



Appendix V Summary of Emergency Management Laws, Executive Orders and Legal Opinions

A. Enabling Authorities

Reorganization Plan of Civilian Defense Director

The Office of Civilian Defense was transferred from the Department of Defense to the Department of Law and Public Safety. This reorganization is intended to promote coordination of State, County, and local relief efforts. All acts and parts of act inconsistent with this reorganization plan are superseded to the extent of such inconsistencies.

Executive Order 101, 1980 "(Byrne) Transfer of Emergency Management to the NJ State Police"

Established an Office of Emergency Management in the Division of State Police, Department of Law and Public Safety. The Office of Emergency Management shall be under the supervision, direction and control of the State Director of Emergency Management.

Executive Directive No. 1978-1 - Establishment of the Emergency Management Section

The functions, power and duties of the Office of Civilian Defense Director are hereby established in the Bureau of Emergency Services in the Division of State Police under the authority of William F. Hyland Attorney General.

B. Executive Orders

Executive Order 39, 1954 - Functions and Duties of the State Director - The Office of Emergency Management is the lead State agency in disaster recovery operations and it is responsible for coordinating State preparedness plans for major disasters.

Executive Order 12, 1970 - Directs each Department to Develop Emergency Plans - Directs State Departments to develop, coordinate and keep current a workable plan for the effective utilization of manpower and resources. Copies of these plans shall be forwarded to the Director of Emergency Management. The Director of Emergency Management is authorized to call upon any department, office, division or agency of the State to supply such statistical data, program reports and other information as he deems necessary.

Executive Order 115, 1994 (Florio) - Established an-Interagency State Hazard Mitigation Team Established an interagency State Hazard Mitigation Team. A representative of the office of the Governor will chair the team and the State Hazard Mitigation officer appointed by the Governor will serve as Deputy Chair. Lists other members of the team, their roles and responsibilities.

Executive Order 161, 1987 (Kean) - Implementation of the Federal Emergency Planning and Community Right-to-Know Act - Implementation of the State Emergency Response Commission who shall perform all duties and acts prescribed by the federal "Superfund Amendments and Reauthorization Act of 1986.



Resolution October 3, 1973 - New Jersey State Board of Education Resolution

NJ Civil Defense and Disaster Control Act as amended. (N.J.S.A., Appendix A:9-30 et al.)

App. A:9-30 et seq.

C. Other Relevant Statutes pertaining to Emergency Management

NOTE: Full text of the NJ Statutes is available on-line at <http://www.njleg.state.nj.us/html/statutes.htm>

N.J.S.A. 2A:53A-13.1

No volunteer fire company, volunteer first aid, rescue or emergency squad, civil defense unit, which provides services for the control and extinguishment of fires or emergency public first aid and rescue services shall be liable in any civil action to respond in damages as a result of any acts of commission arising out of the rendition in good faith of any such services.

N.J.S.A. 2A:62A-7 Liability of Volunteer Fire Company and Civil Defense Unit

No individual, partnership, corporation, association, or other entity shall be liable for civil damages as a result of acts taken in the course of rendering care, assistance, or advice with respect to an incident creating a danger to persons or property

N.J.S.A. 2C:17-2

A person who purposely or knowingly, unlawfully causes an explosion, flood, collapse of a building, release or abandonment of poison gas, radioactive materials or any other harmful substance will be charged with a crime in the second degree.

N.J.S.A. 13:1E-80

All major hazardous waste facilities shall, for the purpose of local property taxation, be assessed and taxed in the same manner as other property.



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N.J.S.A. 13:1K-17

When the Department of Environmental Protection obtains information which leads it to suspect that hazardous discharge has occurred, they shall immediately notify the governing body and local Board of Health of the municipality in which the hazardous discharge has occurred and shall take appropriate action to verify that discharge has occurred.

Within six months of the effective date of this act the department shall notify the governing body of each municipality in the State with a list of all hazardous discharges reported to the department.

N.J.S.A. 13:1k-33-35

The Division of State Police in the Department of Law and Public Safety and the Department of Environmental Protection shall establish and operate a hazardous material discharge initial emergency response training program for municipal and county agents involved in investigating suspected hazardous material discharge.

N.J.S.A. 26:2D-37-et seq

The Division of State Police and the Department of Environmental Protection shall prepare or cause to be prepared and adopt a State Radiation Emergency Response Plan. This statute covers local response plans, county response plans, the powers and duties of DEP and the powers and duties of the Division of State Police. The statute also provides guidelines for other relevant agencies needed for radiation response.

N.J.S.A. 38A: 2-3 et seq.

Whenever the militia, or any part thereof, is employed in aid of civil authority, the Governor, if in his/her judgment the maintenance of law and order will thereby be promoted, may by proclamation, declare any county or municipality, or part thereof, which the troops are serving to be subject to martial law.

N.J.S.A. 38A: 3-6.1

The Governor shall have the authority to order to active duty, with or without pay, in State service, such members of the New Jersey National Guard that in their judgment are necessary to provide aid in circumstances which threaten or are a danger to the public health, safety or welfare.

N.J.S.A. 38A: 20-3

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of respective states, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people.



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N.J.S.A. 39:4-213

The Attorney General is authorized to erect directional signals or signs, and assign such police personnel as may be necessary for the manual direction of traffic during an emergency.

N.J.S.A. 40A:14-156.4

Suspension of acts to provide emergency assistance. The county emergency management coordinator may by express order suspend operation of the provisions upon declaration of a State of Emergency.

N.J.S.A. 48:23-11

In order to qualify for funding pursuant to section 4 of this act, the New Jersey Public Broadcasting Authority shall, upon notification by the Director of the State Office of Emergency Management in the Division of State Police that an emergency condition exists, immediately operate its television stations in order to broadcast news and information concerning the emergency condition.

N.J.S.A. 52:14A-4 et seq.

In the event that the Governor, for any reason is not able to exercise and discharge their duties, this statute provides for emergency executive succession.

N.J.S.A. 52:14-4 et seq.

The Governor's Advisory Council for Emergency Services and guidance for its operation.

N.J.S.A. 52:27D-222

Directs certain entities which store, manufacture, distribute or warehouse unusually hazardous substances to develop an emergency response plan along with the county or municipal fire officials.

N.J.S.A. 53:1-21.6

The Director of the State Office of Emergency Management in the Division of State Police shall notify the New Jersey Public Broadcasting Authority when an emergency condition exists or is imminent. The Director shall give the authority all information necessary for the authority to operate its television stations in order to alert and inform the public about the emergency condition.

N.J.S.A. 55:13C-1

Need for emergency shelters for victims of fire, natural disasters, domestic - violence and other causes of homelessness. Directs the Department of Community Affairs and Human Services to develop regulations for implementation of the Rooming and Boarding Housing Act of 1979.



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N.J.S.A. 58:16A-66 et seq

The Commissioner of the Department of Environmental Protection shall in consultation with the United States Army Corps, of Engineers and in coordination with the Office of Emergency Management in the Division of State Police, develop a flood early warning-system.

N.J.S.A. 58:16a-101

The office of Emergency Management shall notify the emergency management organization in the counties, which shall then notify the local police departments in the event of a flood situation.

D. Summary of New Jersey Administrative Code

NJAC 7:19 et seq - The Water Supply Management Act, NJS 58:1A-1 et seq constitutes the rules governing the management of the waters of the State during drought warning and water supply emergencies.

N.J.A.C. 7:26-9.7-212-216 - Standards and requirements for all persons treating, storing or disposing of hazardous waste.

N.J.A.C. 8:39 41.2-42.2 - Guidelines for fire regulations in long-term health care.

N.J.A.C. 8:436-24.13 - Guidelines for fire and emergency preparedness for hospital facilities

N.J.A.C. 12:100-4.2 - Hazardous materials and occupational safety and health standards for public employees engaging in general operations.

N.J.A.C. 12:100- 4.3 - The purpose of this subchapter is to set forth procedures to protect employees from the hazards,* of entry into and work within a confined space

N.J.A.C. Chapter 17 - The Governor is authorized to enter into agreements with the governors of any of the states bordering on New Jersey for the protection in the event of emergency of any or all interstate bridges, tunnels, ferries and other communications facilities.

N.J.A.C. Chapter 18 - With the prior or subsequent consent of the congress of the United States, the Governor, on behalf of this State, is authorized to enter into, amend, supplement and implement agreements or compacts with the executive authorities of other states, providing for mutual military aid, and matters incidental thereto, in an emergency.



E. New Jersey Attorney General Policy Memos

Memorandum October 8, 1980 - The Superintendent of the State Police is the point of authority in emergency situations which are beyond local control - when the cabinet officers are not present it must be known that the representative of the State Police is the person in charge.

Memorandum October 29, 1985 - The Attorney General opinion regarding the statutory authority of municipal plans.

Memorandum August 10, 1990 - Fire chiefs do not have any powers of supersession by virtue of the Statute 40A:14-54, with respect to any members of the New Jersey State Police while acting in their official capacities.

Memorandum January 6, 1992 - Economic Responsibilities of Municipalities in periods of emergencies. It is the opinion of the Attorney General that a municipality will bear appropriate costs in dealing with an emergency within its boundaries.

Memorandum January 29, 1993 - Procedures for inclement weather and their effect on State operations.

Memorandum June 10, 1993 - Any amount of material discharged into a waterway, storm drain, or sewer requires immediate notification to the New Jersey State Police.

Memorandum June 22 1993 - State Police notification of Hazardous Materials Incident and the procedures to be followed.

F. Powers of the Governor with respect to Emergency Management

- In accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to direct the Adjutant General to order to active duty members of the New Jersey National Guard necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare and to authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary for their support.
- To direct the State Director of Emergency Management to implement the State Emergency Operations Plan and to direct the activation of county and municipal emergency operations plans as necessary.
- In accordance with N.J.S.A. A:9-33 et seq. as supplemented and amended, to direct the State Director of Emergency Management to determine the control and direction of the flow of such vehicular traffic on any State Highway, municipal or county road, including the right to detour, reroute or divert any or all traffic and to prevent ingress or egress from any area, that, in the State Director's discretion, is deemed necessary for the protection of the health, safety and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.
- In accordance with N.J.S.A. App. A:9-33 et seq. as supplemented and amended, to direct the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of the Division of State Police, to determine the control and direction of the flow of vehicular traffic on any State or Interstate highway, and its access roads, including the right to detour, reroute or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies. I further authorize all law enforcement



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officers to enforce any such orders of the Attorney General and Superintendent of State Police within their respective municipalities.

- To direct the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety or welfare because of the conditions created by this emergency.
- To authorize the State Director of Emergency Management to utilize all facilities owned, rented, operated and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from their residences during the course of this emergency.
- To authorize the executive head of any agency or instrumentality of the State government with authority to promulgate rules to, for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management, waive, suspend or modify any existing rule the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Any such waiver, modification or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.
- In accordance with N.J.S.A. App. A:9-34 and N.J.S.A. App. A:9-51, as supplemented and amended, to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against an emergency.
- In accordance with N.J.S.A. App. A:9-40, to require that no municipality, county or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance or resolution which will or might in any way conflict with any of the provisions of an emergency Executive Order, or which will in any way interfere with or impede the achievement of the purposes of such an Order.
- To require that it shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies authorities in this State of any nature whatsoever, to cooperate fully with the State Director of Emergency Management in all matters concerning a state of emergency.
- In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6 and 40A:14-156.4, to require that no municipality or public or semipublic agency send public works, fire, police, emergency medical or other personnel or equipment into any non-contiguous disaster-stricken municipality within this State nor to any disaster-stricken municipality outside this State unless and until such aid has been directed by the county emergency management coordinator or his deputies in consultation with the State Director of Emergency Management