

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

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February 2, 2009

Congressional Research Service

Report RS21929

*Maryland Emergency Management and Homeland Security
Statutory Authorities Summarized*

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September 3, 2004

Abstract. This report is one of a series that profiles the emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified.

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CRS Report for Congress

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Maryland Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

The primary state emergency management statute (codified at Title 14 of the Public Safety Article of the state code) established the Maryland Emergency Management Agency. The governor has responsibility for emergency management and may exercise broad powers after issuing a disaster declaration. The director of the Maryland Emergency Management Agency, appointed by the adjutant general with the governor's approval, carries out the state emergency management plan. The governor appoints the director of emergency management for each locality, based on the local governing body's recommendation. The Maryland Security Council coordinates state and local government activities regarding emergency management, and makes recommendations to the legislature. Funds are available to fire departments for equipment purchases; resources are also available from the state Catastrophic Event Account. Continuity of government provisions are included in the state constitution as well as statutes.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Entities with Key Responsibilities

Governor: The governor is authorized to: exercise general control over the Maryland Emergency Management Agency (MEMA); assume direct operational control over any and all emergency management functions; delegate powers to state departments and agencies; cooperate with the federal government, other states, and private agencies in emergency management operations; issue orders, rules, and regulations governing emergency management preparation and coordination; authorize the procurement of supplies and equipment, training, and public information programs; conduct studies and survey industries, resources, and facilities; and, appoint directors of emergency management for political subdivisions “in cooperation with local authorities” (Md. Public Safety §14-106). The governor is also authorized to suspend statutes, compel evacuations and establish routes, direct access to emergency areas, use private property with compensation, provide temporary housing, and approve debris clearance (Md. Public Safety §14-107(d)).

Maryland Emergency Management Agency (MEMA): The statute established MEMA within the state military department (Md. Public Safety §14-103 et seq.).

Director, Emergency Management Agency: The executive head of MEMA, appointed by the adjutant general with the approval of the governor, carries out the state emergency management plan, coordinates activities, and serves as liaison to the federal government and emergency management agencies of other states. When the governor declares that an emergency has occurred or a threat exists, the director coordinates activities of state agencies and political subdivisions, develops mutual aid agreements when two or more political subdivisions are affected, and serves as liaison to other states and the federal government (Md. Public Safety §14-104(d)(2),(3),(5)). The director also is authorized to deploy and use resources and distribute supplies and equipment (Md. Public Safety §14-107(c)).

Office of Planning: Staff of the office must cooperate with any unit in the state or the federal government engaged in civil defense planning (Md. State Finance and Procurement §5-406).

Maryland Security Council: The council is comprised of eight state government representatives and seven gubernatorial appointees who assist the governor in ensuring that the state maintains an adequate and coordinated strategy for detecting, preventing, preparing, responding, and recovering from an emergency. The council works with state agencies, other state governments, local governments, federal agencies, and private entities to develop emergency management plans, and reviews and assesses the plans, recommends changes, and disseminates information. The council has operational authority over emergency management response only when directed by the governor, and exercises advisory authority; government personnel must cooperate with council requests. The council must make annual reports to the governor and the General Assembly about activities and recommendations (Md. State Government §9-2501 et seq.).

Emergency Management Advisory Council: The council members (that include firefighters, local government officials, and certain private sector representatives) are

appointed by the governor and advise the governor on all matters related to state emergency management (Md. Public Safety §14-105).

Local organizations for emergency management: Local organizations must be established by each political subdivision and are headed by directors appointed by the governor, based on recommendations of local officials. Local organizations are responsible for the organization, administration, and operation of the local emergency management agencies. The organizations must develop radiological emergency response plans if residents would be affected by nuclear power plants located within the area (Md. Public Safety §14-109,110). Emergency management organizations must enforce orders issued by the governor (Md. Public Safety §14-113).

Preparedness

The governor, adjutant general, and officials of political subdivisions can use services, equipment, supplies, and facilities of state agencies to prepare for emergencies (Md. Public Safety §14-112(c)).

Each county must prepare an emergency preparedness plan for hazardous material (Md. Public Safety §14-110).

Declaration Procedures

A state of emergency may be declared by the governor through executive order or proclamation and continues until the threat has passed or the emergency has been managed. A declaration is to be terminated by executive order, and no state of emergency is to last longer than 30 days unless the governor renews the declaration. By joint resolution, the General Assembly may terminate the state of emergency at any time, and the governor must then issue an executive order to terminate the declaration. All executive orders issuing the declaration must state the nature of the emergency, the areas threatened, and the conditions that brought it about or make termination possible. The executive order is to be disseminated to the public and filed with specified entities (Md. Public Safety §14-107(a,b)).

A local state of emergency may be declared by the principal executive officer of a political subdivision, and cannot be continued or renewed for more than seven days without the approval of the local governing body. The declaration must be made public and filed with the appropriate record-keeping agency. A local declaration activates the jurisdiction's response and recovery plan (Md. Public Safety §14-111).

Types of Assistance

Counties or municipalities are to be reimbursed for purchases of protective equipment and chemicals for volunteer fire companies, rescue squads, ambulance companies, and their employees (Md. Courts and Judicial Proceedings §3-1104).

Civil relief is provided (for eviction, mortgages, motor vehicle, property and income tax obligations) for persons involved in emergency management service to the state or the nation (Md. Public Safety §14-201 et seq.).

Radiation fallout shelters not being used for other purposes are not to be assessed for purposes of taxation. Other shelters are assessed as specified (Md. Tax-Property §8-236).

Mutual Aid

The Emergency Management Assistance Compact (EMAC) is codified (Md. Public Safety §14-701 et seq. and §14-801 et seq.).

The Interstate Emergency Management and Civil Defense Compact is codified (Md. Public Safety §14-601 et seq.).

Local governments or the Maryland-National Capital Park and Planning Commission may enter into reciprocal agreements for emergencies (Md. Criminal Procedure §2-105).

The Middle Atlantic Interstate Forest Fire Protection Compact is codified (Md. Natural Resources §5-801).

If an emergency is declared in another state, the governor may approve the provision of assistance, including personnel, equipment, supplies, and materials. The governor may also suspend rules and statutes, if necessary, after consultation. Such aid is to be provided after an executive order is issued, limited to a maximum period of 30 days (Md. Public Safety §14-108).

Funding

See also “Types of State Assistance Available.”

The Catastrophic Event Account was established to enable the state to respond quickly to natural disasters or other catastrophic situations. The governor is authorized, but not required, to request funds for the account and may, after giving notice to and obtaining the approval of Legislative Policy Committee of the General Assembly, transfer funds from the account to the appropriate expenditure accounts. The fund may be used to help state government units pay the costs that result from a disaster. The account is a continuing fund; money in the account does not revert to the state Revenue Stabilization Fund (Md. State Finance and Procurement §7-324).

Political subdivisions are authorized to appropriate funds to pay the expenses of local emergency management organizations (Md. Public Safety §14-109(d)).

If the federal government or another state (or person, firm or corporation) offers aid, the state or political subdivisions are authorized to accept services, equipment, supplies, materials, or funds by gifts, grants, or loans. The governor, or political subdivisions with the consent of the governor, may accept the offer (Md. Public Safety §14-112(a),(d)).

Hazard Mitigation

The state Department of the Environment, with the departments of Agriculture and Planning (along with political subdivisions) must conduct studies of watersheds to determine the magnitude and frequency of flooding and of alternative management techniques to control floods and minimize flood damage. The Department of the Environment must mark flood hazard areas on maps and prepare flood management plans and guidance for how plans will be implemented for each watershed. The Department administers the comprehensive flood management grant program. Local governing bodies must adopt response plans that are approved by MEMA and must participate in the national flood insurance program. Grants may be used to purchase dwellings that have been damaged by floods (Md. Environment §5-803).

The governor must consider steps to be taken to prevent or reduce potential disasters and the consequences. Agencies responsible for floodplain management, stream encroachment, weather modification, fire prevention and control, air quality, public works, land use and planning, and construction standards must study mitigation (Md. Public Safety §14-106(c)).

Continuity of Government Operations

If the majority of a board of county commissioners or the Baltimore City Council are killed, incapacitated, missing, or unavailable, the governor is authorized to exercise the administrative and executive powers of the board or council until a sufficient number of commissioners or council members are appointed. Such powers are only to be used when the governor has issued a proclamation that all or part of the affected jurisdiction is an emergency area (Md. Public Safety §14-402).

If the executive officer (mayor) is unavailable, a county board or council may appoint, for a temporary or indefinite period, a person to fill the vacancy. The appointee may exercise the powers of the regularly-elected officer and holds office while the officer remains unavailable, or until the position is filled by election. The appointee's powers are effective only after governor has declared an emergency (Md. Public Safety §14-403).

If vacancies in the offices of governor and lieutenant governor occur at the same time, the General Assembly must convene and, by majority vote, fill the position of governor for the remainder of term. The governor so appointed then nominates an individual for the office of lieutenant governor, who is confirmed by majority vote of the assembly. The President of the Senate serves as acting governor until the new governor is installed (Md. Const. Art. II §6).

Other

A motor carrier, if determined to be at fault in a traffic accident, is responsible for the expense incurred by volunteer or paid fire departments for emergency response, containment, cleanup, and abatement of a hazardous materials spill (Md. Courts and Judicial Proceedings §§3-1102, 3-1202).

Persons, firms, or corporations that allow their premises to be used for sheltering persons during attack or emergency, or for stocking food, water, supplies, and equipment, are not liable for injury to persons or property (Md. Courts and Judicial Proceedings §5-602).

A person offering emergency medical care is not held to be liable, subject to specified conditions (Md. Courts and Judicial Proceedings §5-603), or for offering emergency veterinary services (Md. Courts and Judicial Proceedings §5-614), or for assisting with a hazardous materials discharge emergency, (Md. Courts and Judicial Proceedings §5-617, Environment, §7-229), or while serving as the driver of an emergency vehicle while performing emergency service (Transportation §19-103).

Insurers for fire departments or rescue squads must offer coverage for volunteer fire fighters, ambulance rescue squad members, or individuals who provide assistance during an emergency at the request and under direction of the said fire department (Md. Insurance §19-105).

Persons in emergency management services who suffer injury or who are reported missing are presumed to be missing rather than dead. They are declared to be dead only when found dead or when the court issues a legal presumption of death (Md. Public Safety §14-207(b)).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Maryland Statutes, with Citations

Terms	Citations
Emergency	Md. Govt. §9-2501(c), Md. Public Safety §14-101(c)
Emergency management	Md. Public Safety §14-101(d)
Hazardous materials	Md. Courts/Jud.Proc. §§3-1101(d), 3-1201(d)
Local organization for emergency management	Md. Public Safety §14-101(e)

For Further Research

The citations noted above and other elements of the state code for Maryland may be searched at [<http://198.187.128.12/maryland/lpext.dll?f=templates&fn=fs-main.htm&2.0>].