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Mississippi Emergency Management and Homeland Security Authorities Summarized

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Summary

Mississippi's Emergency Management Law requires the coordination of activities relating to emergency preparedness, response, recovery and mitigation among state agencies, as well as with similar agencies of other states, local and federal governments, interstate organizations, and the private sector. The law created the state Emergency Management Agency (EMA), authorizes the establishment of local organizations for emergency management, and confers emergency powers upon the governor, EMA, and governing bodies of the municipalities and counties. The state government may be relocated during an emergency.

This report is one of a series that profiles 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.

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Mississippi Emergency Management and Homeland Security Authorities Summarized

Entities with Key Responsibilities

Governor: The governor is the commander-in-chief of the “army and navy of the state” as well as the militia, except when called into federal service (Miss. Constitution Article V, Section 119).

The governor exercises general direction and control of the Emergency Management Agency (EMA). In the event of a disaster or emergency beyond local control, the governor may assume direct operational control of state emergency management functions. The governor may make or change directives; enter into disaster assistance grants and agreements with the federal government; and work with EMA in preparing state and local emergency management plans. The governor is authorized to determine needs for food, clothing or other necessities of life in the event of attack, natural, man-made or technological disasters, and to procure supplies, medicines, materials, and equipment. The governor is also authorized to determine needed resources and facilities; institute training and public information programs; and cooperate with the President, federal agencies, and other states in matters pertaining to civil defense, including blackouts, mobilization of emergency services and civil defense forces, the suspension of utility services, and the evacuation and reception of the civilian population. The governor may direct state and local law enforcement agencies and boards of health as necessary, and is required to use the services and facilities of existing state officers and agencies and political subdivisions (Miss. Code Ann. § 33-15-11(b)(1-9)). The governor may suspend or limit the sale, dispensation or transportation of alcoholic beverages, firearms, explosives and combustibles and control, restrict and regulate the use, sale or distribution of food, feed, fuel, clothing, and other commodities (Miss. Code Ann. § 33-15-11(b) (14-15)).

During an impending or actual enemy attack, or a disaster that exceeds local control capabilities, the governor may suspend the provisions of any statute, order, rule or regulation if strict compliance would prevent or delay necessary action; transfer the direction, personnel or functions of state agencies, boards or commissions; and commandeer private property, provided that reimbursement is made (Miss. Code Ann. 33-15-11(c)).

When the governor proclaims that a state of war emergency exists, he or she may commandeer any private property for the protection of the public, or at the request of the President, “the Armed Forces or the Federal Emergency Management Agency (FEMA).” The governor may also sell, lend, or distribute property among the inhabitants of the state, but must provide adequate compensation for any property taken (Miss. Code Ann. § 33-15-13).

Emergency Management Agency: EMA has been created within the executive branch with a director appointed by the governor. The director coordinates all emergency management organizations within the state and cooperates with other states and the federal government (Miss. Code Ann. § 33-15-7). The agency works with the governor to prepare an emergency management plan coordinated with federal state plans to the fullest possible extent. The plan must include evacuation, shelter, postdisaster response, and recovery components. It is also required to coordinate the deployment of state resources; establish a communications and warning system; and institute annual training exercises. EMA is to adopt standards and requirements for local emergency management plans, ascertain the needs for equipment and supplies, and plan for or procure supplies, medicine and equipment; use any property, services and resources within the state; anticipate trends and promote innovations; implement training programs; prepare executive orders for the governor; assist political subdivisions with the creation of urban search and rescue teams; report biennially to the governor, senate president, and the speaker of the house; and create, administer, amend and rescind rules regarding the development of the Mississippi Disaster Reservist Program (Miss. Code Ann. § 33-15-14).

State emergency coordination officers: Officers are selected by the head of each state department, agency or commission and are responsible for coordinating with EMA on emergency preparedness issues, preparing and maintaining emergency preparedness and postdisaster response and recovery plans. Emergency coordination officers maintain rosters of personnel ready to assist in disaster operations; coordinate training; and ensure that state facilities have an approved disaster preparedness plan (Miss. Code Ann. § 33-15-53).

Local emergency management organization: Counties and municipalities, independently or jointly, are authorized to establish local organizations for emergency management. Each local organization must have a director appointed by the local governing body, or bodies acting jointly. Each local organization performs emergency management functions within its territorial limits and outside those limits as required. All local plans are coordinated with the state emergency management plan. When any disaster occurs, a local organization may enter into contracts and incur obligations necessary to protect health and safety, and provide emergency assistance to disaster victims. Each county and municipality, or the counties acting jointly, has the authority to appropriate and expend funds; make contracts; and obtain and distribute equipment and supplies. A local organization is authorized to provide, with or without compensation, emergency management workers; establish, as necessary, a primary, and one or more secondary, emergency operating centers to provide continuity of government; direct emergency operations; order the evacuation of any area; and control or restrict egress, ingress and movement within the disaster area (Miss. Code Ann. § 33-15-17).

The statute authorizes the governing bodies of political subdivisions and other designated agencies to make, amend, and rescind orders, rules, and regulations as necessary for emergency management purposes. All laws, ordinances, rules and regulations inconsistent with emergency management purposes are to be suspended during a disaster or emergency (Miss. Code Ann. § 33-15-31).

Chief administrative officer of municipality: Each chief administrative officer is authorized to order changes in commerce regulations and issue other orders necessary for the protection of life and property (Miss. Code Ann. § 45-17-7).

Radiation Advisory Council: The statute established the council as a separate division of the state board of health. The statute authorizes the board to respond to any emergency that involves the possible or actual release of radioactive material, and authorizes the governor to enter into agreements with the federal government, other states or interstate agencies, and to cooperate in emergency response to radiation accidents. The board may also impound sources of radiation in an emergency (Miss. Code Ann. §45-14-7 to 23).

Preparedness

See also “Entities with Key Responsibilities”—*Governor*.

The EMA is authorized to create mobile support units as necessary to reinforce disaster organizations in stricken areas and to appoint a commander for each unit. Mobile support units perform their functions in any part of the state or, under certain conditions, in other states. The statute gives emergency support units from other states the same powers, duties, rights, privileges and immunities as those within the state (Miss. Code Ann. § 33-15-15).

The governor is authorized, through the commissioner of public safety, to organize the ready reserve of the highway patrol (Miss. Code Ann. § 33-15-11(13)).

Declaration Procedures

The governor may proclaim a state of emergency in an area affected or likely to be affected by an emergency beyond local control, or when requested to do so by the mayor of a municipality or the president of the board of supervisors of a county. The governor is to review the need for continuing the state of emergency at least every 30 days until the emergency is terminated (Miss. Code Ann. §33-15-11(b)(16)).

In the event of an actual or impending enemy attack, as determined by the President, the governor may proclaim that a state of war emergency exists. The statute gives the governor additional emergency powers to protect the public and procure emergency supplies and services. All additional emergency powers granted to the governor terminate when the state of war emergency has been terminated by proclamation of the governor, or by concurrent resolution of the legislature (Miss. Code Ann. § 33-15-13).

A local emergency may be proclaimed by the governing body of a municipality or county. The governing body shall review the need for continuing the local emergency at least every seven days until the local emergency is terminated. During a local emergency, the governing body may promulgate orders and regulations necessary to provide for the protection of life and property, including imposing curfews (Miss. Code Ann. §33-15-17(d)).

The chief administrative officer of any municipality may proclaim that a civil emergency exists (Miss. Code Ann. § 45-17-3).

Types of Assistance

The director of EMA includes the individuals and family grant program in the state natural disaster plan. Individuals or families who incur a necessary expense or serious need in a major disaster area may be eligible for assistance without regard to their residency. Those otherwise eligible for assistance must obtain flood insurance as required. The authority excludes business losses, improvements, additions, landscaping, and certain other expenses from grant eligibility (Miss. Code Ann. § 43-41-11).

During a declared disaster the governor may make arrangements with any federal agency to provide for temporary housing units to be occupied by disaster victims and to make units available to any political subdivision. State-owned equipment and employees may be used to transport, store or maintain temporary housing units, and employees may help political subdivisions acquire sites. Funds may be advanced or lent from appropriations or “pass-through” federal funds. The governor may suspend or modify statutory requirements when necessary to provide temporary housing. The statute sets eligibility criteria and the period for occupancy, and permits temporary housing to be sold as permanent housing (Miss. Code Ann. § 43-41-301 to 315).

During a presidentially declared disaster, and after a declaration has been issued by the governor, the statute permits a preliminary injunction to be filed against any foreclosure proceeding where mortgaged property has depreciated in excess of 15% of the previous fair market value because of the disaster. Persons or property must be directly damaged in an enemy attack, or a man-made, technological or natural disaster. The statute also permits a preliminary injunction against foreclosure proceedings if the petitioner is unable to pay on the mortgage debt because they have sustained a loss in income derived from the mortgaged property, or is threatened with loss as a result of the disaster. The statute sets limits and provisions for the preliminary injunction to be dissolved (Miss. Code Ann. § 89-1-301).

In the event of an impending enemy attack, an enemy attack, or a man-made, technological or natural disaster, and the President, governor, or a governing body issues a declaration, local authorities may use county- or municipally-owned equipment and public employees to remove debris from private property at owners’ request, or perform any other necessary and needed services to prevent the spread of disease or any other health hazard. If functions cannot be performed, aid may be requested from other counties and municipalities. The statute authorizes state agencies to enter upon publicly or privately owned land or water to clear or remove debris and wreckage when local authorities lack sufficient equipment and personnel (Miss. Code Ann. § 33-15-49).

Mutual Aid

The *Emergency Management Assistance Compact* (EMAC) is codified (Miss. Code Ann. Chapter 45-18-1 et. seq.).

The governor may enter into reciprocal aid agreements or compacts with other states and the federal government, or with a neighboring state or province of a foreign country. The statute limits mutual aid arrangements to essential supplies and services and provides for the reimbursement of costs and expenses. The governor may sponsor and develop mutual aid plans between and among political subdivisions (Miss. Code Ann. § 33-15-11(b)(10-11)).

Local governing bodies are authorized to enter into mutual aid agreements within the state for reciprocal aid and assistance in case a disaster or emergency is too extensive to be managed without assistance. The governor may enter into compacts with any state or group of states to meet common intergovernmental problems of emergency management, mitigation, response and recovery (Miss. Code Ann. § 33-15-19).

The statute permits municipalities to procure additional law enforcement officers through reciprocal assistance from other municipalities during a state of civil emergency of statewide concern (Miss. Code Ann. § 21-21-31). Any municipality, its mayor, chief administrative officer, or chief of police may make provision for its law enforcement officers to assist any other municipality during a state of civil emergency, natural disaster or manmade calamity, in order to protect the health, life and property of the municipality and its inhabitants (Miss. Code Ann. § 21-21-35).

The *Interstate Earthquake Emergency Compact* is codified (Miss. Code Ann. § 27-107-301).

The *South Central Interstate Forest Fire Protection Compact* is codified (Miss. Code Ann. § 49-19-141 to 149).

The *Southeastern Interstate Forest Fire Protection Compact* is codified (Miss. Code Ann. § 49-19-171 to 179).

Funding

The statute authorizes any state agency to create a special emergency management revolving fund, accept donations, contributions, fees, and grants, including federal funds, to administer its functions (Miss. Code Ann. § 33-15-11(b)(13)).

The statute authorizes local governments, school districts, port authorities, and other public agencies at the community or state level which qualify for funds and benefits under the U.S Disaster Relief Act of 1970 to accept and disburse funds (Miss. Code Ann. § 27-107-31).

The board of supervisors of a county or any governing body of a municipality is authorized to expend any available funds from its general fund to pay any expenses of its local emergency management organization (Miss. Code Ann. § 33-15-23).

The statute authorizes the governor to enter into agreements with the federal government for the purpose of matching any federal funds that may be made available for emergency management purposes, including purchasing equipment and supplies. The statute sets limits on obligations. Any county board of supervisors or municipal governing body may enter into an agreement with the federal government, with the approval of the EMA director, for matching funds. Funds may be expended from the county or municipality general fund or other funds available for emergency management purposes in order to provide necessary local funds for the matching agreement. A state agency may withhold from any county, municipality or not-for-profit entity a portion or all of a subgrant if the entity owes a refund on any past project that was not completed as required (Miss. Code Ann. § 33-15-25).

The statute authorizes the state or any political subdivision to accept a grant from the federal government or others for services, equipment, supplies, materials or funds by way of a gift, grant or loan, for purposes of emergency management (Miss. Code Ann. § 33-15-27).

Disaster Assistance Act of 1993: The statute was enacted to provide funds to meet emergencies or major disasters. Provisions are to be invoked only during a declared emergency or major disaster or by order of the director to provide state or local government resources and personnel in compliance with EMAC, or may be used for administrative and training costs for disaster response and recovery programs. Funds originate from appropriations and other specified sources. The funds are to be used for the state's portion of the cost share for public assistance, hazard mitigation, certain other programs, the administrative costs of these programs, and the costs of implementation of the Disaster Reservist Program. The statute sets a limit on the amount that may be transferred, and allows unexpended funds to be used for any emergency management purpose (Miss. Code Ann. § 33-15-301 to § 33-15-313).

When the President, upon gubernatorial request, declares a major disaster in the state, the governor may: accept a grant from the federal government to meet disaster-related expenses or serious needs of individuals or families that cannot otherwise be adequately met; pledge state participation in the financial assistance up to 25%; and accept an advance of the state share of federal funds to be repaid when the state is able to do so (Miss. Code Ann. § 43-41-7). The governor must file a request for federal assistance in order to make assistance available to major disaster victims (Miss. Code Ann. § 43-41-9).

During a federally declared disaster, the state grant shall be equal to 25% of the actual cost of necessary expenses or serious needs, plus state administrative expenses in excess of 5% of the total federal grant, on the condition that the remaining 75% plus 5% administrative cost, is provided by the federal government. If the governor declares an emergency the state grant shall be equal to an amount established by the director of EMA. The statute sets annual limits on individual and family grants (Miss. Code Ann. § 43-41-13).

The statute permits state agencies to be reimbursed when their officials carry out assigned disaster or emergency duties when regularly appropriated funds have been depleted (Miss. Code Ann. § 43-41-319).

Hazard Mitigation

The governor may make recommendations to the legislature, building code organizations and political subdivisions for preparedness, prevention and mitigation measures (Miss. Code Ann. § 33-15-14(2)(a)(viii)2(e)).

Continuity of Government Operations

Whenever, due to an enemy attack, or a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of any local government at the regular place, the governing body may establish an emergency temporary location, within or without the state (Miss. Code Ann. § 17-7-1). When public business is being conducted at the emergency temporary location, the governing body and other officers exercise all of their executive, legislative and judicial powers and functions (Miss. Code Ann. § 17-7-3).

The governor may convene the legislature in extraordinary session whenever the public interest requires it at the seat of government, or at a different place due to dangers posed by an enemy or disease (Miss. Constitution Article V, Section 121).

Other

The state tax commission is authorized to waive taxes and fees on common and commercial carriers when motor vehicles are operated on highways in response to an emergency, major disaster, or the threat of a major disaster (Miss. Code Ann. § 27-61-8).

The statute grants immunity from civil liability to persons who voluntarily and without compensation permit property to be used as a public shelter or provide assistance to persons during or in recovery from an actual, impending, mock or practice attack or any man-made, technological or natural disaster (Miss. Code Ann. § 33-15-21(b)).

Any county or municipality may confer the powers of peace officers upon members of emergency management auxiliary police units, with the approval of the sheriff or chief of police (Miss. Code Ann. § 33-15-39).

Subversive Activities and Communist Control Law: The statute regulates subversive activities of communist organizations directed against the state and its people, and gives the secretary of state the power to request that the attorney general investigate organizations. The district attorney having proper jurisdiction, or the attorney general, has the power to proceed by injunction or otherwise to dissolve an organization designated as a subversive or communist-front group by the United States Attorney General, or a congressional committee on un-American activities. The statute requires the registration of organizations and their membership with the

secretary of state and prohibits groups from assembling or meeting without registration (Miss. Code Ann. §45-19 et. seq.).

Key Terms

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

Terms	Citations
Assistance from other means	Miss. Code Ann. § 43-41-3(e)
Civil defense	Miss. Code Ann. § 33-15-5 (d)
Catastrophic disaster	Miss. Code Ann. § 33-15-5(m)(i)
Civil emergency	Miss. Code Ann. § 45-17-1(a)
Curfew	Miss. Code Ann. § 45-17-1(b)
Director	Miss. Code Ann. § 33-15-305(a)
Disaster	Miss. Code Ann. §§ 33-15-305(b), 33-15-5(m)
Disaster Reservist	Miss. Code Ann. § 33-15-5 (n)
Emergency	Miss. Code Ann. § 33-15-5(h), § 43-41-3(g)
Emergency management	Miss. Code Ann. § 33-15-5(c)
Federal assistance	Miss. Code Ann. § 43-41-3 (h)
Local emergency	Miss. Code Ann. §§ 33-15-5(g), 33-15-305(d)
Local emergency management agency	Miss. Code Ann. § 33-15-5(l)
Major disaster	Miss. Code Ann. §§ 33-15-5(m)(ii), 43-41-3 (i)
Man-made emergency	Miss. Code Ann. § 33-15-5(h)(i)
Minor disaster	Miss. Code Ann. § 33-15-5(m) (iii)
Natural emergency	Miss. Code Ann. § 33-15-5(j)
Necessary expense	Miss. Code Ann. § 43-41-3(a)
Serious need	Miss. Code Ann. § 43-41-3(b)
State of emergency	Miss. Code Ann. §§ 33-15-5(f), 43-41-3(n), 33-15-305(h)
State of war emergency	Miss. Code Ann. § 33-15-5(e)

Terms	Citations
Technological emergency	Miss. Code Ann. § 33-15-5(k)
Temporary housing	Miss. Code Ann. § 43-41-3 (l)
Trust fund	Miss. Code Ann. § 33-15-305(i)

For Further Research

The citations noted above and other elements of the state code for Mississippi may be searched at: [<http://198.187.128.12/mississippi/lpext.dll?f=templates&fn=fs-main.htm&2.0>]