



State Analysis Guide

Emergency Declarations and Authorities

This *State Analysis Guide* is intended to assist state health agency staff and legal counsel with locating and analyzing their state's laws, rules, policies, and implementation plans governing the state's ability to declare emergencies and the authorities triggered by the emergency declaration(s). Space is provided on the document to insert references or summaries of appropriate state or local authorities. Because each state's law is unique, this guide may not identify all issues that arise in the course of analyzing a state's law. **In all instances the language and requirements of specific state/local laws, regulations, ordinances, rules, policies, guidances, case law, and other sources of legal authority overrule this general analysis guide. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice.**

Issues for Analysis	State/Local Information
Existing Authorities <u>Without</u> an Emergency Declaration	
Identify the existing authorities of the state health officer/agency director or the state health agency to do the following and identify the official(s) who can exercise these authorities:	
Contain public health nuisances	
Control contagious diseases	
Conduct surveillance and data collection	
Investigate for issues of public health concern	
Inspect for issues of public health concern	
Issue civil orders	
Issue criminal orders/warrants	
Institute quarantine measures	
Other relevant authorities	
Identify other state authorities that may be used to respond to a public health event without a declared emergency and the official/agency authorized to exercise these authorities.	
Identify any existing plans or procedures in place with other agencies or officials that address response activities for public health events when there is no emergency declaration in place.	
Analyze how the response to a public health event would proceed if there is no emergency declaration in place:	

Issues for Analysis		State/Local Information
	List the state's response authorities and programs that are available without a declared emergency.	
	List the state's response authorities and programs that are NOT available without a declared emergency.	
Develop a list that identifies available response authorities and programs that can be used to address a public health event in the absence of an emergency declaration.		
	Establish a schedule to review and update the list of response authorities and programs, as needed.	
Identify the procedures for the state to request federal assistance with:		
	Disaster Medical Assistance Team (DMAT) or Disaster Mortuary Operational Response Team (DMORT)	
	Social Security Act §1135 waivers	
	Strategic National Stockpile	
	Other	
Emergency Declarations		
Identify the state's statute(s) to declare emergencies. Determine if the state defines more than one type of emergency event and the thresholds for triggering each:		
	Emergency	
	Disaster	
	Public health emergency	
	Public health disaster	
	Other	
For each of the above emergency types, identify the officers eligible to make a declaration, the process for making the declaration, and any required information that must be included in the text of the declaration:		
	Emergency	
	Disaster	
	Public health emergency	

Issues for Analysis		State/Local Information
	Public health disaster	
	Other	
Determine if there are notice or approval requirements for any of the emergency declaration types. Identify to whom notice is required (e.g., state legislature) and the timing of notice (e.g., prior, simultaneous, subsequent):		
	Emergency	
	Disaster	
	Public health emergency	
	Public health disaster	
	Other	
Identify the terms of renewal and termination for the various emergency declaration types, including processes, notices, and approvals:		
	Emergency	
	Disaster	
	Public health emergency	
	Public health disaster	
	Other	
Emergency Authorities <u>with</u> an Emergency Declaration		
Identify the authorities granted to the state health official/agency director or the state health agency if an emergency is declared:		
	Identify any new authorities granted.	
	Identify any existing authorities that are modified and how they differ from non-emergency authorities.	
	Understand how the emergency authorities are operationalized in the state's emergency response plan(s).	
Identify other state authorities that become available if an emergency is declared and the officials or agencies authorized to exercise these authorities.		

Issues for Analysis	State/Local Information
Identify state systems that are triggered as a result of the emergency declaration:	
Emergency operations center	
Incident command system	
Communications command center	
Other	
Identify legal requirements that will or should be suspended or modified during a declared emergency:	
Statutory requirements	
Regulatory requirements	
State administrative procedures	
Other requirements	
Identify how federal emergency declarations and waivers will affect authorities, programs, and stakeholders in your state:	
National Emergencies Act declarations	
Public Health Service Act §318 public health emergency determinations	
Public Readiness and Emergency Preparedness (PREP) Act declarations	
Stafford Act declarations	
Social Security Act §1135 waivers	
Other	
Identify and list the state's obligations under mutual aid agreements the state may participate in:	
Emergency Management Assistance Compact (EMAC)	
Other interstate agreements	
Intrastate agreements	
International agreements	
Other	

Issues for Analysis	State/Local Information
Identify any communication and outreach plans/materials to inform stakeholders about anticipated effects of operating under an emergency declaration.	

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