

Mutual Aid for Building Departments: Region 8

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>

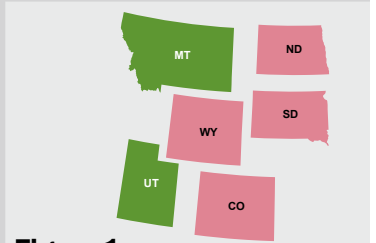


Figure 1.
FEMA Region 8 IMAC Types

COLORADO

EMAC: State law allows its EMAC¹ system to include volunteer health practitioners.²

IMAC Public: State utilizes individual compacts.³

IMAC Private: State empowers its Office of Emergency Management to contract with private entities for emergency management purposes.⁴ State directs its Office of Emergency Management to maintain a database including any private organization with resources useful during a disaster or emergency.⁵ State allows any person to register as an unpaid Civil Defense Worker⁶ with the Office of Emergency Management or local organization for civil defense for the purpose of carrying out disaster preparedness pursuant to the Colorado Disaster Emergency Act.⁷ Civil Defense Workers may⁸ be covered under Colorado workers' compensation law⁹ and may be compensated for injuries arising out of their service if serving as part of an accredited local organization for civil defense, or if they are registered with the Office of Emergency Management and carrying out duties pursuant to that relationship at the time of the injury.¹⁰ State allows volunteer organizations having a Memorandum of Understanding with a state or local agency to be enrolled on a qualified volunteer organization list.¹¹ State defines "Qualified Volunteers" as members of such an organization who are called to service and receive the appropriate verification of their status from the Colorado Department of Public Safety.¹² Qualified Volunteers may be eligible for certain benefits, including protected leave of absence from their private employer and liability immunity.¹³

Protection: State deems all legal liabilities for damages resulting from activities arising out of the Colorado Disaster Emergency Act¹⁴ to be the obligation of the state.¹⁵

In-state licensed **architects**, professional **engineers**, and land surveyors, as well as certain building code officials, who voluntarily and without compensation provide certain statutorily-defined professional services relating to a building, structure, or other architectural or engineering system at the scene of an emergency and during a state of emergency are not liable for civil damages for harm resulting from their acts or omissions in performing such services except in cases of gross negligence or willful misconduct.¹⁶

¹ Colorado Revised Statutes § 24-60-2902 (2019).

² *Id.* at § 25-1.5-609.

³ *Id.* at § 24-33.5-713.

⁴ *Id.* at § 24-33.5-705.

⁵ *Id.* at § 24-33.5-705.3.

⁶ *Id.* at § 24-33.5-802.

⁷ The Colorado Disaster Emergency Act is codified at §§ 24-33.5-701 to 33.5-716.

⁸ Although Civil Defense Workers are technically covered by Colorado workers' compensation, Colorado conditions all benefits and payments to Civil Defense Workers upon certain funding conditions in §§ 24-33.5-806 and 33.5-807. Hence, Civil Defense Workers ultimately may be covered by workers' compensation.

⁹ *Id.* at § 24-33.5-808.

¹⁰ *Id.* at § 24-33.5-805. In addition, the injury must not be self-inflicted or caused by intoxication. *Id.* Colorado makes the payment of such compensation mandatory in § 24-33.5-805, but then conditions all payments or benefits to Civil Defense Workers upon multiple funding conditions in §§ 24-33.5-806 and 33.5-807.

¹¹ *Id.* at § 24-33.5-823.

¹² *Id.* at § 24-33.5-824.

¹³ *Id.*

¹⁴ *Id.* at § 24-33.5-701 to 33.5-716.

¹⁵ *Id.* at § 24-33.5-903.

¹⁶ *Id.* at § 13-21-108.3. This statute does not abrogate any provision of the Colorado Governmental Immunity Act (*id.* at §§ 24-10-101 to 24-10-120).

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MONTANA



EMAC: No known significant incorporation of private resources into EMAC.¹⁷

IMAC Public: State adopts a statewide opt-out IMAC program.¹⁸



IMAC Private: State defines “volunteer professional” to include licensed professionals of any state.¹⁹ Volunteer professionals may have their out-of-state licenses recognized in Montana, but must register with the appropriate Montana licensing agency first.²⁰

Protection: Volunteer in-state and out-of-state licensed professionals²¹ providing emergency management services are not liable for civil damages for harm resulting from their acts or omissions specifically arising out of activities undertaken in response to an incident, disaster, or emergency, and undertaken while complying with or reasonably attempting to comply with certain other emergency management laws defined in the statute, except in cases of willful misconduct, gross negligence, or bad faith.²² Any person responding to an IMAC request and under the control of the requesting jurisdiction are considered employees of that jurisdiction for liability purposes, except in cases of willful misconduct, gross negligence, or bad faith.²³

NORTH DAKOTA



EMAC: State explicitly provides for incorporation of volunteer health practitioners²⁴ into its EMAC²⁵ apparatus. State exempts authorized emergency workers from in-state professional licensing requirements during their service.²⁶

IMAC Public: State uses individual compacts.²⁷



IMAC Private: No known significant private mutual aid policies in North Dakota.

Protection: State declares all emergency management functions to be governmental functions.²⁸ Except in cases of willful misconduct, gross negligence, bad faith, or certain other statutorily defined exceptions, disaster or emergency workers are not liable for harm resulting from their emergency services if working under the direction of an appropriate governmental response entity and complying with or reasonably attempting to comply with certain statutorily defined requirements.²⁹

Except in cases of wanton, willful, or intentional misconduct, in-state licensed **architects** and professional **engineers** who voluntarily and without compensation provide certain statutorily-defined professional services at the scene of a declared disaster-caused emergency, and at the request of a public official acting in an official capacity, are not liable for civil damages for harm resulting from their acts, errors, or omissions in the performance of any engineering services for any structure, building, piping, or other engineered system within 90 days of the emergency unless extended by the governor.³⁰

¹⁷ Montana Code Annotated § 10-3-1001 (2017).

²² *Id.* at § 10-3-111.

²⁶ *Id.* at § 37-17.1-16.

¹⁸ *Id.* at §§ 10-3-901 to 3-912.

²³ *Id.* at § 10-3-912.

²⁷ *Id.* at § 37-17.1-26.

¹⁹ *Id.* at § 10-3-103.

²⁴ North Dakota Century Code

²⁸ *Id.* at § 37-17.1-16.

²⁰ *Id.* at § 10-3-118.

§ 37-17.4-08 (2019).

²⁹ *Id.*

²¹ *Id.* at § 10-3-103.

²⁵ *Id.* at § 37-17.1-14.5.

³⁰ *Id.* at § 32-03-47.

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SOUTH DAKOTA

EMAC: No known significant incorporation of private resources into EMAC.³¹ State codifies its State and Province Emergency Management Assistance Memorandum of Understanding.³²

IMAC Public: State authorizes its Department of Public Safety to coordinate individual compacts.³³ Governor may also directly order political subdivisions to assist other political subdivisions.³⁴



IMAC Private: State defines “Emergency Management Worker” to include any paid or volunteer employee of any organization performing services in the state under the direction or request of the state or a political subdivision.³⁵ State empowers governor to accept goods and services from private entities for emergency management purposes.³⁶

Protection: Private Emergency Management Workers serving under the control of a public authority receive compensation and identical rights and immunities with state employees.³⁷

In-state licensed **architects** and **engineers** who, voluntarily and without compensation beyond expense reimbursement, provide professional design services at the request or with the approval of a public official in response to a disaster within 90 days following the end of the declared emergency unless extended by executive order of the governor shall not be liable for civil damages for harm resulting from those services except in cases of gross negligence or willful or wanton misconduct.³⁸

³¹ South Dakota Codified Laws § 34-48A-53 (2019).

³⁶ *Id.* at § 34-48A-36.

³² *Id.* at § 34-48A-54.

³⁷ *Id.* at § 34-48A-22.

³³ *Id.* at § 34-48A-19.

³⁸ *Id.* at § 36-18A-76.

³⁴ *Id.* at § 34-48A-6.

³⁵ *Id.* at § 34-48A-1.

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UTAH

EMAC: State law allows its EMAC³⁹ system to include volunteer health practitioners.⁴⁰

IMAC Public: State adopts a statewide opt-out IMAC program.⁴¹



IMAC Private: State defines “Emergency Responder” as any individual with special skills and qualifications useful during an emergency, and specifically includes architects, engineers, and design professionals, and allows them to be deployed through IMAC.⁴²

Protection: During and for 90 days following a declared state of emergency, in-state licensed **architects** and professional **engineers** providing their services in good faith, voluntarily and without compensation, and at the request of a public official in response to the declared state of emergency are not liable for civil damages for harm resulting from their acts, errors, or omissions in the provision of their architectural or engineering services within the scope of their licensure.⁴³ Emergency Responders from another state, temporarily employed by or volunteering at the request of a government entity, enjoy the same immunity they would enjoy in their home state while performing emergency services in Utah.⁴⁴



WYOMING

EMAC: State law allows its EMAC⁴⁵ system to include volunteer health practitioners.⁴⁶

IMAC Public: State authorizes individual compacts between political subdivisions.⁴⁷



IMAC Private: State authorizes the governor and political subdivisions to create emergency support task forces which may consist of and compensate private employees and volunteers.⁴⁸

Protection: Volunteers serving on an emergency task force are given the same rights and immunities as state employees, and are covered by the Wyoming Workers’ Compensation Act.⁴⁹

³⁹ Utah Code § 53-2a-402 (2019).

⁴⁰ *Id.* at § 26-49-301.

⁴¹ *Id.* at §§ 53-2a-301 to 2a-310.

⁴² *Id.* at § 53-2a-302.

⁴³ *Id.* at § 78B-4-514.

⁴⁴ *Id.* at § 53-2a-502.

⁴⁵ Wyoming Statutes §§ 19-13-401

to 13-414 (2019).

⁴⁶ *Id.* at § 33-36-202.

⁴⁷ *Id.* at § 19-13-109.

⁴⁸ *Id.* at § 19-13-107.

⁴⁹ *Id.*

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