, if a hurricane is expected to hit New Orleans, the Mississippi Gulf Coast can anticipate huge amounts of rain, wind and surf.

Section 33-15-11 (1972) provides for the emergency management powers of the Governor. The following statutes apply specifically to the Governor's power over state agencies:

33-15-11 (a) The Governor shall have general direction and control of the activities of the Emergency Management Agency and Council and shall be responsible for the carrying out of the provisions of this article, and in the event of a man-made, technological or natural disaster or emergency beyond the local control, **may assume direct operations over all or any part of the emergency management functions of this state.**

33-15-11 (b)(5) **To take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary** for the purpose of securing compliance with the provisions of this article and with the orders, rules and regulations made pursuant thereto.

33-15-11 (b)(7) To utilize the services and facilities of existing officers and agencies of the state and the political subdivisions thereof; and **all such officers and agencies shall**

cooperate with and extend their services and facilities to the Governor as he may request.

33-15-11 (c)(1) **To suspend** the provisions of any regulatory statute prescribing the procedures for conduct of state business, or **the orders, rules or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with a disaster or emergency.**

Section 33-15-14 (1) provides that **MEMA is responsible for maintaining a comprehensive statewide program of emergency management. The agency is responsible for coordination with efforts of the federal government with other departments and agencies of state government,** with county and municipal governments and school boards and with private agencies that have a role in emergency management.

Scenario 1: Anticipated path of hurricane expected to require evacuation of New Orleans, but not Gulf Coast.

I cannot anticipate this situation. Storms typically move to the northeast after making landfall; thus, landfall in New Orleans would typically result in the storm moving over Mississippi. According to weather reports this morning, forecasters are already predicting strong winds and potential tornados for Mississippi after the hurricane makes landfall. The Governor would probably have to issue an executive order, so it is my opinion that the above statutes would apply.

Scenario 2: Anticipated path of hurricane expected to require evacuation of New Orleans and Gulf Coast.

The above statutes would apply.