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Delaware Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

Title 20 of the Delaware code addresses emergency management issues. The governor and the director of the Emergency Management Agency are the key entities with responsibility during an emergency. Financial aid is given primarily with federal funds along with state emergency accounts. The *Emergency Interim Executive Succession Act* provides for the succession of powers in emergencies. Delaware statutes include both an Interstate Civil Defense and Disaster Compact and the Emergency Management Assistance Compact.

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. 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 statute provides the governor, state agencies and authorized representatives broad emergency powers as well as the rendering of mutual aid among political subdivisions and with other states and federal government (Del. Code Title 20,

§3101). The governor has general direction and control of the Delaware Emergency Management Agency (DEMA) and authority to issue, amend and rescind all necessary executive orders, emergency orders, proclamations and regulations. The governor also has authority to suspend provisions of regulatory statutes that would prevent, hinder or delay any emergency response. The statute authorizes the governor to impose mandatory water restrictions after declaration of a state of emergency, and, to use state resources to cope with a disaster or emergency, transfer personnel, mobilize the National Guard, and make use of any private, public or quasi-public property (Del. Code Title 20, §3115-3117).

Emergency Management Agency: The agency is authorized to carry out all obligations and duties associated with state emergency or disaster response and recovery plans, and to execute all duties and responsibilities to secure the maximum state and federal emergency management assistance and emergency or disaster recovery assistance (Del. Code Title 20, §3107).

Council on Emergency Planning and Operations: The council is authorized to act as advisor on emergencies, whether caused by enemy attack, sabotage or other hostile action, or by fire, flood or other causes. The council is directed to advise the director of DEMA, the secretary of the Department of Public Safety and the governor. The statute requires political balance in the membership of the council (Del. Code Title 29, §8209).

Emergency Response Commission: The commission was created in compliance with Title III of the federal Superfund Amendments and Reauthorization Act of 1986 (Del. Code Title 16, Chap. 63 *et seq.*). Fees are appropriated to the commission primarily to fund local emergency planning committees and related data collection and management activities. Fees may also be used to fund emergency response vehicles, related equipment and supplies, and physical examinations and medical screenings for volunteer fire service members of decontamination teams (House Bill 437, 2002, amends Del. Code Title 16, §6311).

Preparedness

The statute directs DEMA to prepare a comprehensive emergency management plan for the state; staff and equip a state emergency operations center; and apply for federal grants and private funds to defray the costs of maintaining and implementing the capabilities of the agency. DEMA is to provide technical advice and assistance to state agencies and political subdivisions and provide direction and control of state emergency or disaster operations (Del. Code Title 20, §3105-07).

The statute transferred duties and functions of the Division of Civil Defense and its predecessor to DEMA (Del. Code Title 29, §8208).

DEMA must establish a radiological emergency management program to comply with applicable federal regulations and implement all necessary and appropriate protective or remedial measures on behalf of the state with respect to a radiological incident, or threatened radiological incident, resulting from the operation of commercial nuclear generating facilities, acts of terrorism, or transport of nuclear byproducts (Del. Code Title 20, §3108).

Declaration Procedures

The governor has authority to declare a state of emergency, which may continue for a 30-day period without being renewed. The governor may terminate the declaration at any time (20 Del. Code, §3115).

Types of Assistance

DEMA Assistance Relief Fund: The fund was established to enable DEMA to make purchases for life-sustaining assistance for persons in need of urgent aid due to “harmful acts of nature.” The fund may be used only for specified purposes and under specified circumstances and requires an annual appropriation to maintain a \$50,000 balance (Del. Code Title 20, §3107A).

Disaster Victim Assistance: During a state of emergency declared by the governor, DEMA or other state agencies may purchase materials and supplies necessary to protect the health and safety of persons and property and to provide emergency or disaster assistance to victims of a disaster (Del. Code Title 20, §3107).

The statute establishes limits and exclusions for funds appropriated to the Department of Health and Social Services, Division of Social Services, for “Emergency and Disaster Assistance” for special emergency needs of welfare-receiving households. It also identifies the percentage of total emergency funds that can be allocated per quarter during each fiscal year (Del. Code Title 31, §521).

Mutual Aid

The statute authorizes police to work in another jurisdiction during an emergency (Del. Code Title 11, §1943).

The *Emergency Management Assistance Compact* is ratified (Del. Code Title 20, §3401-03).

The *Interstate Civil Defense and Disaster Compact* is ratified (Del. Code Title 20, §3301-02).

Funding

The statute provides that it is state policy to obtain federal funding for disaster relief and the repair of essential public facilities. The governor or a designee may enter into agreements with the federal government to obtain such aid, but constraints are set out to prevent the commitment of resources beyond those appropriated. The state will pay any costs in compensation to property owners or to further an agreement with the federal government or agencies with special appropriations (Del. Code Title 7, §5701-5704).

DEMA (the director) is authorized to apply for, receive, and expend federal, public or private funds, grants, or other forms of financial assistance to defray costs incurred (Del. Code Title 20 § 3107(4)).

Hazard Mitigation

No specific provisions.

Continuity of Government Operations

The governor may declare an emergency temporary location, or locations, for the seat of government within or without the state. The General Assembly may change the seat of government by law. The statute provides for political subdivisions to relocate during an emergency. (Del. Code Title 29, Chapter 77 *et seq.*).

The Emergency Interim Executive Succession Act provides for emergency interim successions to state governmental offices and political subdivisions. Authorizes officers to designate by title emergency interim successors and to specify their order of succession (Del. Code Title 29, Chapter 78 *et seq.*).

The state constitution provides for a line of succession to the offices of governor and lieutenant governor (Del. Constitution Article 3, Section 20).

Other

Emergency management organizations cannot be employed for political purposes (Del. Code Title 20, §3124).

State agency heads may implement related assignments “without regard to procedures required by other laws” after the governor declares that a state of emergency exists (Del. Code Title 20, §3126).

Key Terms

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

Terms	Citations
Commission (State Emergency Response Comm.)	Del. Code Title 29, § 8224
Disaster	Del. Code Title 20, § 3102
Emergency	Del. Code Title 20, § 3102
Emergency management	Del. Code Title 20, § 3102
State of emergency	Del. Code Title 20, § 3102
Mitigation	Del. Code Title 20, § 3102
Response	Del. Code Title 20, § 3102
Terroristic threatening	Del. Code Title 11, § 621

In addition to the foregoing terms, the Delaware statute provides that definitions consistent with the functions of the Department of Public Safety are to be construed as relating to the Department (Del. Code Title 29, §8217(b)).

For Further Research

The Delaware code citations noted above may be searched at:
[<http://198.187.128.12/delaware/lpext.dll?f=templates&fn=fs-main.htm&2.0>].