CHAPTER 323

EMERGENCY MANAGEMENT

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Cross−reference: See also WEM, Wis. adm. code.

SUBCHAPTER I

GENERAL PROVISIONS

323.01 Declaration of policy. (1) To prepare the state and its subdivisions to cope with emergencies resulting from a disaster, or the imminent threat of a disaster, it is declared to be necessary to establish an organization for emergency management, conferring upon the governor and others specified the powers and duties provided by this chapter.

(2) Unless otherwise specified by law, the role of any state agency, including the department of military affairs and the division, in an emergency declared under this chapter, is to assist local units of government and local law enforcement agencies in responding to a disaster or the imminent threat of a disaster.

(3) This chapter may not limit or in any way affect the responsibility of the American National Red Cross as authorized by the congress of the United States.

History: 1979 c. 361 s. 52; 1995 a. 247; 2009 a. 42 ss. 49, 50, 108, 119; Stats. 2009 s. 323.01.

323.02 Definitions. In this chapter, unless the context clearly indicates otherwise:

(1) "Adjutant general" means the adjutant general of the department of military affairs.

(2) "Administrator" means the administrator of the division.

(3) "Biological agent" means any of the following:

(a) A select agent that is a virus, bacterium, rickettsia, fungus, or toxin that is specified under 42 CFR 72, Appendix A.

(b) A genetically modified microorganism or genetic element from an organism under par. (a) that is shown to produce or encode for a factor associated with a disease.

(c) A genetically modified microorganism or genetic element that contains nucleic acid sequences coding for a toxin under par. (a) or its toxic subunit.

(d) An agent specified by the department of health services by rule.

(4) "Bioterrorism" means the intentional use of any biological, chemical, or radiological agent to cause death, disease or biological malfunction in a human, animal, plant, or other living organism in order to influence the policy of a governmental unit or to intimidate or coerce the civilian population.

(5) "Chemical agent" means a substance that has chemical properties that produce lethal or serious effects in humans, plants, animals, or other living organisms.

(6) "Disaster" means a severe or prolonged, natural or human−caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or critical systems, including computer, telecommunications, or agricultural systems.

(7) "Division" means the division of emergency management.

(8) "Emergency management" means all measures undertaken by or on behalf of the state and its subdivisions to do any of the following:

(a) Prepare for and minimize the effect of a disaster or the imminent threat of a disaster.

(b) Make repairs to or restore infrastructure or critical systems that are destroyed or damaged by a disaster.

(9) "Incident command system" means a functional management system established to control, direct, and manage the roles, responsibilities, and operations of all of the agencies involved in a multi−jurisdictional or multi−agency emergency response.

(10) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(11) "Level A release" means a release of a hazardous substance that necessitates the highest level of protective equipment for the skin and respiratory systems of emergency response personnel because of any of the following conditions:

(a) Substances with a high degree of hazard to the skin are known or suspected to be present and skin contact is possible.

(b) There are present, or there is a potential for, high atmospheric levels of substances that are harmful to the skin or capable of being absorbed through intact skin.

(c) Operations at the site of the release involve a high potential for exposure to liquids or particulates that are harmful to the skin or capable of being absorbed through intact skin.

(d) Response operations must be conducted in confined, poorly ventilated areas and the absence of conditions under pars. (a) to (c) has not been established.

(12) "Level B release" means a release of a hazardous substance that necessitates the highest level of protective equipment for the respiratory systems of emergency response personnel, but less skin protection than a level A release, because operations at the site of the release do not involve a high potential for exposure to liquids or particulates that are harmful to the skin or capable of being absorbed through intact skin and any of the following conditions exists:

(a) The type and concentration of substances in the atmosphere have been identified and are dangerous to respiration but are not harmful to skin or capable of being absorbed through intact skin.

(b) The atmosphere contains less than 19.5 percent oxygen but does not contain substances that are harmful to skin or capable of being absorbed through intact skin.

(c) Vapors or gases are present that have not been completely identified but it is known that those vapors or gases are not harmful to skin or capable of being absorbed through intact skin.

(13) "Local emergency response team" means a team that the local emergency planning committee identifies under s. 323.61 (2m) (e).

(14) "Local health department" has the meaning given in s. 250.01 (4).

(15) "Local unit of government" means a county, city, village, or town.

(16) "Public health emergency" means the occurrence or imminent threat of an illness or health condition that meets all of the following criteria:

(a) Is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent.

(b) Poses a high probability of any of the following:

1. A large number of deaths or serious or long−term disabilities among humans.

2. A high probability of widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.

(17) "Public works" means the physical structures and facilities developed or acquired by a local unit of government or a federally recognized American Indian tribe or band in this state to provide services and functions for the benefit and use of the public, including water, sewerage, waste disposal, utilities, and transportation.

(18) "Radiological agent" means radiation or radioactive material at a level that is dangerous to humans, animals, plants, or other living organisms.

(19) "State agency" means any office, commission, board, department, or bureau of state government.

History: 1979 c. 361 ss. 54, 73; 1989 a. 31; 1995 a. 247; 2001 a. 109; 2003 a. 186; 2005 a. 269; 2007 a. 20 s. 9121 (6) (a); 2009 a. 42 ss. 51 to 65, 164 to 166, 280 to 284; Stats. 2009 s. 323.02.

SUBCHAPTER II

POWERS AND DUTIES RELATED TO EMERGENCY MANAGEMENT

323.10 Declaration by governor. The governor may issue an executive order declaring a state of emergency for the state or any portion of the state if he or she determines that an emergency resulting from a disaster or the imminent threat of a disaster exists. If the governor determines that a public health emergency exists, he or she may issue an executive order declaring a state of emergency related to public health for the state or any portion of the state and may designate the department of health services as the lead state agency to respond to that emergency. If the governor determines that the emergency is related to computer or telecommunication systems, he or she may designate the department of administration as the lead agency to respond to that emergency. A state of emergency shall not exceed 60 days, unless the state of emergency is extended by joint resolution of the legislature. A copy of the executive order shall be filed with the secretary of state. The executive order may be revoked at the discretion of either the governor by executive order or the legislature by joint resolution.

History: 2009 a. 42 s. 72; Stats. 2009 s. 323.10.

323.11 Declaration by local government. The governing body of any local unit of government may declare, by ordinance or resolution, an emergency existing within the local unit of government whenever conditions arise by reason of a riot or civil commotion, a disaster, or an imminent threat of a disaster, that impairs transportation, food or fuel supplies, medical care, fire, health or police protection, or other critical systems of the local unit of government. The period of the emergency shall be limited by the ordinance or resolution to the time during which the emergency conditions exist or are likely to exist.

History: 2009 a. 42 s. 233; Stats. 2009 s. 323.11.

323.12 Governor; duties and powers; out−of−state assistance. (1) ONGOING DUTIES. The governor shall do all of the following:

(a) Review orders establishing or altering emergency management areas.

(b) Review state emergency management plans and modifications to the plans.

(c) Determine responsibilities of state departments and independent agencies with respect to emergency management and by order direct those departments and agencies in utilizing personnel, facilities, supplies, and equipment before and during a state of emergency.

(2) ONGOING POWERS. The governor may do all of the following:

(a) On behalf of the state, enter into mutual aid agreements concerning emergency management with other states.

(b) Accept from any source gifts and grants including services for emergency management purposes and may authorize the state and local units of government to receive such gifts and grants. When grants require participation by a local unit of government, the state may transfer title to equipment acquired through an agreement between participating local units of government.

(c) If the governor determines that a condition of civil disorder or a threat to the safety of persons on state property or damage or destruction to state property exists, he or she may, without declaring an emergency, call out the state traffic patrol or the conservation warden service or members of that patrol or service for use in connection with the threat to life or property.

(3) DUTIES DURING AN EMERGENCY. During a state of emergency declared under s. 323.10, the governor shall issue orders, delegate such authority as is necessary to the administrator, and direct the division to coordinate emergency management activities.

(4) POWERS DURING AN EMERGENCY. The governor may do all of the following during a state of emergency declared under s. 323.10:

(a) Declare priority of emergency management contracts over other contracts, allocate materials and facilities in his or her discretion, and take, use, and destroy, in the name of the state, private property for emergency management purposes. The governor shall keep records of that action. Those records shall be evidence

of a claim against the state. The claim against the state shall be referred to the claims board under s. 16.007.

(b) Issue such orders as he or she deems necessary for the security of persons and property.

(c) Contract on behalf of the state with any person to provide, on a cost basis, equipment and services to be used to respond to a disaster or the imminent threat of a disaster.

(d) Suspend the provisions of any administrative rule if the strict compliance with that rule would prevent, hinder, or delay necessary actions to respond to the disaster.

(5) WORK PERFORMED BY AN OUT−OF−STATE BUSINESS OR EMPLOYEE. (a) In this subsection:

1. "Declared state of emergency" means a state of emergency declared by the governor under s. 323.10.

2. "Disaster period" means the time that begins 10 days before a declared state of emergency and ends 60 days after the declared state of emergency ends.

3. "Disaster relief work" means work, including repairing, renovating, installing, building, or performing other services or activities, relating to infrastructure in this state that has been damaged, impaired, or destroyed in connection with a declared state of emergency.

4. "Doing business in this state" has the meaning given in s. 71.22 (1r), except that members of a combined group, as defined in s. 71.255 (1) (a), are not considered to be doing business in this state based solely on another member of the combined group doing business in this state. A business shall be considered to be doing business in this state for purposes of ch. 77 if it performs disaster relief work in this state.

5. "Infrastructure" means property and equipment owned or used by a telecommunications provider or cable operator or that is used for communications networks, including telecommunications, broadband, and multichannel video networks; electric generation, transmission, and distribution systems; gas distribution systems; water pipelines; and any related support facilities that service multiple customers or citizens, including buildings, offices, lines, poles, pipes, structures, equipment, and other real or personal property.

6. "Out−of−state business" means a sole proprietorship, partnership, limited liability company, joint venture, corporation, or other organization or enterprise, whether operated for profit or not for profit, that is not organized under the laws of this state and that, except for disaster relief work during a disaster period, was not doing business in this state during the 3 taxable years immediately preceding the disaster period or the current taxable year in which the declared state of emergency occurs.

7. "Out−of−state employee" means an individual who does not work in this state, except for disaster relief work during a disaster period, and who immediately prior to that declared state of emergency was not a resident of this state, was not doing business in this state that required a tax return to be filed in this state, and was not performing services in this state that required a tax return to be filed in this state.

8. "Taxable year" has the meaning given in s. 71.01 (12).

(b) Subject to par. (c), any out−of−state business or out−of−state employee is exempt from all of the following for disaster relief work performed during a disaster period:

1. Any applicable state withholding, income, franchise, or use tax, and any related registration requirement or fee, as provided under ss. 71.03 (2) (a) 2., 71.04 (7) (f) 17., 71.05 (1) (g), 71.23 (3) (bm), 71.25 (9) (f) 17. and (16), 71.26 (2) (a) 12., 71.64 (6) (c), 71.67 (6) (b), 77.52 (7) (b) and (12), and 77.53 (9) (b) and (19). The department of revenue may examine and inspect the books, records, memoranda, and property of any out−of−state business or out−of−state employee to verify an exemption claimed under this subdivision.

2. Any applicable fee imposed by a state agency, local unit of government, or other subdivision or instrumentality of the state or of a local unit of government.

3. Any applicable license, certificate, registration, permit, or other credential or approval of a state agency, local unit of government, or other subdivision or instrumentality of the state or of a local unit of government.

(c) No later than 90 days after the last day of a disaster period, any out−of−state business, and the employer of any out−of−state employee, that wishes to claim an exemption under par. (b) shall provide notice to the department of revenue, in the manner prescribed by the department, that the out−of−state business or out−of−state employee is in the state solely to perform disaster relief work. The notice shall include all of the following information for each out−of−state business and each out−of−state employee:

1. Legal name and business name, if any.

2. State of domicile or residence.

3. Principal address.

4. Federal tax identification number.

5. The date of entry to the state for the purpose of performing the disaster relief work.

6. Contact information.

(d) A business organized under the laws of this state shall provide the information required under par. (c) for any out−of−state business that is a related entity, as defined in s. 71.22 (9am), that enters the state to perform disaster relief.

History: 2009 a. 42 ss. 68 to 71, 73 to 78, 122, 286 to 289; Stats. 2009 s. 323.12; 2015 a. 84.

323.13 Adjutant general; duties and powers. (1) ONGOING DUTIES. The adjutant general shall do all of the following:

(a) Serve as the governor's principal assistant for directing and coordinating emergency management activities.

(b) Subject to approval by the governor, develop and adopt a state plan of emergency management for the security of persons and property. In developing the plan, the adjutant general shall seek the advice of the administrator, shall seek the advice of the department of health services with respect to the emergency medical aspects of the plan, and shall seek the advice of the department of administration with respect to aspects of the plan related to computer or telecommunication systems. The plan shall specify equipment and personnel standards, and shall require the use of the incident command system, and specify the type of incident command system, by all emergency response agencies, including local health departments, during a state of emergency declared under s. 323.10 or 323.11.

(c) Prescribe and carry out statewide training programs and exercises to develop emergency management proficiency, disseminate information, and coordinate emergency management programs. The training programs shall include training in managing emergency operations utilizing the incident command system for local unit of government officials, officers, and employees whose duties include responding to a disaster or the imminent threat of a disaster, including officers and employees of local health departments. The adjutant general shall consult with the administrator, with the department of health services regarding the provision of incident command system training to local health department personnel, and with the department of administration regarding the provision of incident command system training for emergencies related to computer or telecommunication systems. To the extent possible, the adjutant general shall utilize federal funding to provide incident command system training.

(d) Furnish guidance and establish standards for emergency management programs for local units of government, and prescribe nomenclature for all levels of emergency management, with the advice of the administrator. The standards shall include

a requirement that local unit of government emergency management programs adopted under s. 323.14 (1) (a) 1. and (b) 1. utilize the incident command system during a state of emergency declared under s. 323.10 or 323.11 or in any other multi−jurisdictional or multi−agency emergency response. The standards for fire, rescue, and emergency medical services shall include the adoption of the intergovernmental cooperation Mutual Aid Box Alarm System as a mechanism that may be used for deploying personnel and equipment in a multi−jurisdictional or multi−agency emergency response. The standards for agencies that manage public works shall include the suggestion that the local unit of government, or a federally recognized American Indian tribe or band in this state, adopt the mutual assistance agreement created by the division for the intergovernmental collaboration of public works personnel, equipment, and resources in a multi−jurisdictional or multi−agency emergency response. The adjutant general shall consult with representatives of public works professional associations and organizations regarding the content of that agreement.

(dm) If the adjutant general finds that a local unit of government has not developed, adopted, and implemented an emergency management plan as required under s. 323.14 (1), refuse to approve grants of funds or items of equipment awarded under this chapter to the local unit of government until the local unit of government does so. If the local unit of government fails to use the funds or items of equipment granted in accordance with the agreement under which the grant was made, the adjutant general may refuse to make any additional grants to the local unit of government until it has complied with the conditions of the prior grant, and he or she may start recovery proceedings on the funds and items of equipment that have not been used in accordance with the conditions of the grant.

(e) Provide assistance to the Wisconsin wing of the civil air patrol from the appropriation under s. 20.465 (3) (f) for the purpose of enabling the patrol to perform its assigned missions and duties as prescribed by U.S. air force regulations. Expenses eligible for assistance are aircraft acquisition and maintenance, communications equipment acquisition and maintenance and office staffing and operational expenses. The civil air patrol shall submit vouchers for expenses eligible for assistance to the division.

(f) No later than 90 days after a state of emergency relating to public health is declared and the department of health services is not designated under s. 323.10 as the lead state agency to respond to that emergency and no later than 90 days after the termination of this state of emergency relating to public health, submit to the legislature under s. 13.172 (2) and to the governor a report on all of the following:

1. The emergency powers used by the department of military affairs or its agents.

2. The expenses incurred by the department of military affairs and its agents in acting under the state of emergency related to public health.

(2) ONGOING POWERS. The adjutant general may do all of the following:

(a) Divide the state into emergency management regions composed of whole counties, subject to approval by the governor, and modify the boundaries of those regions as changed conditions warrant.

(b) Appoint a director of emergency management for each region under par. (a) under the classified service on either a part−time or full−time basis, or ask the governor to designate any state officer or employee as acting regional director on a part−time basis.

(c) Designate and post highways as emergency management routes closed to all but authorized vehicles when required for training programs and exercises.

(d) Prescribe traffic routes and control traffic during a state of emergency.

(e) Organize and train state mobile support units to aid any region during a state of emergency. The units may participate in training programs and exercises within or outside the state.

(f) Request the department of health services to inspect or provide for the inspection of shipments of radioactive waste, obtain and analyze data concerning the radiation level of shipments of radioactive waste and issue reports concerning these shipments and radiation levels. The adjutant general may assess and collect and receive contributions for any costs incurred under this paragraph from any person who produced the radioactive waste which is the subject of the activity for which the costs are incurred. In this paragraph, "radioactive waste" has the meaning given in s. 293.25 (1) (b).

(g) Assess and collect and receive contributions for any costs incurred by state agencies to establish and maintain radiological emergency response plans related to nuclear generating facilities.

(h) Make payments for disaster assistance under ss. 323.30 and 323.31.

Cross−reference: See also chs. WEM 7 and 8, Wis. adm. code.

History: 2009 a. 42 ss. 80 to 83, 85 to 94, 120, 290 to 293; Stats. 2009 s. 323.13.

323.14 Local government; duties and powers. **(1)** ONGOING DUTIES. (a) 1. Subject to subd. 3., each county board shall develop and adopt an emergency management plan and program that is compatible with the state plan of emergency management under s. 323.13 (1) (b).

2. Each county board shall designate a head of emergency management. In counties having a county executive under s. 59.17, the county board shall designate the county executive or confirm his or her appointee as county head of emergency management. Notwithstanding sub. (2) (b), an individual may not simultaneously serve as the head of emergency management for 2 or more counties.

3. Each county board shall designate a committee of the board as a county emergency management committee. The chairperson of the county board shall designate the chairperson of the committee. In counties having a county executive under s. 59.17, the committee shall retain policy−making and rule−making powers in the establishment and development of county emergency management plans and programs.

(b) 1. The governing body of each city, village, or town shall develop and adopt an emergency management plan and program that is compatible with the state plan of emergency management adopted under s. 323.13 (1) (b).

2. The governing body of each city, village, or town shall designate a head of emergency management services.

(2) ONGOING POWERS. (a) The governing body of a local unit of government may appropriate funds and levy taxes for its emergency management program under sub. (1).

(b) Local units of government may cooperate under s. 66.0301 to furnish services, combine offices, and finance emergency management programs.

(c) Local units of government may contract for emergency management services with political subdivisions, agencies, and federally recognized American Indian tribes and bands of this state, and, upon prior approval of the adjutant general, with such entities in bordering states. A copy of each agreement shall be filed with the adjutant general within 10 days after execution of that agreement.

(3) DUTIES DURING AN EMERGENCY. (a) If the governing body of a local unit of government declares an emergency under s. 323.11 and intends to make use of volunteer health care practitioners, as specified in s. 257.03, the governing body or its agent shall, as soon as possible, notify the department of health services of this intent.

(b) During a state of emergency declared by the governor, a local unit of government situated within the area to which the governor's executive order applies may employ personnel, facilities,

and other resources consistent with the plan adopted under sub. (1) (a) 1. or (b) 1. to cope with the problems that resulted in the governor declaring the emergency. Nothing in this chapter prohibits local units of government from employing their personnel, facilities, and resources consistent with the plan adopted under sub. (1) (a) 1. or (b) 1. to cope with the problems of local disasters except where restrictions are imposed by federal regulations on property donated by the federal government.

(4) POWERS DURING AN EMERGENCY. (a) The emergency power of the governing body conferred under s. 323.11 includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the local unit of government in the emergency and includes the power to bar, restrict, or remove all unnecessary traffic, both vehicular and pedestrian, from the highways, notwithstanding any provision of chs. 341 to 349.

(b) If, because of the emergency conditions, the governing body of the local unit of government is unable to meet promptly, the chief executive officer or acting chief executive officer of any local unit of government shall exercise by proclamation all of the powers conferred upon the governing body under par. (a) or s. 323.11 that appear necessary and expedient. The proclamation shall be subject to ratification, alteration, modification, or repeal by the governing body as soon as that body can meet, but the subsequent action taken by the governing body shall not affect the prior validity of the proclamation.

History: 2009 a. 42 ss. 98 to 102, 111, 112, 234 to 236, 294 to 299; Stats. 2009 s. 323.14.

323.15 Heads of emergency management; duties and powers. (1) ONGOING DUTIES. (a) The head of emergency management for each local unit of government shall implement the plan adopted under s. 323.14 (1) (a) 1. or (b) 1., whichever is applicable, and perform such other duties related to emergency management as are required by the governing body and the emergency management committee of the governing body when applicable. The emergency management plans shall require the use of the incident command system by all emergency response agencies, including local health departments, during a state of emergency declared under s. 323.10 or 323.11.

(b) The head of emergency management for each county shall coordinate and assist in developing city, village, and town emergency management plans within the county, integrate the plans with the county plan, advise the department of military affairs of all emergency management planning in the county and submit to the adjutant general the reports that he or she requires, direct and coordinate emergency management activities throughout the county during a state of emergency, and direct countywide emergency management training programs and exercises.

(c) The head of emergency management in each city, village and town shall do all of the following:

1. Direct local emergency management training programs and exercises.

2. Direct participation in emergency management programs and exercises that are ordered by the adjutant general or the county head of emergency management.

3. Advise the county head of emergency management on local emergency management programs.

4. Submit to the county head of emergency management any reports he or she requires.

(4) POWERS DURING AN EMERGENCY. During a state of emergency declared by the governor, the head of emergency management for each local unit of government, on behalf of his or her respective local unit of government, may contract with any person to provide equipment and services on a cost basis to be used to respond to a disaster, or the imminent threat of a disaster.

History: 2009 a. 42 ss. 104 to 107, 300, 301; Stats. 2009 s. 323.15.

323.16 Powers of law enforcement officers. During any state of emergency declared by the governor or during any training program or exercises authorized by the adjutant general, any law enforcement officer, when legally engaged in traffic control, escort duty, or protective service, may carry out the functions anywhere in the state but shall be subject to the direction of the adjutant general through the sheriff of the county in which an assigned function is performed.

History: 2009 a. 42 s. 118; Stats. 2009 s. 323.16.

323.17 State traffic patrol officers and conservation wardens. If the governor calls out the state traffic patrol or conservation warden service, or members of the patrol or service, under s. 323.12 (2) (c), the state traffic patrol officers or conservation wardens subject to the call shall have the powers of a law enforcement officer for the duration determined by the governor, except that the officers and wardens may not be used in or take part in any dispute or controversy between an employer and employee concerning wages, hours, labor, or working conditions.

History: 2009 a. 42.

323.18 State agency volunteers. A state agency may register or preregister volunteers to assist the agency during a disaster, an imminent threat of a disaster, or a related training exercise.

History: 2009 a. 42.

323.19 State official authority to grant variances to statutes and rules for a disaster. (1) The secretary of health services may grant a hospital a variance to or a waiver from a requirement for hospitals as provided in s. 50.36 (6m).

(2) The pharmacy examining board may grant a variance to ch. 450 or a rule promulgated under ch. 450 in response to a disaster as provided in s. 450.02 (3m).

History: 2009 a. 42; 2011 a. 260 s. 80; 2013 a. 236.

323.20 Emergency use of vehicles. In responding to an official request for help during any declared state of emergency, any person may operate a boat or any motor vehicle, including a snowmobile, all−terrain vehicle, or utility terrain vehicle, that is not registered in this state.

History: 2009 a. 42 s. 109; Stats. 2009 s. 323.20; 2011 a. 208.

323.24 Prohibition against restricting firearms or ammunition during emergency. A person who is granted emergency powers under this subchapter may not use those powers to restrict the lawful possession, transfer, sale, transport, storage, display, or use of firearms or ammunition during an emergency.

History: 2007 a. 87; 2009 a. 42 s. 237; Stats. 2009 s. 323.24.

323.25 Personnel restrictions. (1) No personnel, while performing emergency management functions consistent with a plan adopted under s. 323.13 (1) (b) or 323.14 (1) (a) 1. or (b) 1., shall participate in any form of political activity or be employed directly or indirectly for any political activity.

(2) No personnel, while performing emergency management functions consistent with a plan adopted under s. 323.13 (1) (b) or 323.14 (1) (a) 1. or (b) 1., shall be employed to interfere with the orderly process of a labor dispute.

(3) No person may be employed or associated in any capacity in any state or local unit of government emergency management program under s. 323.13 (1) (b) or 323.14 (1) (a) 1. or (b) 1. who advocates a change by force or violence in the constitutional form of government of the United States or this state or who has been convicted of or is under indictment or information charging any subversive act against the United States.

History: 2009 a. 42 ss. 114, 115; Stats. 2009 s. 323.25.

323.28 Penalties. Whoever intentionally fails to comply with an order issued by an agent of the state or of a local unit of government who is engaged in emergency management activities under

this chapter, including training exercises, is subject to a forfeiture of not more than $200.

History: 2009 a. 42 s. 121; Stats. 2009 s. 323.28.

SUBCHAPTER III

DISASTER ASSISTANCE PROGRAMS

323.30 Federal disaster assistance. The adjutant general shall make payments from the appropriation under s. 20.465 (3) (e) to pay this state's share of grants to individuals and to provide a share of any required state share of contributions to local governments, as defined in 42 USC 5122 (6), for major disaster recovery assistance. Payment of this state's share of any contribution to a local government under this section is contingent upon copayment of that share by the local government, but not to exceed 12.5 percent of the total eligible cost of assistance. No payment may be made under this section without the prior approval of the secretary of administration.

History: 2009 a. 42 s. 95; Stats. 2009 s. 323.30.

323.31 State disaster assistance. From the appropriations under s. 20.465 (3) (b) and (s), the adjutant general shall make payments to local governmental units, as defined in s. 19.42 (7u), and to federally recognized American Indian tribes and bands in this state for the damages and costs incurred as the result of a disaster if federal disaster assistance is not available for that disaster because the governor's request that the president declare the disaster a major disaster under 42 USC 5170 has been denied or because the disaster, as determined by the department of military affairs, does not meet the statewide or countywide per capita impact indicator under the public assistance program that is issued by the federal emergency management agency. To be eligible for a payment under this section, the local governmental unit or tribe or band shall pay 30 percent of the amount of the damages and costs resulting from the disaster. The department of military affairs shall promulgate rules establishing the application process and the criteria for determining eligibility for payments under this section.

History: 2009 a. 42 s. 96; Stats. 2009 s. 323.31.

SUBCHAPTER IV

LIABILITY AND EXEMPTIONS

323.40 Responsibility for worker's compensation. **(1)** EMPLOYEES OF LOCAL UNIT OF GOVERNMENT. An employee of a local unit of government's emergency management program is an employee of that local unit of government for worker's compensation under ch. 102 unless the responsibility to pay worker's compensation benefits are assigned as provided under s. 66.0313 or under an agreement between the local unit of government and the state or another local unit of government.

(2) STATE AGENCY VOLUNTEERS. A volunteer who registers with a state agency to assist the agency without compensation, other than reimbursement for travel, lodging, or meals, during a disaster, an imminent threat of a disaster, or a related training exercise is considered an employee of the agency for worker's compensation under ch. 102, for purposes of any claim related to the assistance provided.

(3) LOCAL UNIT OF GOVERNMENT VOLUNTEERS. (a) Except as provided in par. (b), an individual who registers in writing with a local unit of government's emergency management program to provide his or her own labor without compensation, other than reimbursement for travel, lodging, or meals, during a disaster, an imminent threat of a disaster, or a related training exercise is considered an employee of the local unit of government for worker's compensation under ch. 102 for purposes of any claim relating to the labor provided.

(b) This subsection does not apply to an individual's provision of services if s. 257.03 applies.

History: 2009 a. 42.

323.41 Liability of state or local unit of government. **(1)** EMPLOYEE OF LOCAL UNIT OF GOVERNMENT. An employee of a local unit of government's emergency management program is an employee of that local unit of government under ss. 893.80, 895.35, and 895.46 for purposes of any claim, unless the responsibility related to a claim under ss. 893.80, 895.35, and 895.46 is assigned as provided under s. 66.0313 or under an agreement between the local unit of government and the state or another local unit of government.

(2) STATE AGENCY VOLUNTEERS. Except as provided in s. 323.45, a volunteer who registers with a state agency to assist the agency without compensation, other than reimbursement for travel, lodging, or meals, during a disaster, an imminent threat of a disaster, or a related training exercise is considered an employee of the agency under ss. 893.82 and 895.46, for purposes of any claim related to the assistance provided.

(3) LOCAL UNIT OF GOVERNMENT VOLUNTEERS. (a) Except as provided in par. (b), an individual who registers in writing with a local unit of government's emergency management program to provide his or her own labor without compensation, other than reimbursement for travel, lodging, or meals, during a disaster, an imminent threat of a disaster, or a related training exercise is considered an employee of the local unit of government under ss. 893.80, 895.35, and 895.46 for purposes of any claim relating to the labor provided.

(b) This subsection does not apply to an individual's provision of services if s. 257.03 or 323.45 applies.

(4) EXCEPTIONS. This section does not apply if the person's act or omission involves reckless, wanton, or intentional misconduct.

History: 2009 a. 42.

323.42 Reimbursement of local units of government. **(1)** In any calendar year, if the amount the local unit of government is liable for under ss. 323.40 and 323.41 plus losses incurred under s. 323.43 exceed $1 per capita of the local unit of government's population, the state shall reimburse the local unit of government the amount of the excess.

(2) In addition, the state shall reimburse a local unit of government for any future expenses for worker's compensation and expenses under ss. 893.80, 895.35, and 895.46 that result from an incident that occurred in a calendar year for which the state reimbursed the local unit of government under sub. (1).

(3) Except as provided in sub. (4), any reimbursement under sub. (1) or (2) shall be made from the appropriation in s. 20.465 (3) (a) upon approval of the adjutant general.

(4) Any reimbursement under sub. (1) or (2) for an amount for which a local unit of government is liable based on a worker's compensation claim under s. 323.40 (3) for an injury incurred before, on, or after July 2, 2013, shall be made from the appropriation in s. 20.465 (3) (am) upon approval of the adjutant general.

History: 2009 a. 42; 2013 a. 20.

323.43 Bearing of losses. Subject to s. 323.42, any loss arising from the damage to or destruction of government−owned equipment utilized in any authorized emergency management activity shall be borne by the owner of the equipment.

History: 2009 a. 42 s. 116; Stats. 2009 s. 323.43.

323.44 Public shelters. **(1)** Any person owning or controlling real property who voluntarily and without compensation permits the state or any of its political subdivisions to inspect, designate, and use the whole or any part of the real property for the purpose of sheltering persons during a disaster, an imminent threat of a disaster, or a related training exercise is immune from civil liability for negligently causing the death of or injury to any person on or about the real property while it is being used to shelter persons during a disaster, an imminent threat of a disaster, or a related

training exercise, if the owner or controller has complied with sub. (2).

(2) Any person owning or controlling real property who gratuitously grants the use of that real property for the purposes stated in sub. (1) shall make known to the licensee any hidden dangers or safety hazards which are known to the owner or occupant of the real property that might possibly result in death or injury or loss of property to any person making use of the property.

History: 1979 c. 361 ss. 56, 112; Stats. 1979 s. 166.09; 2009 a. 42 s. 150; Stats. 2009 s. 323.44.

323.45 Providers of equipment and other items. (1) Except as provided in subs. (2) and (4), no person who provides equipment, materials, facilities, labor, or services is liable for the death of or injury to any person or damage to any property caused by his or her actions if the person did so under all of the following conditions:

(a) Under the direction of the governor, the adjutant general, the governing body, chief or acting chief executive officer, or head of emergency management services of any local unit of government or federally recognized American Indian tribe or band in this state, the department of health services if that department is designated by the governor under s. 323.10, or the local health department acting under s. 251.05 (3) (e).

(b) In response to enemy action, a disaster, or a federally declared state of emergency or during a state of emergency declared by the governor.

(2) This section does not apply if the person's act or omission involved reckless, wanton, or intentional misconduct.

(3) This section does not affect the right of any person to receive benefits to which he or she otherwise would be entitled under the worker's compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law.

(4) (a) This section does not apply to a person's provision of services if s. 257.03 or 323.41 applies.

(b) This section does not apply to a person's provision of facilities if s. 257.04 or 323.44 applies.

History: 2009 a. 42 ss. 117, 310; Stats. 2009 s. 323.45.

SUBCHAPTER V

EMERGENCY LOCATION AND CONTINUITY OF GOVERNMENT

323.50 Definitions. In this subchapter:

(1) "Interim successor" means a person designated under this subchapter, if the officer is unavailable as the result of enemy action, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as provided by law or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

NOTE: Sub. (1) is amended by 2009 Wis. Act 42, effective the day after the secretary of state notifies the legislature that an amendment to the Wisconsin Constitution has been approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, to read as follows:

(1) "Interim successor" means a person designated under this subchapter, if the officer is unavailable as the result of a disaster or the imminent threat of a disaster, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as provided by law or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(2) "Office" includes all state and local offices, the powers and duties of which are defined by law, except the office of governor, and except those in the legislature and the judiciary.

(3) "Officer" means a person who holds an office.

(4) "Political subdivision" includes local units of government, special districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(5) "Unavailable" means that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office and his or her duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

History: 2009 a. 42 ss. 134, 136 to 139, 312; Stats. 2009 s. 323.50.

323.51 Emergency seat of state government. (1) DESIGNATION AND USE OF A TEMPORARY LOCATION BY THE GOVERNOR. Whenever, as the result of a disaster or the imminent threat of a disaster, it becomes imprudent, inexpedient or impossible to conduct the affairs of state government at the state capital, the governor shall, as often as the exigencies of the situation require, designate a temporary location for the seat of government at a place in or outside this state. The governor shall take any action and issue any orders necessary for an orderly transition of the affairs of state government to the temporary location. If practicable, the temporary location the governor designates shall conform to that provided for in the current emergency management plan authorized under subch. II. The temporary location shall remain as the seat of government until the governor establishes a new location under this section, or until the seat of government is returned to its normal location.

(1m) DESIGNATION OF TEMPORARY LOCATION BY THE LEGISLATURE. (a) The legislature, by joint rule, may provide a process for designating a temporary seat of government for the legislature that is different than the location under sub. (1).

(b) Whenever, as the result of a disaster, as defined in s. 13.42 (1) (a), or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the legislature at the state capital, the legislature may meet at the temporary location designated as provided under par. (a) or sub. (1) until it is no longer, as a result of the disaster or imminent threat of disaster, imprudent, inexpedient, or impossible, to conduct the business of the legislature at the state capital.

(c) Pursuant to the session schedule under s. 13.02 (3), the legislature may meet for up to one week per session in a location that is not the state capital or the temporary location designated as provided under par. (a) or sub. (1) to practice meeting at a temporary location.

(d) Information about the temporary location designated as provided under par. (a) is not subject to inspection or copying under s. 19.35 (1).

(2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the seat of government remains at a temporary location all official acts required by law to be performed at the seat of government by any officer, independent agency, department, or authority of this state, including the convening and meeting of the legislature in regular or special session under sub. (1) or (1m) (b) or (c), shall be as valid and binding when performed at the temporary location as if performed at the normal location.

History: 1979 c. 361 ss. 56, 112, 113; Stats. 1979 s. 166.05; 1995 a. 247; 2009 a. 42 ss. 123 to 125; Stats. 2009 s. 323.51; 2009 a. 363; 2011 a. 260 ss. 49, 80.

323.52 Temporary locations of government for local units of government. (1) DESIGNATION OF TEMPORARY LOCATIONS. Whenever during a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the affairs of local government at the regular or usual place, the governing body of each local unit of government may meet at any place within or without the territorial limits of the local unit of government on the call of the presiding officer or his or her successor, and shall proceed to establish and designate by ordinance, resolution, or other manner, alternate or substitute places as the temporary locations of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. Such alternate or substitute places may be within or without the territorial limits of the local unit of government and may be within or without those of the state. If practicable, they shall be the places designated as the temporary locations of government in the current emergency management plan.

(2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the public business is being conducted at a temporary location, the governing body and other officers of a local unit of government shall possess and exercise all of the executive, legislative, administrative, and judicial powers and functions conferred upon the body and officers under state law. Those powers and functions, except judicial, may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with time−consuming procedures and formalities prescribed by law. All acts of the body and officers shall be as valid and binding as if performed within the territorial limits of their local unit of government.

History: 1979 c. 361 ss. 56, 112; Stats. 1979 s. 166.06; 1995 a. 247; 2009 a. 42 ss. 126 to 128; Stats. 2009 s. 323.52.

323.53 Succession to office; state officers. (1) EMERGENCY INTERIM SUCCESSORS TO OFFICE OF GOVERNOR. If, during a state of emergency resulting from enemy action, the governor is unavailable and the lieutenant governor and the secretary of state are unavailable, the attorney general, state treasurer, speaker of the assembly, and the president of the senate shall in the order named if the preceding named officers are unavailable, exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available; but no interim successor to those offices may serve as governor.

NOTE: Sub. (1) is amended by 2009 Wis. Act 42, effective the day after the secretary of state notifies the legislature that an amendment to the Wisconsin Constitution has been approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, to read as follows:

(1) EMERGENCY INTERIM SUCCESSORS TO OFFICE OF GOVERNOR. If, during a state of emergency resulting from a disaster or the imminent threat of a disaster, the governor is unavailable and the lieutenant governor and the secretary of state are unavailable, the attorney general, state treasurer, speaker of the assembly, and the president of the senate shall in the order named if the preceding named officers are unavailable, exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available; but no interim successor to those offices may serve as governor.

(2) INTERIM SUCCESSORS FOR OTHER STATE OFFICERS. (a) All state officers, subject to regulations that the governor, or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor, may issue, shall, in addition to any deputy authorized to exercise all of the powers and discharge the duties of the office, designate by title interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made under this section to ensure their current status. The officer shall designate a sufficient number of interim successors so that there will be not fewer than 3 nor more than 7 deputies or interim successors or any combination of deputies or interim successors, at any time.

(b) If, during a state of emergency resulting from enemy action, any state officer is unavailable and his or her deputy, if any, is also unavailable, the powers of his or her office shall be exercised and the duties of his or her office shall be discharged by his or her designated interim successors in the order specified. The interim successor shall exercise the powers and discharge the duties of the office only until any of the following occurs:

NOTE: Par. (b) (intro.) is amended by 2009 Wis. Act 42 , effective the day after the secretary of state notifies the legislature that an amendment to the Wisconsin Constitution has been approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, to read as follows:

(b) If, during a state of emergency resulting from a disaster or the imminent threat of a disaster, any state officer is unavailable and his or her deputy, if any, is also unavailable, the powers of his or her office shall be exercised and the duties of his or her office shall be discharged by his or her designated interim successors in the order specified. The interim successor shall exercise the powers and discharge the duties of the office only until any of the following occurs:

1. Where a vacancy exists, the governor under the constitution or authority other than this section, or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor, appoints a successor to fill the vacancy.

2. A successor is appointed, or elected and qualified as provided by law other than under subd. 1.

3. An officer, the officer's deputy or a preceding named interim successor becomes available to exercise, or resume the exercise of, the powers and discharge the duties of the office.

History: 2009 a. 42 ss. 132, 140, 141, 313, 314; Stats. 2009 s. 323.53.

323.54 Succession to office; local officers. (1) The governing body of any political subdivision may enact ordinances and resolutions to provide a method by which interim appointments to public office are made during periods of emergency to fill vacancies in offices that result from enemy action. The ordinances or resolutions shall define the scope of the powers and duties that interim appointees may exercise, and shall provide for termination of the interim appointments.

NOTE: Sub. (1) is amended by 2009 Wis. Act 42, effective the day after the secretary of state notifies the legislature that an amendment to the Wisconsin Constitution has been approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, to read as follows:

(1) The governing body of any political subdivision may enact ordinances and resolutions to provide a method by which interim appointments to public office are made during periods of emergency to fill vacancies in offices that result from a disaster or the imminent threat of a disaster. The ordinances or resolutions shall define the scope of the powers and duties that interim appointees may exercise, and shall provide for termination of the interim appointments.

(2) Each officer of a political subdivision for whom an interim successor is not determined by ordinance or resolution adopted under sub. (1) shall, subject to such regulations as the executive head of the political subdivision issues, designate by title, if feasible, or by named person, interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The officer shall designate a sufficient number of persons so that there will be not fewer than 3 nor more than 7 deputies or interim successors or any combination at any time. If any officer of any political subdivision or his or her deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his or her designated interim successors in the order specified. The interim successor shall exercise the powers and discharge the duties of the office to which designated until the vacancy that exists is filled in accordance with the constitution or statutes or until the officer or his or her deputy or a preceding interim successor again becomes available to exercise the powers and discharge the duties of his or her office.

History: 2009 a. 42 ss. 130, 131, 144, 315; Stats. 2009 s. 323.54.

323.55 Interim successors. (1) STATUS AND QUALIFICATIONS OF DESIGNEES. No person may be designated or serve as an interim successor under this subchapter unless he or she is eligible under the constitution and statutes to hold the office to which powers and duties he or she is designated to succeed, but no statutory provision prohibiting local or state officials from holding another office shall be applicable to an interim successor.

(2) FORMALITIES OF TAKING OFFICE. Interim successors shall take any oath required for them to exercise the powers and discharge the duties of the office to which they may succeed. No person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he or she succeeds, shall be required to comply with any other provision of law relative to taking office.

(3) PERIOD DURING WHICH AUTHORITY MAY BE EXERCISED. An interim successor to an office may discharge the duties of the office only during the continuance of an emergency resulting from enemy action in the form of an attack. The legislature, by joint resolution, may at any time terminate the authority of an interim successor to exercise the powers and discharge the duties of office provided in this subchapter.

NOTE: Sub. (3) is amended by 2009 Wis. Act 42, effective the day after the secretary of state notifies the legislature that an amendment to the Wisconsin Constitution has been approved that requires the legislature to provide for tem-

porary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, to read as follows:

(3) PERIOD DURING WHICH AUTHORITY MAY BE EXERCISED. **An interim successor to an office may discharge the duties of the office only during the continuance of an emergency resulting from a disaster or the imminent threat of a disaster. The legislature, by joint resolution, may at any time terminate the authority of an interim successor to exercise the powers and discharge the duties of office provided in this subchapter.**

(4) REMOVAL OF DESIGNEES. Until such time as the persons designated as interim successors are authorized to exercise the powers and discharge the duties of an office in accordance with this subchapter, those persons shall serve in their designated capacities at the pleasure of the designating authority.

(5) DISPUTES. Any dispute concerning a question of fact arising under this subchapter with respect to an office in the executive branch of the state government, except a dispute of fact relative to the office of governor, shall be adjudicated by the governor or other official authorized under the constitution or this subchapter to exercise the powers and discharge the duties of the office of governor and his or her decision shall be final.

History: 2009 a. 42 ss. 145 to 149, 316, 317; Stats. 2009 s. 323.55.

SUBCHAPTER VI

EMERGENCY PLANNING

323.60 Hazardous substances information and emergency planning. (1) DEFINITIONS. In this subchapter:

(b) "Committee" means a local emergency planning committee created under s. 59.54 (8) (a).

(c) "Facility" means the buildings and contiguous area of a single location which is owned, operated or controlled by the same person and used for conducting the activities of a public or private agency, or as defined in 42 USC 11049 (4).

(d) "Facility plan" means a plan for response to the release of hazardous substances from a specific facility, prepared as a component of a local emergency response plan under sub. (5) (a) and under 42 USC 11003.

(e) "Federal act" means 42 USC 11000 to 11050.

(f) "Hazardous chemical" means a hazardous chemical covered under 42 USC 11021 and 11022 as defined under 29 CFR 1910.1200 (c).

(g) "Hazardous substance" means an extremely hazardous substance included in the list published by the administrator of the U.S. environmental protection agency under 42 USC 11002 (a) (2) or a hazardous substance as defined under 42 USC 9601 (14) or designated by the administrator of the U.S. environmental protection agency under 42 USC 9602 (a).

(gm) "Minerals" mean unbeneficiated metallic ore but does not include mineral aggregates such as stone, sand, and gravel.

(h) "Private agency" means a privately owned and operated research facility or educational institution.

(i) "Public agency" means a state or local office, agency, board, commission, committee, council, department, research facility, educational institution or public body corporate or politic created by constitution, law, ordinance, rule or order, or a governmental or quasi−governmental corporation.

(j) "Threshold quantity" means a designated quantity of any of the following:

1. A hazardous chemical which, if used by or present at a facility, makes the facility subject to the requirements of sub. (5) (c).

2. A toxic chemical which, if used by or present at a facility, makes the facility subject to the requirements of sub. (5) (d).

(k) "Toxic chemical" means a toxic chemical covered under 42 USC 11023 (c).

(2) DUTIES OF THE DIVISION. The division shall do all of the following:

(a) Serve as the state emergency response commission under the federal act.

(b) Promulgate rules necessary for the implementation of the federal act.

(bg) Promulgate rules establishing an amount not to exceed $6,000 that may be an eligible cost for computers in an emergency planning grant under s. 323.61 (2) (br).

(c) Oversee the implementation of local emergency response plans by committees and provide assistance to committees in executing their duties under sub. (3) (b) to the greatest extent possible.

(d) Administer the grant program under s. 323.61.

(e) At least annually, submit a report to the governor indicating whether each county has a committee and whether the composition of each committee conforms to 42 USC 11001 (c).

(f) If the composition of a county's committee does not conform to 42 USC 11001 (c), inform the county board of that fact and of the county board's duty, under s. 59.54 (8) (a) 1., to create a committee with members as specified in 42 USC 11001 (c).

(3) DUTIES OF COMMITTEES. A committee shall do all of the following:

(a) Carry out all requirements of a committee under the federal act.

(b) Upon receipt by the committee or the committee's designated community emergency coordinator of a notification under sub. (5) (b) of the release of a hazardous substance, take all actions necessary to ensure the implementation of the local emergency response plan.

(c) Consult and coordinate with the county board, the county and local heads of emergency management designated under s. 323.14 (1) (a) 2. or (b) 2. and the county emergency management committee designated under s. 323.14 (1) (a) 3. in the execution of the local emergency planning committee's duties under this section.

(4) DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES. The department of natural resources shall:

(a) Upon receipt of a notification under sub. (5) (b) or s. 292.11 (2) of the release of a hazardous substance, provide all information contained in the notification to the division.

(b) Have the same powers and duties at the time of a release of a hazardous substance as are given to it under s. 292.11, including the investigation of releases of hazardous substances, the repair of any environmental damage which results from the release and the recovery of costs from responsible parties. The department of natural resources may also, at the time of a release of a hazardous substance, identify and recommend to the division and the committee measures to lessen or mitigate anticipated environmental damage resulting from the release.

(c) Use the information contained in toxic chemical release forms submitted under sub. (5) (d) in the planning and implementation of programs related to the regulation, monitoring, abatement and mitigation of environmental pollution.

(4m) COOPERATION. A state agency, federally recognized American Indian tribe or band, or local governmental unit may assist the division or a committee in the performance of its duties under this section and may enter into an agreement with the division or a committee.

(5) NOTIFICATION AND REPORTING REQUIREMENTS. (a) All facilities in this state covered under 42 USC 11002 shall comply with the emergency planning and notification requirements under 42 USC 11002 and 11003.

(b) All facilities in this state covered under 42 USC 11004 shall comply with the notification requirements of 42 USC 11004. Notification of the department of natural resources of the discharge of a hazardous substance under s. 292.11 (2) shall constitute the notification of the division required under 42 USC 11004 if the notification contains the information specified in 42 USC 11004 (b) (2) or (c).

(c) All facilities in this state covered under 42 USC 11021 and all public agencies and private agencies in this state at which a hazardous chemical is present at or above an applicable threshold quantity shall comply with the reporting requirements under 42 USC 11021 and 11022. The division shall implement minimum threshold levels for reporting by retail gas stations that are identical to the minimum threshold levels for reporting under 42 USC 11021 and 11022.

(d) The following facilities shall comply with the toxic chemical release form requirements under 42 USC 11023 and shall submit copies of all toxic chemical release forms to the department of natural resources:

1. All facilities subject to 42 USC 11023.

2. All public agencies and private agencies at which a toxic chemical is used at or above an applicable threshold quantity.

3. All facilities with 10 or more employees in major group classifications 10 to 13 in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget, at which a toxic chemical is used at or above an applicable threshold quantity, except that compliance with the toxic chemical release form requirements under this subdivision is not required for the placement of a toxic chemical in a storage or disposal site or facility that is located at a facility with a permit under ch. 293 or a mining permit under subch. III of ch. 295 if the toxic chemical consists of or is contained in merchantable by−products, as defined in s. 293.01 (7) or 295.41 (25), minerals, or refuse, as defined in s. 293.01 (25) or 295.41 (41).

(e) The reporting procedures for trade secrets under 42 USC 11042 shall apply to all facilities in this state subject to the requirements under par. (a), (c), or (d). For the purposes of applying this paragraph to public agencies and private agencies, the division shall have the powers and duties granted to the administrator of the U.S. environmental protection agency under 42 USC 11042.

(f) All facilities in this state subject to the requirements under par. (c) or (d) shall comply with the procedures for providing information under 42 USC 11043.

(5m) FURNISHING INFORMATION. If the division or a committee requests, in writing, information relating to the federal act or to this section, a facility shall furnish the information in the manner requested.

(6) THRESHOLD QUANTITIES. Threshold quantities for the facilities of public agencies and private agencies shall be identical to the threshold quantities established by the federal act or by regulations promulgated under the federal act.

(7) FACILITY FEES. (a) The division shall establish, by rule, the following fees at levels designed to fund the division's administrative expenses and the grants under s. 323.61:

1. An emergency planning notification fee to be paid when a facility makes the emergency planning notification required under sub. (5) (a).

2. An inventory form fee to be paid annually when a facility submits the emergency and hazardous chemical inventory forms required under sub. (5) (c).

(b) The operator of a facility subject to the requirements of sub. (5) (a) or (c) shall pay the fees under par. (a). The division may establish, by rule, a surcharge to be paid by the operator of a facility if the operator fails to pay the fees under par. (a) in a timely manner. The surcharge under this paragraph shall not exceed 20 percent of the original fee.

(d) The operator of a facility, including a facility engaged in farming, as defined in s. 102.04 (3), is exempt from the fees under par. (a) if the operator of the facility employs fewer than the equivalent of 10 full−time employees in this state.

(dm) The operator of a facility at which petroleum products are received by tank truck, tank trailer, or railroad tank car and stored for resale is exempt from the fees under par. (a) 2. with respect to gasoline and diesel fuel present at that facility.

(e) All moneys received under this subsection shall be credited to the appropriations under s. 20.465 (3) (i) and (jm).

(7m) INSPECTIONS. (a) An authorized inspector of the division or the committee for the county in which a facility is located may enter and inspect any facility or any pertinent record relating to the facility at any reasonable time for the purpose of determining whether the facility is complying with this section and rules promulgated under this section. The division or committee, if requested, shall furnish to the operator of the facility a report setting forth all facts found which relate to compliance with this section and rules promulgated under this section.

(b) The division shall promulgate rules to specify how the division or a committee may authorize inspectors for the purposes of par. (a). The rules shall include requirements for experience or training of individuals authorized to conduct inspections.

(8) ENFORCEMENT. (a) The department of justice, at its own discretion or at the request of the division or the committee or district attorney for the county in which the violation is alleged to have occurred, shall enforce subs. (2) to (7) and rules promulgated under subs. (2) to (7). In any action commenced under this paragraph, the department of justice may request the assistance of the district attorney for the county in which the violation is alleged to have occurred and the district attorney shall provide the requested assistance, except that, for a violation that is alleged to have occurred within the boundaries of a federally recognized Indian reservation or on land that is held in trust by the federal government for the benefit of an American Indian tribe or band, only the department of justice may enforce subs. (2) to (7) and rules promulgated under subs. (2) to (7).

(b) In addition to any other relief granted, the court may grant injunctive relief to restrain violations of subs. (2) to (7) and rules promulgated under subs. (2) to (7).

(9) SUITS. (a) Except as provided in par. (b):

1. Any person may commence a civil action on his or her behalf against any of the following:

a. Any person for failure to submit a follow−up emergency notice under 42 USC 11004 (c), as applied under sub. (5) (b).

b. Any person for violation of sub. (5) (c) or (d).

c. The division for failure to render a decision in response to a petition under 42 USC 11042 (d), as applied under sub. (5) (e), within 9 months after receipt of the petition.

d. The division for failure to provide a mechanism for public availability of information in accordance with 42 USC 11044 (a), as applied under sub. (2) (a).

e. The division for failure to respond to a request for information under 42 USC 11022 (e) (3), as applied under sub. (2) (a).

2. The division or any local unit of government may commence a civil action against any person for failure to do any of the following:

a. Provide notification to the division under 42 USC 11002 (c), as applied under sub. (5) (a).

b. Submit the information required under 42 USC 11021 (a) or 11022 (a), as applied by sub. (5) (c).

c. Make available information requested under 42 USC 11021 (c), as applied under sub. (5) (c).

3. The division or any committee may commence an action against any person for failure to provide the information required under 42 USC 11003 (d), as applied under sub. (5) (a) or any information required under 42 USC 11022 (e) (1), as applied under sub. (5) (c).

(b) 1. No action may be commenced against any person other than the division under this subsection under any of the following circumstances:

a. If fewer than 60 days have elapsed since the plaintiff gave notice of the alleged violation to the division and to the alleged violator.

b. If the department of justice has commenced and is diligently prosecuting a civil action against the alleged violator, but in any such action any resident of this state may intervene as a matter of right.

2. No action may be commenced against the division under this subsection if fewer than 60 days have elapsed since the plaintiff gave notice of the action to the division.

(c) In addition to any other relief granted, the court may grant injunctive relief to restrain the violations alleged in the pleadings.

(10) VENUE. A proceeding under sub. (8) or (9) may be brought in the circuit court for Dane County, for the county in which the defendant is located or for the county in which the violation is alleged to have occurred.

(11) PENALTIES. (a) Any person who violates sub. (5) (a), (b), or (d), or the emergency and hazardous chemical inventory form requirements of 42 USC 11022, as applied under sub. (5) (c), or any rule promulgated under sub. (5) (a), (b), or (d), or concerning emergency and hazardous chemical inventory form requirements shall forfeit not less than $100 nor more than $25,000. Total forfeitures for the failure of a facility to report multiple releases of hazardous substances covered under 42 USC 11004, as applied under sub. (5), shall not exceed $75,000 per day of offense.

(b) Any person who knowingly and willfully fails to report the release of a hazardous substance covered under 42 USC 11004 as required under sub. (5) (b) or any rule promulgated under sub. (5) (b) is subject to the following penalties:

1. For the first offense, the person is guilty of a Class I felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (i), the person may be fined not more than $25,000.

2. For the 2nd and subsequent offenses, the person is guilty of a Class I felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (i), the person may be fined not more than $50,000.

(c) Any person who violates sub. (5) (e) or (f) or the material safety data sheet requirements of 42 USC 11021, as applied under sub. (5) (c), or any rule promulgated under sub. (5) (e) or (f) or concerning material safety data sheet requirements shall forfeit not less than $50 nor more than $10,000.

(d) Any person who knowingly and willfully releases a trade secret entitled to protection under 42 USC 11042, as applied under sub. (5) (e), shall be fined not less than $100 nor more than $20,000 or imprisoned for not more than one year in the county jail or both.

(dg) Except as provided in this paragraph, any person who negligently makes a false statement or representation in any document provided by the operator of a facility or required to be maintained by the operator of a facility under the federal act, this section or rules promulgated under this section shall forfeit not less than $100 nor more than $25,000. This penalty does not apply to the division, a committee or a member of the division or a committee.

(dr) Any person who violates any provision of this section or any rule promulgated under this section for which no penalty is provided under pars. (a) to (dg) shall forfeit not more than $20,000.

(e) For the purposes of this subsection, each day of continued violation constitutes a separate offense.

History: 1987 a. 342; 1989 a. 31, 115, 359; 1991 a. 39, 104, 189; 1993 a. 240, 253; 1995 a. 13, 113, 201, 227, 247; 1997 a. 27, 283; 1999 a. 9, 185; 2001 a. 16, 109; 2009 a. 42 ss. 157 to 161, 163, 168, 170 to 175, 179 to 192, 193 to 203, 205, 206; Stats. 2009 s. 323.60; 2013 a. 1.

Cross−reference: See also chs. WEM 1, 2, 3, 5, and 6, Wis. adm. code.

State Emergency Response Board committee members are entitled to indemnity for damage liability under s. 895.46 and legal representation by the attorney general under s. 165.25. 81 Atty. Gen. 17.

The authority and responsibility of local units of government to respond to Level B hazardous substance releases is discussed. OAG 1−99.

323.61 Emergency planning grants. (1) GENERAL. (a) There is created an emergency planning grant program for the purpose of assisting committees to comply with the requirements of s. 323.60 and the federal act.

(b) Any committee may apply annually to the division for an emergency planning grant. Applications shall be made in the manner specified by the division.

(2) ELIGIBLE COSTS. Eligible costs for emergency planning grants are limited to the cost of all of the following:

(a) Maintaining emergency response plans required under 42 USC 11003, including the cost of maintaining facility plans.

(b) Reviewing, exercising and implementing emergency response plans required under 42 USC 11003.

(br) Subject to sub. (2m), 80 percent of the costs of computers and emergency response equipment, but not to exceed $10,000. In−kind contributions may be used to meet the committee's contribution under this paragraph.

(c) Committee operation and administration, including the cost of supplies and equipment reasonably necessary for committee operation and administration, but excluding the cost of computers and emergency response equipment.

(d) Any other activity of the committee required under s. 323.60 or the federal act.

(dm) Hazardous materials response supplies.

(e) The portion of a previous year's costs that was approved by the division but not paid because of insufficient funds.

(2m) STRATEGIC PLAN. A committee is eligible for grant funds under sub. (2) (br) for emergency response equipment only if it submits to the division a strategic plan for emergency response to hazardous substance releases that includes all of the following:

(a) An analysis of the risks of hazardous substance releases in the county.

(b) Identification of the existing capability for emergency response to hazardous substance releases in the county.

(c) An assessment of needs, including equipment and training needs, related to emergency response to hazardous substance releases in the county.

(d) A process to maintain or increase the capability for emergency response to hazardous substance releases in the county.

(e) Identification of a local emergency response team that is capable of responding to a level B release that occurs at any place in the county and whose members meet the standards for hazardous materials technicians in 29 CFR 1910.120 (q) (6) (iii) and national fire protection association standards NFPA 471 and 472.

(f) Procedures for local emergency response team actions that are consistent with local emergency response plans developed under s. 323.60 (3) and the state contingency plan established under s. 292.11 (5).

(3) GRANT AMOUNT. (a) Emergency planning grants shall not exceed the sum of the following amounts:

1. The costs of each new facility plan completed by the committee and approved by the division in the period covered by the grant.

2. All costs incurred by the committee in the period covered by the grant related to subs. (2) (b) to (dm) and (2m).

3. The portion of a previous year's costs that was approved by the division but not paid because of insufficient funds.

(b) The division shall reduce the grant amount calculated under par. (a) by the amount of any other gifts or grants received by the committee in the period covered by the grant for costs incurred by the committee related to sub. (2).

(c) Notwithstanding sub. (2), the division shall deny that portion of a grant calculated under par. (a) 2. if the division determines that the committee has failed to meet grant obligations, including the development, review, exercise or implementation of local emergency response plans as required under s. 323.60 or the federal act.

(e) Annually, the division shall establish a formula to determine the amount of emergency planning grant funds available to each county.

(4) PAYMENT OF GRANTS. Annually, the division shall review all applications received under this section and make grants to committees from the appropriations under s. 20.465 (3) (jm) and (r). If insufficient funds are available to pay all approved grants, the division shall prorate the available funds among the eligible applicants in proportion to the approved grant amounts. A prorated payment shall be deemed full payment of the grant.

(5) PAYMENT IN ADVANCE. (a) The division may pay a portion of a grant before the end of the period covered by the grant if a committee requests the advance payment and if the division determines that the necessary funds are available and that the advance payment will not result in insufficient funds to pay other grants.

(b) The division may pay an amount up to 50 percent of anticipated eligible costs covered by a grant up to 12 months before the end of the period covered by the grant. The division may pay an additional amount up to 25 percent of anticipated eligible costs up to 6 months before the end of the period covered by the grant. The division shall determine anticipated eligible costs from a budget submitted by the committee at the time that the committee requests payment in advance.

(c) If a committee receives advance payments under this subsection which exceed the total grant amount calculated under sub. (3), the division shall subtract the amount of the overpayment from the amount of a grant paid to that committee in the next year that the committee receives a grant.

History: 1987 a. 342; 1989 a. 31, 115; 1991 a. 104; 1993 a. 16; 1995 a. 13, 227; 1997 a. 27; 2001 a. 16; 2009 a. 42 ss. 207 to 213; Stats. 2009 s. 323.61.

SUBCHAPTER VII

EMERGENCY RESPONSE TEAMS

323.70 Hazardous substance emergency response.

(1) In this subchapter:

(a) "Hazardous substance" has the meaning given in s. 299.01 (6).

(b) "Local agency" means an agency of a county, city, village, or town, including a municipal police or fire department, a municipal health organization, a county office of emergency management, a county sheriff, an emergency medical service, a local emergency response team, or a public works department.

(c) "Local emergency response team" means a team that the committee identifies under s. 323.61 (2m) (e).

(2) The division shall contract with no more than 9 regional emergency response teams, one of which shall be located in La Crosse County. Each regional emergency response team shall assist in the emergency response to level A releases in a region of this state designated by the division. The division shall contract with at least one regional emergency response team in each area designated under s. 323.13 (2) (a). The division may only contract with a local agency under this subsection. A member of a regional emergency response team shall meet the highest standards for a hazardous materials responder in 29 CFR 1910.120 (q) (6) (iv) and National Fire Protection Association standards NFPA 471 and 472. Regional emergency response teams shall have at least one member that is trained in each of the appropriate specialty areas under National Fire Protection Association standard NFPA 472. Payments to regional emergency response teams under this subsection shall be made from the appropriation account under s. 20.465 (3) (dd).

(3) The division shall reimburse a regional emergency response team for costs incurred by the team in responding to an emergency involving a level A release, or a potential level A release, if the team followed the procedures in the rules promulgated under sub. (7) (b) to determine if an emergency requiring a response existed. Reimbursement under this subsection is limited to amounts collected under sub. (4) and the amounts appropriated under s. 20.465 (3) (dr). Reimbursement is available under s. 20.465 (3) (dr) only if the regional emergency response team has made a good faith effort to identify the person responsible under sub. (4) and that person cannot be identified, or, if that person is identified, the team has received reimbursement from that person to the extent that the person is financially able or has determined that the person does not have adequate money or other resources to reimburse the regional emergency response team.

(4) A person shall reimburse the division for costs incurred by a regional emergency response team in responding to an emergency involving a level A release or a potential level A release if the team followed the procedures established under s. sub. (7) (b) to determine if an emergency requiring the team's response existed and if any of the following conditions applies:

(a) The person possessed or controlled a hazardous substance that was involved in the emergency.

(b) The person caused the emergency.

(5) A member of a regional emergency response team who is acting under a contract under sub. (2) is considered an employee of the state for purposes of worker's compensation benefits.

(6) The division shall notify the joint committee on finance in writing, before entering into a new contractual agreement under sub. (2) or renewing or extending a contractual agreement under sub. (2), of the specific funding commitment involved in that proposed new, renewed or extended contract. The division shall include in that notification information regarding any anticipated contractual provisions that involve state fiscal commitments for each fiscal year in the proposed new, renewed or extended contract. The division may enter into a new contractual agreement or renew or extend a contractual agreement, as proposed in the notification to the joint committee on finance, if within 14 working days after notification the committee does not schedule a meeting to review the division's proposed action. If, within 14 working days after notification to the joint committee on finance, the committee notifies the division that the committee has scheduled a meeting to review the division's proposed action, the division may enter into the proposed new contact or renew or extend the contract as proposed only if the committee approves that action.

(7) (a) The division shall promulgate rules establishing standards to determine all of the following:

1. If a regional or local emergency response team has made a good faith effort to identify a person responsible for the emergency involving a release or potential release of a hazardous substance under sub. (4) or s. 323.71 (4).

2. If a person responsible for the emergency involving a release or potential release of a hazardous substance under sub. (4) or s. 323.71 (4) is financially able or has the money or resources necessary to reimburse a regional or local emergency response team for the expenses incurred by the regional or local emergency response team in responding to the emergency.

(b) The division shall promulgate rules that establish the procedures that a regional emergency response team shall follow to determine if an emergency that requires the team's response exists as the result of a level A release or a potential level A release.

(c) The division shall promulgate rules that establish the procedures that a local emergency response team shall follow to determine if an emergency that requires the team's response exists as the result of a release or potential release of a hazardous substance, as defined in s. 299.01 (6).

History: 1991 a. 104; 1993 a. 253; 1995 a. 13; 1997 a. 27, 41; 1999 a. 9; 2001 a. 16; 2005 a. 33; 2009 a. 42 ss. 176 to 178, 214 to 221, 223, 224; Stats. 2009 s. 323.70.

323.71 Local agency response and reimbursement.

(1) A person who possesses or controls a hazardous substance that is released or who causes the release of a hazardous substance shall take the actions necessary to protect public health and safety and prevent damage to property.

(2) If action required under sub. (1) is not being adequately taken or the identity of the person responsible for an emergency

involving a release or potential release of a hazardous substance is unknown and the emergency involving a release or potential release threatens public health or safety or damage to property, a local agency may take any emergency action that is consistent with the contingency plan for the undertaking of emergency actions in response to the release or potential release of hazardous substances established by the department of natural resources under s. 292.11 (5) and that it considers appropriate under the circumstances.

(3) The division shall reimburse a local emergency response team for costs incurred by the team in responding to an emergency involving a hazardous substance release, or potential release, if the team followed the procedures in the rules promulgated under s. 323.70 (7) (c) to determine if an emergency requiring the team's response existed. Reimbursement under this subsection is limited to the amount appropriated under s. 20.465 (3) (dr). Reimbursement is available under s. 20.465 (3) (dr) only if the local emergency response team has made a good faith effort to identify the person responsible under sub. (4) and that person cannot be identified, or, if that person is identified, the team has received reimbursement from that person to the extent that the person is financially able or has determined that the person does not have adequate money or other resources to reimburse the local emergency response team.

(4) (a) Except as provided in par. (b), a person shall reimburse a local agency as provided in sub. (5) for actual, reasonable, and necessary expenses incurred in responding to an emergency involving the release or potential release of a hazardous substance if any of the following conditions applies:

1. The person possessed or controlled a hazardous substance involved in the emergency.

2. The person caused the emergency.

(b) A local emergency response team may receive reimbursement under par. (a) only if the team followed the procedures established under s. 323.70 (7) (c) to determine if an emergency requiring the team's response existed.

(5) (a) The county board may designate a county employee or body as the reviewing entity under this subsection. If the county board does not make a designation, the local emergency planning committee is the reviewing entity.

(am) A local agency seeking reimbursement under sub. (4) shall submit a claim stating its expenses to the reviewing entity for the county in which the emergency occurred.

(b) The reviewing entity shall review claims submitted under par. (am) and determine the amount of reasonable and necessary expenses incurred. The reviewing entity shall provide a person who is liable for reimbursement under sub. (4) with a notice of the amount of expenses it has determined to be reasonable and necessary that arose from the emergency involving the release or potential release of a hazardous substance and that were incurred by all local agencies from which the reviewing entity receives a claim.

(c) If a person receiving a notice under par. (b) objects to the amount of expenses in the notice, the person may ask the reviewing entity to review its determination. The reviewing entity may modify the determination and shall notify the person of the result of its review.

(d) A person liable for reimbursement under sub. (4) shall pay the reimbursement directly to each local agency.

(6) A county may enact an ordinance in conformity with this section that governs the administration of claims under sub. (5).

History: 1989 a. 256; 1995 a. 13, 227, 247; 1997 a. 27; 2001 a. 16; 2009 a. 42 ss. 222, 225 to 231; Stats. 2009 s. 323.71.

323.72 Structural collapse emergency response. **(1)** A regional structural collapse team shall assist in the emergency response to a structural collapse incident in a region of this state designated by the division. Whenever a regional structural collapse team assists in an emergency response under this subsection, it shall determine under the rules promulgated under sub. (5) whether an emergency requiring the team's response existed. If the regional structural collapse team determines that such an emergency existed, it shall make a good faith effort to identify the person who is required to reimburse the division under sub. (3) and shall provide that information to the division. The division shall contract with local agencies, as defined in s. 323.70 (1) (b), to establish no more than 4 regional structural collapse teams. A member of a regional structural collapse team shall meet the highest standards for a structural collapse team under the National Fire Protection Association standards NFPA 1006 and 1670.

(2) The division shall reimburse a regional structural collapse team for costs incurred by the team in responding to an emergency involving a structural collapse incident if the team determines that a structural collapse emergency requiring a response existed as provided under the rules promulgated under sub. (5). Reimbursement under this subsection is limited to amounts collected under sub. (3). Reimbursement under this subsection is available only if the regional structure collapse team has identified the person who is required to reimburse the division under sub. (3) and provided that information to the division.

(3) A person shall reimburse the division for costs incurred by a regional structural collapse team in responding to an emergency if the team determines under the rules promulgated under sub. (5) that an emergency requiring the team's response existed and that one of the following conditions applies:

(a) The person possessed or controlled a structure that was involved in the structural collapse.

(b) The person caused the structural collapse.

(4) A member of a regional structural collapse team who is acting under a contract under sub. (1) is considered an employee of the state for purposes of worker's compensation benefits.

(5) (a) The division shall promulgate rules establishing standards to be used to determine if a regional structural response team has made a good faith effort to identify the person who is required to reimburse the division under sub. (3).

(b) The division shall promulgate rules that establish the procedures that a regional structural collapse team shall follow to determine if a structural collapse emergency requiring the team's response existed.

History: 2009 a. 43 s. 1; Stats. 2009 s. 323.72; 2011 a. 258 s. 67.

SUBCHAPTER VIII

EMERGENCY MANAGEMENT ASSISTANCE COMPACTS

323.80 Emergency management assistance compact. The following compact, by and between the state of Wisconsin and all other states that enter into the compact, is ratified and approved:

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

(1) ARTICLE I — PURPOSE AND AUTHORITIES. (a) This compact is made and entered into by and between the participating member states that enact this compact, called "party states" in this section. In this agreement, the term "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

(b) The purpose of this compact is to provide for mutual assistance among the party states in managing any emergency or disaster that is declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man−made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.

(c) This compact also provides for mutual cooperation in emergency−related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies if such activities occur outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard

forces, either in accordance with the national guard mutual assistance compact or by mutual agreement among states.

(2) ARTICLE II — GENERAL IMPLEMENTATION. (a) Each party state recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each party state recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency.

(b) The prompt, full, and effective utilization of resources of the party states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which subs. (1) to (12) of this compact shall be understood.

(c) On behalf of the governor of each party state, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

(3) ARTICLE III — PARTY STATE RESPONSIBILITIES. (a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this subsection. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall do all of the following:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man−made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.

2. Review party states' individual emergency plans and develop a plan that will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

4. Assist in warning communities adjacent to or crossing the state boundaries.

5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

7. Provide, to the extent authorized by law, for temporary suspension of any statues or ordinances that restrict the implementation of the responsibilities listed in subds. 1. to 6.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide all of the following.

1. A description of the emergency service function for which assistance is needed, such as fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation among state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the U.S. government, with free exchange of information, plans, and resource records relating to emergency capabilities.

(4) ARTICLE IV — LIMITATIONS. Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take any action that is necessary to provide and make available the resources covered by this compact in accordance with the terms of this compact, provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for that state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which it is performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longest.

(5) ARTICLE V — LICENSES AND PERMITS. Whenever any person holds a license, certificate, or other permit issued by any party state evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, that person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to any limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

(6) ARTICLE VI — LIABILITY. Officers or employees of a party state rendering aid in another party state shall be considered agents of the requesting state for tort liability and immunity purposes, and no party state or its officers or employees rendering aid in another party state shall be liable on account of any act or omission performed in good faith on the part of those forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection with the rendering of aid. "Good faith" in this subsection shall not include willful, wanton or reckless misconduct.

(7) ARTICLE VII — SUPPLEMENTARY AGREEMENTS. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the party states, this compact contains elements of a broad base common to all states, and nothing contained in this compact shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force among states. Supplementary agreements may include provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

(8) ARTICLE VIII — COMPENSATION. Each party state shall provide for the payment of compensation and death benefits to

injured members of the emergency forces of that state and representatives of deceased members of those forces in case those members sustain injuries or are killed while rendering aid under this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

(9) ARTICLE IX — REIMBURSEMENT. Except as provided in this subsection, any party state rendering aid in another state under this compact shall be reimbursed by the party state receiving the aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with the requests. Any aiding party state may assume in whole or in part the loss, damage, expense, or other cost, or may loan equipment or donate services to the receiving party state without charge or cost. Any two or more party states may enter into supplementary agreements establishing an allocation of costs among those states. Subsection (8) expenses may not be reimbursable under this subsection.

(10) ARTICLE X — EVACUATION. Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained among the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Evacuation plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Evacuation plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out−of−pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and for like items. Those expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees came shall assume the responsibility for the ultimate support of repatriation of such evacuees.

(11) ARTICLE XI — IMPLEMENTATION. (a) This compact shall become operative immediately upon its enactment into law by any two states. After this compact becomes operative, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the compact, but the withdrawal shall not take effect until thirty days after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. Withdrawal from this compact shall not relieve the withdrawing state from obligations assumed under the compact before the effective date of withdrawal.

(c) Authenticated copies of this compact and of any supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the U.S. government.

(12) ARTICLE XII — ADDITIONAL PROVISIONS. Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the president is authorized by law to call into federal service the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under 18 USC 1385.

History: 1999 a. 26; 2009 a. 42 s. 238; Stats. 2009 s. 323.80.

323.81 State and province emergency management assistance compact. The following compact, by and between the state of Wisconsin and all other jurisdictions that enter into the compact, is ratified and approved:

(1) ARTICLE I — PURPOSE AND AUTHORITIES. (a) The State and Province Emergency Management Assistance Memorandum of Understanding, hereinafter referred to as the "compact," is made and entered into by and among such of the jurisdictions as shall enact or adopt this compact, hereinafter referred to as "participating jurisdictions." For the purposes of this compact, the term "participating jurisdictions" may include any or all of the states of Illinois, Indiana, Ohio, Michigan, Minnesota, Montana, North Dakota, Pennsylvania, New York, and Wisconsin, and the Canadian Provinces of Alberta, Manitoba, Ontario, and Saskatchewan, and such other states and provinces as may hereafter become a party to this compact. The term "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all territorial possessions of the United States. The term "provinces" means the 10 political units of government within Canada.

(b) The purpose of this compact is to provide for the possibility of mutual assistance among the participating jurisdictions in managing any emergency or disaster when the affected jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, man−made disaster, or civil emergency aspects of resources shortages.

(c) This compact also provides for the process of planning mechanisms among the participating jurisdictions responsible and for mutual cooperation, including civil emergency preparedness exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by participating jurisdictions or subdivisions of participating jurisdictions during emergencies, with such actions occurring outside emergency periods.

(2) ARTICLE II — GENERAL IMPLEMENTATION. (a) Each participating jurisdiction entering into this compact recognizes that many emergencies may exceed the capabilities of a participating jurisdiction and that intergovernmental cooperation is essential in such circumstances. Each participating jurisdiction further recognizes that there will be emergencies that may require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual jurisdictions have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(b) On behalf of the participating jurisdictions in the compact, the legally designated official who is assigned responsibility for emergency management is responsible for formulation of the appropriate interjurisdictional mutual aid plans and procedures necessary to implement this compact, and for recommendations to the participating jurisdiction concerned with respect to the amendment of any statutes, regulations, or ordinances required for that purpose.

(3) ARTICLE III — PARTICIPATING JURISDICTION RESPONSIBILITIES. (a) It is the responsibility of each participating jurisdiction to formulate procedural plans and programs for interjurisdictional cooperation in the performance of the responsibilities listed in this section. In formulating and implementing such plans and programs the participating jurisdictions, to the extent practical, may do any of the following:

1. Share and review individual jurisdiction hazards analyses that are available and determine all those potential emergencies the participating jurisdictions might jointly suffer, whether due to natural disaster, technological hazard, man−made disaster, or emergency aspects of resource shortages.

2. Share emergency operations plans, procedures, and protocols established by each of the participating jurisdictions before entering into this compact.

3. Share policies and procedures for resource mobilization, tracking, demobilization, and reimbursement.

4. Consider joint planning, training, and exercises.

5. Assist with alerts, notifications, and warnings for communities adjacent to or crossing participating jurisdiction boundaries.

6. Consider procedures to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment, or other resources into jurisdictions or across boundaries, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating jurisdictions.

7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that impede the implementation of responsibilities described in this section.

(b) The authorized representative of a participating jurisdiction may request assistance of another participating jurisdiction by contacting the authorized representative of that jurisdiction. These provisions only apply to requests for assistance made by and to authorized representatives. Requests may be oral or in writing. If oral, the request must be confirmed in writing within 15 days of the oral request. Requests must provide all of the following information:

1. A description of the emergency service function for which assistance is needed and of the mission, including fire services, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

2. The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed.

3. The specific place and time for staging of the assisting participating jurisdictions' response and a point of contact at the location.

(c) There shall be periodic consultation among the authorized representatives who have assigned emergency management responsibilities.

(4) ARTICLE IV — LIMITATION. It is recognized that any participating jurisdiction that agrees to render mutual aid or conduct exercises and training for mutual aid will respond as soon as possible. It is also recognized that the participating jurisdiction rendering aid may withhold or recall resources to provide reasonable protection for itself, at its discretion. To the extent authorized by law, each participating jurisdiction will afford to the personnel of the emergency contingent of any other participating jurisdiction while operating within its jurisdiction limits under the terms and conditions of this compact and under the operational control of an officer of the requesting participating jurisdiction the same treatment as is afforded similar or like human resources of the participating jurisdiction in which they are performing emergency services. Staff comprising the emergency contingent continue under the command and control of their regular leaders but the organizational units come under the operational control of the emergency services authorities of the participating jurisdiction receiving assistance. These conditions may be activated, as needed, by the participating jurisdiction that is to receive assistance or upon commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the emergency or disaster remains in effect or loaned resources remain in the receiving participating jurisdictions, whichever is longer. The receiving participating jurisdiction is responsible for informing the assisting participating jurisdiction when services will no longer be required.

(5) ARTICLE V — LICENSES, CERTIFICATES, AND PERMITS. Whenever a person holds a license, certificate, or other permit issued by any participating jurisdiction evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving participating jurisdiction, such person is deemed to be licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet an emergency or disaster, subject to such limitations and conditions as the requesting jurisdiction prescribes by executive order or otherwise.

(6) ARTICLE VI — LIABILITY. Any person or entity of a participating jurisdiction rendering aid in another jurisdiction under this compact is considered an agent of the requesting jurisdiction for tort liability and immunity purposes. Any person or entity rendering aid in another jurisdiction under this compact is not liable on account of any act or omission made in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

(7) ARTICLE VII — SUPPLEMENTARY AGREEMENTS. Because it is probable that the pattern and detail of the compact for mutual aid among 2 or more participating jurisdictions may differ from that among the participating jurisdictions that are party to this compact, this compact contains elements of a broad base common to all participating jurisdictions, and nothing in this compact precludes any participating jurisdiction from entering into supplementary agreements with another jurisdiction or affects any other agreements already in force among participating jurisdictions. Supplementary agreements may include provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

(8) ARTICLE VIII — WORKER'S COMPENSATION AND DEATH BENEFITS. Each participating jurisdiction shall provide, in accordance with its own laws, for the payment of worker's compensation and death benefits to injured members of the emergency contingent of that participating jurisdiction and to representatives of deceased members of that emergency contingent if the members sustain injuries or are killed while rendering aid under this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

(9) ARTICLE IX — REIMBURSEMENT. Any participating jurisdiction rendering aid in another jurisdiction under this compact shall, if requested, be reimbursed by the participating jurisdiction receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding participating jurisdiction may assume in whole or in part any such loss, damage, expense, or other cost or may loan such equipment or donate such services to the receiving participating jurisdiction without charge or cost. Any 2 or more participating jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Expenses under article VIII are not reimbursable under this section.

(10) ARTICLE X — IMPLEMENTATION. (a) This compact is effective upon its execution or adoption by any one state and one province, and is effective as to any other jurisdiction upon its execution or adoption thereby: subject to approval or authorization by the U.S. Congress, if required, and subject to enactment of provincial or state legislation that may be required for the effectiveness of the compact.

(b) Additional jurisdictions may participate in this compact upon execution or adoption of the compact.

(c) Any participating jurisdiction may withdraw from this compact, but the withdrawal does not take effect until 30 days after the governor or premier of the withdrawing jurisdiction has given notice in writing of such withdrawal to the governors or premiers of all other participating jurisdictions. The action does not relieve the withdrawing jurisdiction from obligations assumed under this compact prior to the effective date of the withdrawal.

(d) Duly authenticated copies of this compact in the French and English languages and of such supplementary agreements as

may be entered into shall, at the time of their approval, be deposited with each of the participating jurisdictions.

(11) ARTICLE XI — CONSISTENCY OF LANGUAGE. The validity of the arrangements and agreements consented to in this compact shall not be affected by any insubstantial difference in form or language as may be adopted by the various states and provinces.

History: 2013 a. 97; 2013 a. 151 s. 28.