

# CRS Report for Congress

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## **Arizona Emergency Management and Homeland Security Statutory Authorities Summarized**

**March 17, 2004**

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# Arizona Emergency Management and Homeland Security Statutory Authorities Summarized

## Summary

Arizona's emergency response statutes established a Division of Emergency Management under the Department of Emergency and Military Affairs. The governor and legislature share duties of declaration and government continuity. Aid is provided for through the Interstate Mutual Aid Compact, local jurisdiction agreements and federal assistance.

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.

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# Arizona Emergency Management and Homeland Security Statutory Authorities Summarized

## Entities with Key Responsibilities

*Governor:* The governor may delegate any powers of the office to the adjutant general, who may delegate powers to the director of emergency management. (Ariz. Rev. Stat. Ann. §26-302). During a state of war emergency the governor may: suspend any statute prescribing procedures for conducting state business, or orders or rules of any agency, in order not to hinder or delay emergency response; may commandeer and utilize any property or personnel to carry out duties (state pays reasonable compensation); exercise control over all state agencies, and use the state's police powers. During a state of emergency the governor has complete control of state agencies and right to exercise police powers, may direct agencies to use staff, equipment, facilities to prevent or reduce damage resulting from an emergency, and may direct agencies to provide supplemental services and equipment to political subdivisions to protect health and safety. (Ariz. Rev. Stat. Ann. §26-303) The governor may issue orders to mandate medical exams, ration medicines and vaccines, provide transportation for health care workers and ill people, procure medicines and vaccines, and mandate treatment, vaccination, isolation or quarantine for certain contagious and fatal diseases (Ariz. Rev. Stat. Ann. §36-787(B),(C)).

*Department of Emergency and Military Affairs:* The department includes a division of emergency management and other divisions or offices as determined by the adjutant general (Ariz. Rev. Stat. Ann. §§26-101, 26-305). The adjutant general serves as the head of the department and as military chief of staff, and is responsible for execution of orders relating to the militia (Ariz. Rev. Stat. Ann. §26-102). After issuance of a declaration of a state of emergency, the adjutant general may exercise emergency powers and incur obligations (less than \$20,000) for each emergency or contingency. The adjutant general's powers expire 72 hours after termination of emergency (Ariz. Rev. Stat. Ann. §26-303(H)(I)).

*Division of Emergency Management:* The division prepares for and coordinates emergency management activities to reduce suffering and loss from a disaster and coordinates all government agency efforts (Ariz. Rev. Stat. Ann. 26-305).

*Director of Emergency Management:* The director serves as head of the division and as state director for emergency management, makes rules for division operation, and coordinates emergency activities, including testing emergency management plans. During a state of emergency or a local emergency, the director coordinates emergency activities of all state agencies and the National Guard. During a state of war emergency, the director coordinates the emergency activities of all state agencies except the Guard. At the request of a political subdivision, the director coordinates

the use of staff, equipment, services, facilities, and communications to meet emergency needs, including search and rescue. The director also maintains a nuclear emergency response plan, develops and maintains training and education programs related to hazardous material plan standards, and submits biannual reports to the legislature with recommendations. With the approval of the adjutant general, the director negotiates contracts with the federal government, state agencies and political subdivisions for technical, administrative and financial support of emergency management activities, and represents state and emergency management conferences (Ariz. Rev. Stat. Ann. §26-306).

*State Emergency Council:* The council consists of 14 members, including the governor, state officers and agency directors, the adjutant general, the director of emergency management, and legislative leaders. The council recommends orders, rules, policies and procedures to the governor pertinent to emergencies and assigns state agency responsibilities related to planning for, or responding to, emergencies. If the governor is unavailable, the council may issue a state of emergency proclamation after a meeting is called by the director of emergency management division and if at least three votes, one from an elected official, affirm the need for a proclamation. The council monitors each emergency and the activities and responses by the emergency management division, and makes recommendations to the governor and legislature after receiving an auditor's reports about containment of the emergency (Ariz. Rev. Stat. Ann. §26-304).

*Disaster Prevention Council:* The director of emergency management may establish a council to plan for disaster prevention. The council must include state emergency council members and others as determined by the director. The council coordinates disaster prevention expertise and promotes partnerships to reduce property loss from natural and technical disasters (Ariz. Rev. Stat. Ann. §26-306(B)(3)).

*State agencies, counties, cities and towns:* Political subdivisions may make, amend or rescind orders and regulations for emergency functions that are not inconsistent with the governor's orders. During a state of war emergency counties, cities and towns may waive procedures relating to public work (temporary workers, volunteer workers, contracts) if compliance hinders mitigation of effects of the war emergency (Ariz. Rev. Stat. Ann. §26-307).

*Local emergency management organization:* Each locality may appropriate and expend funds, establish an emergency management organization, and appoint a director responsible for the operation of local emergency management programs. Each organization carries out state emergency plans, maintains a list of public and private organizations with trained staff to assist in meeting emergencies, inventories facilities and supplies within the county, and provides information to the director of emergency management (Ariz. Rev. Stat. Ann. §26-308).

*Local emergency planning committees:* The committees prepare and annually review emergency response plans and provide copies to district governmental entities to incorporate in local emergency operations plans, which are then submitted to the Emergency Response Commission (Ariz. Rev. Stat. Ann. §26-345).

*Emergency Response Commission (ERC):* The commission consists of the director of division of emergency management and directors of key state agencies. The ERC establishes programs for grants to local governments for compliance, adopts rules for chemical emergency plans and community right-to-know reporting requirements, and releases reporting requirements (Ariz. Rev. Stat. Ann. 26-343) . The commission designates emergency planning districts to facilitate the preparation and implementation of district emergency plans, and appoints members of a local emergency planning committee for each emergency district (Ariz. Rev. Stat. Ann. 26-344(A)(B)).

*Department of Health Services:* The department coordinates public health emergency response as the public health authority during a state of emergency or a state of war emergency declared by the governor if there is an imminent threat of illness caused by bioterrorism. The department plans and executes public health emergency assessment, mitigation, preparedness, response and recovery actions for the state; coordinates public health responses among state, local and tribal authorities; collaborates with federal and other state officials and private organizations and companies; coordinates recovery operations and mitigation initiatives; organizes public information activities; establishes a process for temporary waiver of licensure requirements; and grants temporary waivers of health care licensure requirements. The department may assist persons or institutions seeking reimbursement of costs from providing isolation and quarantine services (Ariz. Rev. Stat. Ann. §36-787).

## **Preparedness**

Local emergency planning committees' comprehensive emergency response plans must be based on information obtained from the ERC and state and local emergency and disaster agencies and departments. Each plan must identify the heads of emergency response organizations for local governments and provide a description of equipment, facilities and staff, and mutual aid agreements (Ariz. Rev. Stat. Ann. §26-345).

The director of environmental quality must establish a hazardous materials emergency response and recovery unit in the department of environmental quality to function as scientific support, health, safety and environmental element of a hazardous materials emergency management program (Ariz. Rev. Stat. Ann. §49-108).

The Division of Emergency Management has primary responsibility to develop a state plan for off-site response to a nuclear power plant emergency and must consult with other state agencies (Ariz. Rev. Stat. Ann. §26-305.01). The division is the lead agency in developing and implementing a state hazardous materials emergency management program and must consult with other state agencies (Ariz. Rev. Stat. Ann. §26-305.02).

State emergency plans must be in effect in political subdivisions. The local governing body must take action to carry out provisions including the development of local emergency plans (Ariz. Rev. Stat. Ann. §26-308(D)).

The governor may issue an advanced surveillance advisory if there is a belief that a potential for bioterrorism exists. The statute specifies that the advisory must direct reporting, patient tracking, lab testing, and information sharing requirements (Ariz. Rev. Stat. Ann. §36-782 *et seq.*).

In a remedial response to an emergency, an owner or operator of a mining facility is not required to notify or obtain approval of reclamation plan or financial assurance before taking a remedial action to prevent or mitigate release of pollutants (Ariz. Rev. Stat. Ann. §27-925).

During a state of emergency or a state of war emergency, the Department of Health Services and local health authorities must begin an investigation if that agency has reason to believe a contagious or fatal disease exists in the jurisdiction. The department is authorized to establish isolation and quarantine quarters for persons found to have contagious disease as well as due process safeguards (Ariz. Rev. Stat. Ann. §§36-788, 36-789).

## **Declaration Procedures**

The governor may proclaim a state of war emergency in an affected area. After the governor declares a state of war emergency, his or her powers shall terminate if the legislature is not in session and the governor has failed within 24 hours to issue a call for a special session on the topic of the war emergency. After the governor declares a state of emergency, the powers terminate when the governor issues a proclamation or the legislature passes a concurrent resolution terminating the emergency (Ariz. Rev. Stat. Ann. §26-303(C),(D),(F)).

The mayor or chairman of a board of supervisors may declare that an emergency or a local emergency exists, and may impose curfews, order business closings, close access to public buildings and streets, call out law enforcement, or notify county offices whether to remain open or closed (Ariz. Rev. Stat. Ann. §26-311).

State agencies, when designated by the governor, and counties, cities and towns may make, amend and rescind orders, rules and regulations for emergency functions that are not inconsistent with the governor's orders, rules and regulations (Ariz. Rev. Stat. Ann. §26-307 *et seq.*).

## **Types of Assistance**

The governor may declare an emergency arising from major disasters and incur liabilities, regardless of whether or not the legislature is in session. Liabilities are authorized to be incurred and paid from the general fund to mitigate emergencies arising from invasion, epidemics, floods, major disasters, wildfires, hazardous materials incidents, search and rescue efforts. The auditor of the Department of Emergency and Military Affairs reviews liabilities and expenditures, reports to the State Emergency Council at 90-day intervals, and conducts final review within 90 days of the termination of an emergency. The council makes a report to the legislature about its actions. The statute places a limit of \$200,000 on liabilities that

may be incurred in any single disaster or emergency by the governor without council approval, and a maximum of \$4 million per fiscal year. Funds may be obligated only when no other appropriations are available to meet an emergency, when there are insufficient appropriations, or to provide the required state match for federal assistance (Ariz. Rev. Stat. Ann. §35-192).

A non-profit organization that owns vehicles used only for disasters or for search and rescue may apply for an exemption of motor vehicle registration fees (Ariz. Rev. Stat. §26-318).

## **Mutual Aid**

The Emergency Management Assistance Compact is codified (Ariz. Rev. Stat. Ann. §26-401 *et seq.*).

Any emergency plans adopted and approved must satisfy the requirement for mutual aid agreements. Outside aid is to be rendered in accordance with the emergency plan. The governor may enter into reciprocal aid agreements or compacts, mutual aid plans, or other interstate arrangements to protect life and property (Ariz. Rev. Stat. Ann. §26-309).

During a state of emergency, political subdivisions have the power to provide mutual aid. State agencies may provide mutual aid (staff and equipment) to assist political subdivisions during a local emergency (Ariz. Rev. Stat. Ann. §26-311(C),(D)).

The governor may enter into reciprocal aid agreements or compacts with other states and the federal government for police services such as staff, supplies, equipment, facilities (Ariz. Rev. Stat. Ann. §41-101.02).

## **Funding**

The statute established the Emergency Response Fund (Ariz. Rev. Stat. §26-352).

The governor may accept federal government or private assistance (including services, equipment, supplies, funds) by gift, grant or loan (Ariz. Rev. Stat. §26-312).

The statute established an emergency management training fund in the state treasury which is funded through fees that the Division of Emergency Management collects from coordinating training conferences and seminars. Funds are to be used only for training, and any excess reverts to the general fund (Ariz. Rev. Stat. §26-305(D)).

State agencies are reimbursed for state funds spent in performing emergency management duties. Any funds received by state agencies as reimbursement for services and supplies are deposited in the agency account (Ariz. Rev. Stat. Ann. §26-313).

Corporations that construct or operate nuclear power plants must pay an assessment for the costs of the development or maintenance of state nuclear emergency plans. On a biennial basis, the director of the Division of Emergency Management recommends an amount necessary to support the state plan, and the legislature subsequently appropriates funds based on the assessment. Monies are appropriated to the Nuclear Emergency Management Fund (Ariz. Rev. Stat. Ann. §§26-306.01, 26-306.02).

## **Hazard Mitigation**

*See Entities with Key Responsibilities, “Disaster Prevention Council”*

A comprehensive program of flood hazard mitigation must be prepared by the chief engineer of a flood control district (Ariz. Rev. Stat. Ann. §48-3616(B)).

## **Continuity of Government Operations**

If the governor or successors are unavailable due to death or for other reasons after an attack, the state legislature “in emergency session” must designate a temporary governor of the same political party who serves until conditions allow compliance with constitutional provisions. If any elected officer of the state or a political subdivision is similarly unavailable due to an attack, the legislature or an affected political subdivision “in emergency session” must designate a temporary successor of the same party. After an attack, the governor is to convene the legislature in an emergency session within 15 days. The legislature automatically convenes at the capitol or alternate site if governor fails to convene it. Regarding local governments, the mayor or chairman of the jurisdiction’s board of supervisors shall call an emergency session of legislative bodies within 15 days of attack. Legislative bodies automatically convene on the 16<sup>th</sup> day at the seat of government or at an alternate site. The statute does not set limits on the length of such a legislative session, and the quorum is a majority of members attending the emergency session. (Ariz. Rev. Stat. Ann. §38-381 *et seq.*)

To insure the continuity of governmental operations in an emergency from disaster or enemy attack, the legislature must provide for the prompt and temporary succession to powers and duties of public offices if incumbents are unavailable, and must adopt necessary measures to ensure government continuity (Ariz. Rev. Stat. Ann. Const. Art. 4, Pt. 2 §25).

## **Other**

During a state of emergency or a state of war emergency, any out-of-state licensed professional may render aid (Ariz. Rev. Stat. Ann. §26-310).

The statute provides for immunity from liability related to emergency response actions (Ariz. Rev. Stat. Ann. §§26-314; 26-353; 36-790).

Political activities by the emergency management agency or staff are prohibited (Ariz. Rev. Stat. Ann. §26-315).

## Key Terms

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

| <b>Terms</b>                          | <b>Citations</b>                   |
|---------------------------------------|------------------------------------|
| Attack                                | Ariz. Rev. Stat. Ann. §38-382(1)   |
| Bioterrorism                          | Ariz. Rev. Stat. Ann. § 36-781(1)  |
| Commercial nuclear generating station | Ariz. Rev. Stat. Ann. §26-301(1)   |
| Emergency functions                   | Ariz. Rev. Stat. Ann. § 26-301(5)  |
| Emergency management                  | Ariz. Rev. Stat. Ann. § 26-301(6)  |
| Extremely hazardous substance         | Ariz. Rev. Stat. Ann. § 26-341(3)  |
| Hazardous materials                   | Ariz. Rev. Stat. Ann. § 26-301(7)  |
| Hazardous materials incident          | Ariz. Rev. Stat. Ann. § 26-301(8)  |
| Hazardous substance                   | Ariz. Rev. Stat. Ann. § 26-341(4)  |
| Legislating body                      | Ariz. Rev. Stat. Ann. §38-382(2)   |
| Local emergency                       | Ariz. Rev. Stat. Ann. § 26-301(9)  |
| Local health authority                | Ariz. Rev. Stat. Ann. § 36-781(4)  |
| Mitigation                            | Ariz. Rev. Stat. Ann. § 26-301(10) |
| Public safety authority               | Ariz. Rev. Stat. Ann. § 36-781(5)  |
| Preparedness                          | Ariz. Rev. Stat. Ann. § 26-301(11) |
| Recovery                              | Ariz. Rev. Stat. Ann. § 26-301(12) |
| Response                              | Ariz. Rev. Stat. Ann. § 26-301(13) |
| State of emergency                    | Ariz. Rev. Stat. Ann. § 26-301(14) |
| State of war emergency                | Ariz. Rev. Stat. Ann. § 26-301(15) |

## For Further Research

The citations noted above and other elements of the state code for Arizona may be searched at: [<http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>].