

Mutual Aid for Building Departments: Region 3

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

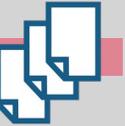
An **Intrastate Mutual Aid Compact (IMAC)** is a mutual aid agreement or system in which political subdivisions within a state or territory agree to share their resources during emergencies. An IMAC, unlike EMAC, exists in many different forms throughout the country, and not all areas have one.

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>

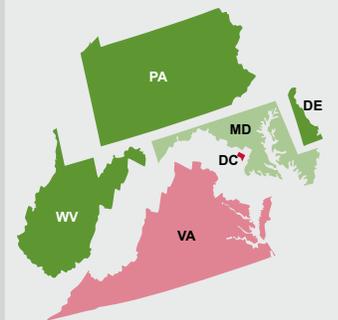


Figure 1. FEMA Region 3 IMAC Types



FEMA



DELAWARE

EMAC: No known significant incorporation of private resources into EMAC.¹

IMAC Public: State adopts a statewide opt-out IMAC program.²



IMAC Private: State authorizes the governor and political subdivisions to accept equipment and services from private entities for emergency management purposes.³ State defines “Emergency Management” broadly as all activities intended to minimize damage resulting from disasters, and explicitly includes engineering.⁴

Protection: Persons responding through an agreement with the state or any political subdivision thereof, which agreement was entered into as a result of the governor’s declaration of emergency, are given the same immunity protections as government responders.⁵



DISTRICT OF COLUMBIA

EMAC: No known significant incorporation of private resources into EMAC.⁶

IMAC Public: No known significant IMAC program.



IMAC Private: No known significant private mutual aid policies.

Protection: No known legislation extending legal protections to private, non-medical emergency responders.



MARYLAND

EMAC: No known significant incorporation of private resources into EMAC.⁷

IMAC Public: State adopts a statewide opt-in IMAC program.⁸



IMAC Private: State defines “Emergency Management” broadly as all non-military activities intended to minimize damage resulting from disasters.⁹ State authorizes itself and its political subdivisions to accept aid and assistance from private persons for emergency management purposes.¹⁰

¹ Delaware Code Annotated tit. 20, §§ 3401 to 3403 (2019).

⁶ D.C. Code §§ 7-2331 to 7-2332 (2019).

² *Id.* at § 3203.

⁷ Maryland Code Annotated, Public Safety §§ 14-701 and 14-702 (2019).

³ *Id.* at § 3123.

⁸ *Id.* at §§ 14-801 to 14-803.

⁴ *Id.* at § 3102.

⁹ *Id.* at § 14-101.

⁵ *Id.* at § 3129.

¹⁰ *Id.* at § 14-112.

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MARYLAND (Cont'd)

Protection: Except in cases of gross negligence, or wanton or willful misconduct, in-state licensed **architects** and professional **engineers** are not liable for civil damages beyond any applicable insurance or self-insurance limits for harm resulting from their acts, errors, or omissions in the practice of architecture or engineering, respectively, if practicing voluntarily and without compensation at the scene of a declared disaster, while the declared state of emergency is in effect, and at the request of a public official for emergency management purposes.¹¹ Regularly enrolled volunteer members or trainees of the Maryland Emergency Management Agency receive workers' compensation benefits.¹² Subject to certain limitations and requirements, civil defense volunteers (who must be precertified or preregistered with a unit of state government to provide services at the request of the state during an emergency) receive workers' compensation benefits.¹³



PENNSYLVANIA

EMAC: No known significant incorporation of private resources into EMAC.¹⁴

IMAC Public: Pennsylvania adopts a commonwealth-wide opt-out IMAC program.¹⁵



IMAC Private: Commonwealth allows any individual with special skills and qualifications useful during an emergency to be deployed through IMAC.¹⁶ Commonwealth explicitly empowers the governor and political subdivisions to accept services and resources offered by private entities for emergency management purposes.¹⁷

Protection: For liability purposes, all persons responding under the operational control of the requesting IMAC jurisdiction are counted as employees of the requesting subdivision and as performing government functions, and are given the same legal protections as public emergency responders.¹⁸ Commonwealth's IMAC program provides workers' compensation protections for volunteers.¹⁹ Private entities engaged in disaster relief services, except in cases of gross negligence or willful misconduct, are not liable for harm from those services while complying or attempting to comply with title 35, part V (Emergency Management Services) of the Pennsylvania Consolidated Statutes, or any rule or regulation promulgated pursuant to that part.²⁰

In-state licensed **architects**, geologists, land surveyors, landscape architects, and professional **engineers** who volunteer their professional services for disaster relief, and are not compensated more than reimbursement for reasonable expenses actually incurred, and who render those professional services at the request or with the approval of a public official acting in an official capacity, are not liable for civil damages for harm resulting from acts or omissions in rendering those services except under certain statutorily defined conditions.²¹

¹¹ Maryland Code Annotated, Courts & Judicial Proceedings §§ 5-425 (engineers) and 5-426 (architects).

¹² Maryland Code Annotated, Labor & Employment § 9-232.

¹³ *Id.* at § 9-232.1.

¹⁴ 35 Pennsylvania Consolidated Statutes § 7601 (2019).

¹⁵ *Id.* at § 7331 et seq.

¹⁶ *Id.* at § 7332.

¹⁷ *Id.* at § 7702.

¹⁸ *Id.* at § 7339.

¹⁹ *Id.* at § 7338.

²⁰ *Id.* at § 7704.

²¹ 42 Pennsylvania Consolidated Statutes § 8332.4.

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VIRGINIA

EMAC: No known significant incorporation of private resources into EMAC.²²

IMAC Public: Commonwealth authorizes political subdivisions to use individual compacts.²³

IMAC Private: Commonwealth defines “Emergency Services” broadly as all activities intended to minimize damage resulting from disasters, and explicitly includes engineering.²⁴

Protection: Commonwealth grants private employees engaged in emergency services the same immunity as public employees.²⁵ In addition, commonwealth grants civil liability immunity to uncompensated licensed **architects** and **engineers** for harm resulting from their acts or omissions in rendering their professional services during emergencies, except in cases of gross negligence or willful misconduct.²⁶ Volunteers in state and local service enjoy the protection of the commonwealth’s sovereign immunity to the same extent as paid staff.²⁷



WEST VIRGINIA

EMAC: State authorizes the governor to deploy Mobile Support Units, which may consist of private personnel, to serve outside the state, although the statute²⁸ does not explicitly mention EMAC.²⁹

IMAC Public: State adopts statewide opt-out program.³⁰

IMAC Private: State defines “Emergency Services” broadly as all activities intended to minimize damage resulting from disasters.³¹

Protection: State deems all activities relating to emergency services to be governmental functions.³² Personnel serving in a Mobile Support Unit are given the same civil liability immunity as state employees, and receive compensation and reimbursement for travel and subsistence expenses.³³ State grants private employees engaged in emergency services the same immunity as public employees if duly qualified and subject to the control or pursuant to the request of the state or any political subdivision.³⁴ Duly qualified emergency workers responding through a mutual aid agreement possess the same immunities they would have if serving in their own jurisdiction.³⁵



²² Virginia Code § 44-146.28:1 (2019). Commonwealth does however make limited legal provisions for disaster relief services from out-of-state businesses and employees in § 44-146.28:2.

²³ *Id.* at §§ 44-146.19(D) and 44-146.20.

²⁴ *Id.* at § 44-146.16.

²⁵ *Id.* at § 44-146.23.

²⁶ *Id.* at § 8.01-226.2. The statute does not clarify whether the architects and engineers must be licensed in-state or may be licensed out-of-state.

²⁷ *Id.* at § 2.2-3605.

²⁸ West Virginia Code Annotated § 15-5-7 (2018).

²⁹ *Id.* at § 15-5-22.

³⁰ *Id.* at § 15-5-28.

³¹ *Id.* at § 15-5-2.

³² *Id.* at § 15-5-11.

³³ *Id.* at § 15-5-7.

³⁴ *Id.* at § 15-5-11.

³⁵ *Id.*

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