

Mutual Aid for Building Departments: Region 1

The Disaster Recovery and Reform Act of 2018 (DRRA), Sec. 1206, authorizes FEMA funding to reimburse certain costs of deploying mutual aid responders for building department support. Following a declared disaster, communities may need additional emergency responder support for building department functions, including building safety evaluations, substantial damage estimates, and permit review. Mutual aid arrangements enable jurisdictions to share personnel for response and recovery efforts, while maintaining their liability protections and credentials, licenses, and certifications.

Intrastate and Interstate Mutual Aid Programs

An **Intrastate Mutual Aid Compact (IMAC)** is a mutual aid agreement or system in which political subdivisions within a state or territory agree to share their resources during emergencies. An IMAC, unlike EMAC, exists in many different forms throughout the country, and not all areas have one.

The **Emergency Management Assistance Compact (the Compact, or EMAC)** is an interstate mutual aid agreement which all 50 states, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands have passed. The Compact establishes a mutual aid system allowing participating jurisdictions to share personnel during emergencies, and allowing them to give and receive liability protections and reimbursements for those shared personnel.

Private Sector Utilization

Historically, mutual aid laws and regulations generally do not allow for private sector resources. Now, many states recognize the need for more private sector inclusion.

- Some states legislate liability protections & EMAC deployment eligibility for certain classes of private personnel.
- Other states designate certain private personnel as government agents/employees within mutual aid compacts.
- This guide provides a summary of selected liability protections and other laws and regulations. Additional criteria, restrictions, or other qualifiers may be present in the official text but absent from the summary in this publication.

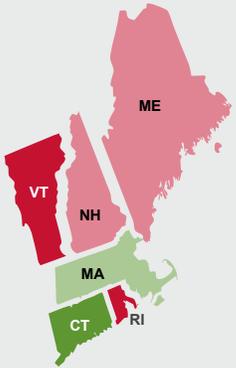
	<p>Statewide opt-out program: the state creates a mutual aid program and automatically incorporates all political subdivisions into it, leaving the burden on jurisdictions to opt out if they so choose. Some states even forego an opt-out provision. This is the most robust IMAC approach.</p>	
	<p>Statewide opt-in program: the state creates a mutual aid program but leaves the burden on individual jurisdictions to opt in to the program. This is less robust than an opt-out program.</p>	
	<p>Individual compacts: Individual jurisdictions enter into mutual aid agreements with each other, often in the form of a Memorandum of Understanding or Memorandum of Agreement. This is the least efficient approach because of the geographic limitations of each individual agreement and the possibility for variations among individual agreements within a given area.</p>	
	<p>No known significant IMAC program.</p>	

Figure 1.
FEMA Region 1
IMAC Types



FEMA



CONNECTICUT

EMAC: The governor may deploy private personnel through EMAC¹ if they are part of a duly organized civil preparedness force or mobile support unit.²

IMAC Public: State adopts a statewide opt-out IMAC program.³



IMAC Private: State defines “civil preparedness” broadly as all activities intended to minimize damage resulting from disasters and emergencies. “Civil preparedness forces” are any organized personnel engaged in carrying out civil preparedness functions pursuant to the Civil Preparedness Emergency Management and Homeland Security chapter of the Connecticut General Statutes.⁴

Protection: Personnel serving in civil preparedness forces or mobile support units are given the same immunity as state employees, and can be compensated for their service.⁵ Such personnel are not liable for harm resulting from their service except in cases of willful misconduct.⁶

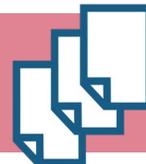
In-state licensed **engineers** rendering their services for emergency relief, without compensation, at the request or with the approval of a public official are not liable for civil damages for harm resulting from such service if it is performed with reasonable care and consistent with professionally recognized standards during or within a period of 90 days following a declared emergency.⁷



MAINE

EMAC: State may deploy private personnel through EMAC⁸ to another state.⁹

IMAC Public: For first responders, state adopts a statewide opt-out IMAC,¹⁰ but otherwise directs each local emergency management organization to develop mutual aid agreements with other public and private agencies within the state.¹¹



IMAC Private: State and local Emergency Management Agencies (EMAs) may employ any person considered necessary to assist with emergency management activities.¹²

Protection: Any persons officially called upon for disaster assistance are considered employees of the state for liability immunity and, with limited exception, for workers’ compensation purposes.¹³

Absent reckless or intentional misconduct, in-state licensed **architects** and professional **engineers**, as well as landscape architects, land surveyors, certain certified planners, and certain contractors, who volunteer their professional services in good faith for disaster relief without compensation other than expense reimbursement at the request or with the approval of a public authority they believe to be acting in an official capacity are not liable for civil damages for harm resulting from those professional services when provided during the natural disaster or during a period of emergency that has been extended by the president or governor.¹⁴

¹ Connecticut General Statutes § 28-23a (2019).

² *Id.* at § 28-6.
³ *Id.* at § 28-22a.

⁴ *Id.* at § 28-1.

⁵ *Id.* at § 28-6.

⁶ *Id.* at § 28-13.

⁷ *Id.* at § 20-308a.

⁸ Maine Revised Statutes, tit. 37-B, § 921 to 933 (2018).

⁹ *Id.* at § 784-A.

¹⁰ *Id.* at § 784-B.

¹¹ *Id.* at § 784.

¹² *Id.* at § 784-A.

¹³ *Id.*

¹⁴ *Id.* at tit. 14, § 172.

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MASSACHUSETTS



EMAC: No known significant incorporation of private resources into EMAC.¹⁵

IMAC Public: Commonwealth adopts a commonwealth-wide opt-in IMAC program.¹⁶ Most communities have opted-in.¹⁷

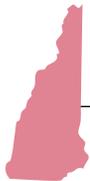


IMAC Private: Responding jurisdictions may deploy volunteers and contractors to a requesting jurisdiction.¹⁸

Protection: Volunteers and contractors officially responding to mutual aid requests and officially operating under a government unit are considered government employees and given the same civil liability immunity as government employees.¹⁹

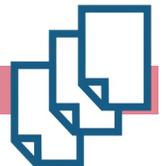
Absent wanton, willful, or intentional misconduct or gross negligence, in-state licensed **architects** and professional **engineers**, as well as landscape architects, land surveyors, planners certified by the American Institute of Certified Planners, and certain contractors, who volunteer their professional services in good faith for disaster relief without compensation other than expense reimbursement at the request or with the approval of a public authority they believe to be acting in an official capacity are not liable for civil damages for harm resulting from their acts, errors, or omissions in their performance of certain statutorily-defined professional services relating to buildings, structures, and other statutorily-defined engineered systems and components when provided during or within 90 days of the natural disaster, unless the period of emergency is extended by the governor.²⁰

NEW HAMPSHIRE



EMAC: No known significant incorporation of private resources into EMAC.²¹

IMAC Public: State authorizes mutual aid agreements between political subdivisions.²²



IMAC Private: State authorizes the governor and political subdivisions to accept private equipment and services offered for emergency management purposes.²³ State authorizes the Division of Homeland Security & Emergency Management Director to cooperate with private agencies in all emergency management matters.²⁴ Private emergency management workers must serve under the operational control of a public emergency management authority and may be reimbursed for travel and subsistence expenses incurred.²⁵

Protection: State declares all emergency management functions to be governmental functions.²⁶ Private emergency management workers serving under the operational control of a public emergency management authority are not liable for civil damages for harm resulting from their emergency management services.²⁷

¹⁵ 2000 Massachusetts Acts ch. 339.

¹⁶ Massachusetts General Laws Ch. 40, § 4J (2019).

¹⁷ <https://www.mass.gov/doc/statewide-mutual-aid-map>.

¹⁸ Massachusetts General Laws Ch.40, § 4J (2019).

¹⁹ *Id.*

²⁰ *Id.* at Ch. 20, § 60Q.

²¹ New Hampshire Revised Statutes

Annotated § 108:3 (2019).

²² *Id.* at § 21-P:40.

²³ *Id.* at § 21-P:43.

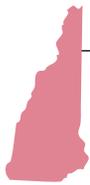
²⁴ *Id.* at § 21-P:37

²⁵ *Id.*

²⁶ *Id.* at § 21-P:41.

²⁷ *Id.*

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NEW HAMPSHIRE (Cont'd)

Absent gross negligence, or wanton or willful misconduct, in-state licensed **architects** and **engineers** who volunteer their professional services in good faith without charge or compensation, and act at the direction of the director of the Division of Homeland Security and Emergency Management, the state fire marshal, or a town or city emergency management director who is managing a disaster or life-threatening emergency, are not liable for civil damages for harm resulting from their acts or omissions in rendering those professional services services during the emergency and relating to the structural integrity of any building, structure, or system involved in the emergency, or to any nonstructural element thereof which affects public safety.²⁸



RHODE ISLAND

EMAC: No known significant incorporation of private resources into EMAC.²⁹



IMAC Public: No known significant IMAC program.

IMAC Private: State authorizes the governor to create Mobile Support Units which may include private personnel.³⁰ Mobile Support Unit personnel must be subject to the control of the authority in charge of disaster activities where they are serving and are granted the same compensation and reimbursement rights as state employees.³¹

Protection: Mobile Support Unit personnel under the control of the authority in charge of disaster activities are granted the same immunity rights as state employees.³² Volunteers and contractors providing disaster relief under the control or request of a government unit are counted as performing government functions and are not liable for harm resulting from that service except in cases of willful misconduct, gross negligence, or bad faith.³³

Absent gross negligence, or willful misconduct, in-state licensed **architects** and **engineers** who volunteer their professional services without compensation are not liable for civil damages for harm resulting from their acts or omissions in rendering those professional services during and at the scene of a governor-declared disaster emergency and relating to the structural integrity of any building, structure, or system involved in the emergency, or to any nonstructural element thereof which affects public safety.³⁴ In addition, all registered **architects** with a National Council of Architectural Registration Boards certification are allowed to practice for a period of 90 days following the date of the declared disaster.³⁵

²⁸ *Id.* at § 508:12-d.

²⁹ Rhode Island General Laws § 30-15.9-1 to 15.9-14 (2018). However, Rhode Island does at least waive professional licensing requirements for authorized disaster response workers. *Id.* at § 30-15-15(b).

³⁰ *Id.* at § 30-15-8.

³¹ *Id.*

³² *Id.*

³³ *Id.* at § 30-15-15.

³⁴ *Id.* at § 5-1-16 and 5-8-25.

³⁵ *Id.* at § 5-1-16.

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VERMONT

EMAC: State authorizes mobile support units,³⁶ which may consist of private personnel, to be deployed through EMAC.³⁷

IMAC Public: No known significant IMAC program.



IMAC Private: State authorizes the governor and political subdivisions to accept private equipment and services offered for emergency management purposes.³⁸ State authorizes the Public Safety Commissioner to create Mobile Support Units which may include private personnel.³⁹ State defines “emergency functions” to include all functions related to civil protection, explicitly including engineering.⁴⁰ Personnel serving in a Mobile Support Unit may be compensated or reimbursed by the state.⁴¹

Protection: Personnel serving in a Mobile Support Unit are given the same immunity as state employees.⁴² Private entities providing emergency management services are not liable for civil damages for harm resulting from that service, except in cases of willful misconduct or gross negligence.⁴³ Volunteers providing services under the control, direction, and request of a state agency, without compensation, are entitled to defense by the state in any civil suit arising out of the performance of their official duties as if they were state employees.⁴⁴

³⁶ 20 Vermont Statutes Annotated § 7 (2019).

³⁷ *Id.* at §§ 101 to 112.

³⁸ *Id.* at § 17.

³⁹ *Id.* at § 7.

⁴⁰ *Id.* at § 2.

⁴¹ *Id.* at § 7.

⁴² *Id.* at § 7.

⁴³ *Id.* at § 20.

⁴⁴ *Id.* at tit. 3, § 1101(4).

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