

Chapter 26.23. DISASTERS

Cross References -

For oil and hazardous substance discharge and prevention contingency plans, see AS 46.04.200 - 46.04.210.

Administrative Code -

For disaster assistance programs, see 6 AAC 94.

Article 01. ALASKA DISASTER ACT

Sec. 26.23.010. Purposes.

The purposes of this chapter are to

(1) reduce the vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from a disaster;

(2) prepare for the prompt and efficient rescue, care, and treatment of persons victimized or threatened by a disaster;

(3) provide a setting conducive to the rapid and orderly start of rehabilitation of persons and restoration of property affected by a disaster;

(4) clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to and recovery from a disaster;

(5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

(6) authorize and provide for the coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of the state, and similar state-local, inter-state, federal-state, and foreign activities in which the state and its political subdivisions may participate; and

(7) assist in the prevention of disasters caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

History -

(Sec. 3 ch 104 SLA 1977)

Article Notes -

Administrative Code. For disaster assistance programs, see 6 AAC 94.

Sec. 26.23.020. The governor and disaster emergencies.

(a) The governor is responsible for meeting the dangers presented by disasters to the state and its people.

(b) The governor may issue orders, proclamations, and regulations necessary to carry out the purposes of this chapter, and amend or rescind them. These orders, proclamations, and regulations have the force of law.

(c) If the governor finds that a disaster has occurred or that a disaster is imminent or threatened, the governor shall, by proclamation, declare a condition of disaster emergency. The disaster emergency remains in effect until the governor finds that the danger has passed or the disaster has been dealt with so that the emergency no longer exists. The governor may terminate the disaster emergency by proclamation. A proclamation of disaster emergency may not remain in effect longer than 30 days unless extended by the legislature by a concurrent resolution. The proclamation must indicate the nature of the disaster, the area threatened or affected, and the conditions that have brought it about or that make possible the termination of the disaster emergency. A proclamation to declare a condition of disaster emergency must also state whether the governor proposes to expend state funds to respond to the disaster under (i) or (j) of this section.

(d) An order or proclamation issued under AS 26.23.010 - 26.23.220 shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless prevented or impeded by circumstances attendant upon the disaster, promptly filed with the Alaska division of homeland security and emergency management, the lieutenant governor, and the municipal clerk in the area to which it applies.

(e) A proclamation of a disaster emergency activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the political subdivisions or areas in question, and constitutes authority for the deployment and use of any force to which the plan or plans apply and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under AS 26.23.010 - 26.23.220 or any other provision of law relating to disaster emergency response.

(f) During the effective period of a disaster emergency, the governor is commander in chief of the organized and unorganized militia and of all other forces available for emergency duty. The governor may delegate or assign command authority by appropriate orders or regulations.

(g) In addition to any other powers conferred upon the governor by law, the governor may, under AS 26.23.010 - 26.23.220,

(1) suspend the provisions of any regulatory statute prescribing procedures for the conduct of state business, or the orders or regulations of any state agency, if compliance with the provisions of the statute, order, or regulation would prevent, or substantially impede or delay, action necessary to cope with the disaster emergency;

(2) use all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(3) transfer personnel or alter the functions of state departments and agencies or units of them for the purpose of performing or facilitating the performance of disaster emergency services;

(4) subject to any applicable requirements for compensation under AS 26.23.160, commandeer or utilize any private property, except for all news media other than as specifically provided for in AS 26.23.010 - 26.23.220, if the governor considers this necessary to cope with the disaster emergency;

(5) direct and compel the relocation of all or part of the population from any stricken or threatened area in the state if the governor considers relocation necessary for the preservation of life or for other disaster mitigation purpose;

(6) prescribe routes, modes of transportation, and destinations in connection with necessary relocation;

(7) control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in it;

(8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles;

(9) make provisions for the availability and use of temporary emergency housing;

(10) allocate or redistribute food, water, fuel, clothing, medicine, or supplies; and

(11) use money from the oil and hazardous substance release response account in the oil and hazardous substance release prevention and response fund, established by AS 46.08.010, to respond to a declared disaster emergency related to an oil or hazardous substance discharge.

(h) The governor may expend during a fiscal year not more than \$500,000 of state funds per incident to prevent, minimize, or respond to the effects of an incident that may occur or occurs in the state and that, in the determination of the governor, poses a direct and imminent threat of sufficient magnitude and severity to justify state action. Before expending funds under this subsection to respond to an incident, the governor shall provide a financing plan to cope with the incident to the legislature in the same manner prescribed for disaster emergencies under AS 26.23.025(a).

(i) If the governor declares a condition of disaster emergency, the governor may expend during a fiscal year not more than \$1,000,000 of state funds per disaster declaration, including the assets of the disaster relief fund, to

(1) save lives, protect property and public health and safety, or lessen or avert the threat of the disaster that poses a direct and imminent threat of sufficient severity and magnitude to justify state action;

(2) implement provisions of law relating to disaster relief to cope with the disaster;

(3) alleviate the effects of the disaster by making grants or loans to persons or political subdivisions on terms the governor considers appropriate or by other means the governor considers appropriate.

(j) If the disaster described in the governor's proclamation to declare a condition of disaster emergency is a fire, the governor may expend state funds as necessary to save lives or protect property and public health and safety.

(k) The governor may expend more than \$500,000 of state funds to cope with an incident under (h) of this section or more than \$1,000,000 of state funds to cope with a disaster under (i) of this section under the following circumstances:

(1) if the legislature is in session, the legislature approves a financing plan to cope with the incident or disaster that identifies the amount in excess of the expenditure limits that is to be expended from state funds; or

(2) if the legislature is not in session, either

(A) the governor convenes a special session of the legislature within five days after declaring the condition of disaster emergency or within five days after providing a financing plan to cope with an incident to the legislature and the legislature convenes in special session and approves a financing plan to cope with the incident or disaster that identifies the amount in excess of the expenditure limits that is to be expended from state funds; or

(B) the presiding officers of both the house of representatives and the senate agree that a special session should not be convened and so advise the governor in writing.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 1 ch 178 SLA 1990; am Sec. 1 ch 190 SLA 1990; am Sec. 1 ch 128 SLA 1994; am Sec. 2, 3 ch 4 SLA 2000; am Sec. 16 ch 179 SLA 2004)

Revisors Notes -

In 1992, "AS 26.23.010 - 26.23.220" was substituted for "this chapter" in several places in this section to reflect the 1990 enactment of AS 26.23.300 and 26.23.400.

In 2004, in (d) of this section, "division of emergency services" was changed to "division of homeland security and emergency management" in accordance with Sec. 26(b), ch. 179, SLA 2004.

Cross References -

For catastrophic oil discharges as disaster emergencies without a declaration of disaster, see AS 46.04.080; for intent of legislature in enacting (h) - (k), see Sec. 1, ch. 4, SLA 2000 in the 2000 Temporary and Special Acts.

Amendment Notes -

The 2000 amendment, effective June 16, 2000, added the last sentence in subsection (c) and added subsections (h)-(k).

The 2004 amendment, effective July 27, 2004, deleted "firearms" following "alcoholic beverages" in paragraph (g)(8) and inserted "medicine, or supplies" in paragraph (g)(10).

Sec. 26.23.025. The legislature and disaster emergencies.

(a) When the governor declares a condition of disaster emergency under AS 26.23.020(c), concurrently with the issuance of the proclamation, the governor shall prepare and deliver to the presiding officers of the legislature and to the persons who chair the finance committees in each house of the legislature a financing plan describing the amount by fund source of money, including the amount of state match for federal funds, that the governor proposes to use to cope with the disaster, the estimated total expenditures necessary to cope with the disaster, and the estimated time frame necessary to cope with the disaster.

(b) Notwithstanding any other provision of this chapter, if the declaration of a disaster emergency occurs while the legislature is in session or if a special session is held, actions taken by the governor under this chapter after the close of the session that are not ratified by law adopted during that session are void.

(c) The legislature may terminate a disaster emergency at any time by law.

History -

(Sec. 2 ch 178 SLA 1990; am Sec. 4 ch 4 SLA 2000)

Amendment Notes -

The 2000 amendment, effective June 16, 2000, rewrote this section.

Sec. 26.23.030. Creation of the Alaska division of emergency services. [Repealed, Sec. 22 ch 179 SLA 2004].

Repealed or Renumbered

Sec. 26.23.040. Homeland security duties of the Alaska division of homeland security and emergency management.

(a) The Alaska division of homeland security and emergency management shall prepare and maintain a state emergency plan and keep it current. The plan may include provisions for

(1) prevention and minimization of injury and damage caused by disasters;

(2) prompt and effective response to disasters;

(3) emergency relief;

(4) identification of geographical areas, municipalities, cities or villages especially vulnerable to a disaster;

(5) recommendations for

(A) zoning, building, and other land use controls;

(B) safety measures for securing mobile homes or other nonpermanent or semi-permanent structures; and

(C) other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(6) assistance to local officials in designing local emergency action plans;

(7) authorization and procedures for the construction of temporary works designed to protect against or mitigate danger, damage, or loss from a disaster;

(8) organization of manpower and chains of command;

(9) coordination of federal, state, and local disaster activities;

(10) coordination of the state emergency plan with the disaster plans of the federal government; and

(11) other matters necessary to carry out the purposes of this chapter.

(b) The Alaska division of homeland security and emergency management shall play an integral part in the development and revision of local and interjurisdictional disaster plans prepared under AS 26.23.060. To this end, it may employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and representatives of interjurisdictional disaster planning and service areas. These personnel shall consult with political subdivisions and agencies on a regular basis and shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply and may suggest or require revisions.

(c) In preparing and maintaining the state emergency plan, the Alaska division of homeland security and emergency management shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations and community leaders. In advising local and interjurisdictional disaster planners, the office shall encourage them also to seek advice from these sources.

(d) The state emergency plan or any part of it may be incorporated in regulations or orders of the Alaska division of homeland security and emergency management. Regulations and orders of the Alaska division of homeland security and emergency management have the force and effect of law.

(e) The Alaska division of homeland security and emergency management shall

(1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in the event of a disaster emergency;

(2) procure and pre-position supplies, medicines, materials, and equipment;

(3) adopt standards and requirements for local and interjurisdictional disaster plans;

(4) periodically review local and interjurisdictional disaster plans;

(5) establish and operate, or assist political subdivisions, their disaster agencies, and representatives of interjurisdictional disaster planning and service areas to establish and operate, training programs;

(6) plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon by the parties;

(7) establish a register of persons with types of training and skills important in disaster prevention, preparedness, response, and recovery;

(8) prepare, for issuance by the governor, orders, proclamations, and regulations as necessary or appropriate in coping with disasters;

(9) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparedness, response and recovery;

(10) develop and carry out procedures and policies to effectively employ disaster relief funds made available by the governor's authority or by special legislative action; these procedures shall include application and documentation by disaster victims or applicants, review, verification and funding approval, and processing of appeals;

(11) do other things necessary or proper for the implementation of this chapter;

(12) to the extent that money is available from an appropriation for the purposes of this paragraph,

(A) award grants for the purpose of forming local emergency planning committees under AS 26.23.073;

(B) in order to comply with 49 U.S.C. 5116(a)(2)(B), make funds available to local emergency planning committees for developing and maintaining emergency plans under AS 26.23.073 and 26.23.075;

(C) make funds available to local emergency planning committees to implement 42 U.S.C. 11022(e) and 42 U.S.C. 11044; and

(D) award grants for training local emergency planning committees and for training and equipping the emergency response organizations identified in the local plans that execute the plans developed by the committees under AS 26.23.073 and 26.23.075.

(f) To the extent that the plan prepared under this section relates to action required to avert human injury or other damage from a release of a hazardous substance, the plan must be substantially equivalent in relevant respect to the local emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and regional master plans prepared by the Department of Environmental Conservation under AS 46.04.200 - 46.04.210. The plan must use an incident command system comparable to the system used in those plans and must be reviewed by the Alaska State Emergency Response Commission under AS 26.23.077.

(g) The Alaska division of homeland security and emergency management has the additional powers and duties set out in AS 26.20.025.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 3, 4 ch 178 SLA 1990; am Sec. 1 - 4 ch 32 SLA 1994; am Sec. 17 ch 179 SLA 2004; am Sec. 19 ch 12 SLA 2006)

Revisors Notes -

In 2004, in various places throughout this section, "division of emergency services" was changed to "division of homeland security and emergency management" in accordance with Sec. 26(b), ch. 179, SLA 2004.

Amendment Notes -

The 2004 amendment, effective July 27, 2004, added subsection (g).

The 2006 amendment, effective April 4, 2006, substituted "49 U.S.C. 5116(a)(2)(B)" for "49 U.S.C. Appx. 1815(a)(3)" in subsection (e)(12)(B).

Editors Notes -

Title 49 U.S.C. Appx. 1815(a)(3), referred to in subparagraph (e)(12)(B) of this section, was repealed in 1994 as part of the revision of Title 49 of the United States Code; the referenced provision is mentioned in the derivational note to current 49 U.S.C. Sec. 5116.

Sec. 26.23.045. Response corps; depots.

(a) The department may establish a response corps. The corps consists of volunteers who register with the department and agree to be trained in techniques for emergency and disaster response and to be available on short notice to carry out responsibilities of the corps under an applicable incident command system. Members of the corps are entitled to per diem and expenses as determined by the department for training and for days spent in service to the state.

(b) The department may maintain emergency response depots in areas of the state identified for that purpose in the state emergency plan developed under AS 26.23.040. The depots shall be equipped in a manner that enables prompt response to emergencies and disasters.

History -

(Sec. 5 ch 32 SLA 1994)

Sec. 26.23.050. Financing.

(a) It is the intent of the legislature, and declared to be the policy of the state, that funds to meet disaster emergencies will always be available.

(b) Whenever, and to the extent that, money is needed to cope with a disaster, the first recourse shall be to money regularly appropriated to state and local agencies. The second recourse shall be to money available in the disaster relief fund or, for oil or hazardous substances discharges, the oil and hazardous substance release prevention and response fund, as the governor determines appropriate. If money available from these sources is insufficient, and if the governor finds that other sources of money to cope with the disaster are not available or are insufficient, the governor may, notwithstanding the limitations imposed by AS 37.07.080(e),

(1) transfer and spend money appropriated for other purposes; or

(2) borrow money for a term not to exceed two years.

(c) Nothing in this section limits the governor's authority to apply for, receive, administer, and spend grants, gifts, or payments from any source, to aid in disaster prevention, preparedness, response, or recovery.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 3 ch 59 SLA 1986; am Sec. 5 ch 178 SLA 1990; am Sec. 2 ch 190 SLA 1990; am Sec. 1 ch 36 SLA 2000)

Amendment Notes -

The 2000 amendment, effective August 9, 2000, inserted "prevention and" in the name of the fund in the second sentence in subsection (b).

Sec. 26.23.060. Local and interjurisdictional disaster services.

(a) Each political subdivision in the state is within the jurisdiction of, and shall be served by, the Alaska division of homeland security and emergency management.

(b) Each political subdivision is responsible for disaster preparedness and coordination of response

(1) by itself;

(2) in conjunction with other political subdivisions by establishing an interjurisdictional planning and service area under AS 26.23.070; or

(3) in conjunction with the Alaska division of homeland security and emergency management.

(c) Each political subdivision that has not established the ability to mitigate, prepare for, respond to, and recover from disasters shall designate, and provide to the Alaska division of homeland security and emergency management the name of, a liaison officer to facilitate the cooperation and protection of that political subdivision in the work of disaster prevention, preparedness, response, and recovery.

(d) The principal executive officer of each political subdivision in the state shall notify the Alaska division of homeland security and emergency management of the manner in which the political subdivision is providing or securing disaster planning and intends to provide or secure emergency services, identify the person who heads the agency from which the services are or will be obtained, and furnish additional information relating to the services as the Alaska division of homeland security and emergency management requires.

(e) Each political subdivision shall ensure that a written local or interjurisdictional disaster emergency plan for its area is prepared, maintained, and distributed to all appropriate officials. The disaster emergency plan must include a clear and complete statement of the emergency responsibilities of all local agencies and officials.

(f) [Repealed, Sec. 28 ch 32 SLA 1994].

(g) To the extent that a plan prepared under this section relates to action required to avert human injury or other damage from a release of a hazardous substance, the plan must be substantially equivalent in relevant respects, including the use of a comparable incident command system, to the

local emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and regional master plans prepared by the Department of Environmental Conservation under AS 46.04.200 - 46.04.210. The plan must use an incident command system comparable to the system used in those plans and must be reviewed by the Alaska State Emergency Response Commission under AS 26.23.077.

(h) Notwithstanding the definition of "political subdivision" in AS 26.23.900, this section does not empower a political subdivision to perform responsibilities that it is not otherwise empowered to perform. In this section, "political subdivision" includes only a political subdivision that is otherwise empowered to perform the responsibilities assigned under this section.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 6, 7 ch 178 SLA 1990; am Sec. 6 - 10, 28 ch 32 SLA 1994)

Revisors Notes -

In 2004, in various places throughout this section, "division of emergency services" was changed to "division of homeland security and emergency management" in accordance with Sec. 26(b), ch. 179, SLA 2004.

Sec. 26.23.070. Establishment of interjurisdictional disaster planning and service areas.

(a) If the governor finds that two or more adjoining political subdivisions would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services, the governor may designate by order an interjurisdictional area adequate to plan for, prevent, or respond to a disaster in that area, and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint disaster emergency plan, mutual aid, or an area organization for emergency planning and services. A finding by the governor under this subsection must be based on one or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system without an interjurisdictional relationship, such as

(1) small or sparse population;

(2) limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome;

(3) unusual vulnerability to disaster as evidenced by a past history of disasters, topographical features, drainage characteristics, disaster potential, and presence of disaster-prone facilities or operations;

(4) the interrelated character of the political subdivisions in an area; or

(5) other relevant conditions or circumstances.

(b) If the governor finds that a vulnerable area lies only partly within the state and includes territory in a foreign jurisdiction, and that it would be desirable to establish an international relationship, mutual aid, or an area organization for disaster, the governor shall take steps to that end as desirable. If this action is taken with jurisdictions that have enacted the Emergency Management Assistance Compact substantially as contained in AS 26.23.136, any resulting agreement may be considered a supplementary agreement under Article VII of that compact.

(c) If a jurisdiction with which the governor proposes to cooperate under (b) of this section has not enacted the Emergency Management Assistance Compact, the governor may negotiate a special agreement with that jurisdiction.

(d) To the extent that a plan prepared under this section relates to action required to avert human injury or other damage from a release of a hazardous substance, the plan must be substantially equivalent in relevant respect to the local emergency plans prepared under AS 26.23.073 and 26.23.075 and the state and regional master plans prepared by the Department of Environmental Conservation under AS 46.04.200 - 46.04.210. The plan must use an incident command system comparable to the system used in those plans and must be reviewed by the Alaska State Emergency Response Commission under AS 26.23.077.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 11 ch 32 SLA 1994; am Sec. 2 ch 55 SLA 2002; am Sec. 34 ch 35 SLA 2003)

Amendment Notes -

The 2002 amendment, effective June 20, 2002, in subsection (b) substituted "Emergency Management Assistance Compact" for "Interstate Civil Defense and Disaster Compact," updated a section reference and a compact article reference, and made a stylistic change.

The 2003 amendment, effective June 3, 2003, substituted "Emergency Management Assistance Compact" for "Interstate Civil Defense and Disaster Compact" in subsection (c).

Sec. 26.23.071. Alaska State Emergency Response Commission.

(a) The Alaska State Emergency Response Commission is established in the Department of Military and Veterans' Affairs.

(b) The commission consists of the commissioners of commerce, community, and economic development, environmental conservation, fish and game, health and social services, labor and workforce development, natural resources, public safety, and transportation and public facilities, or the designees of the commissioners, the adjutant general of the Department of Military and Veterans' Affairs or a designee, and seven members of the public appointed by the governor, two of whom must

be members of a local emergency planning committee for an emergency planning district that is predominantly rural in character and two of whom must be members of a local emergency planning committee for an emergency planning district that is predominantly urban in character. Two of the other three members of the public who are appointed to the commission must be members of the governing body of, or the mayor of, a political subdivision that has a local emergency planning committee or a person who, in the opinion of the governor, is otherwise appropriate to represent the political subdivision. The United States Department of Defense - Alaska Command, the Federal Emergency Management Agency, the United States Environmental Protection Agency, and the United States Coast Guard may each appoint a representative to serve on the commission in an ex-officio, nonvoting capacity. To the extent practicable, the commission must include members with expertise in the emergency response field.

(c) The adjutant general of the Department of Military and Veterans' Affairs, or the adjutant general's designee, and the commissioner of environmental conservation, or the commissioner's designee, shall co-chair the commission. The Department of Military and Veterans' Affairs shall provide staff support to the commission.

(d) Members of the commission other than those from the designated state departments serve at the pleasure of the governor for staggered terms of three years. Members of the commission serve without compensation but are entitled to per diem and travel expenses authorized for members of boards and commissions under AS 39.20.180.

(e) The commission shall

(1) serve as the state emergency response commission required under 42 U.S.C. 11001 - 11005;

(2) facilitate the preparation and implementation of all emergency plans prepared by state agencies under other authorities; the statewide, interjurisdictional, and local plans prepared under this chapter; and the state and regional plans prepared under AS 46.04.200 - 46.04.210;

(3) review the plans described in (2) of this subsection according to the criteria established in AS 26.23.077;

(4) designate, and revise as necessary, the boundaries of emergency planning districts under AS 26.23.073;

(5) establish a local emergency planning committee under AS 26.23.073(d) for each emergency planning district;

(6) supervise and coordinate the activities of local emergency planning committees;

(7) establish procedures for receiving and processing requests from the public for information under 42 U.S.C. 11044, including tier II information under 42 U.S.C. 11022; procedures established under this paragraph shall designate the Department of Environmental Conservation as the state agency to receive and process these requests on behalf of the commission;

(8) review reports about responses to disaster emergencies and make recommendations to the appropriate parties involved in the response concerning improved prevention and preparedness;

(9) perform other coordinating, advisory, or planning tasks related to emergency planning and preparedness for all types of hazards, community right-to-know reporting, toxic chemical release reporting, or management of hazardous substances;

(10) recommend procedures to integrate, as appropriate, hazardous substance response planning under 42 U.S.C. 11001 - 11005, federal contingency planning under 33 U.S.C. 1321 and other federal laws applicable to hazardous substance discharges, and state, regional, and local planning under this chapter and AS 46.04.200 - 46.04.210;

(11) to the extent consistent with the constitution and law of the state, perform all other functions prescribed for state emergency response commissions under 42 U.S.C. 11001 - 11005; and

(12) adopt regulations necessary to carry out the purposes of AS 26.23.071 - 26.23.077 and 42 U.S.C. 11001 - 11005.

History -

(Sec. 12 ch 32 SLA 1994; am Sec. 4 ch 71 SLA 1997)

Revisors Notes -

Subsection (a) was rewritten in 1994 to conform to the style of the Alaska Statutes.

In 1999, in (b) of this section, "commissioner of community and economic development" was substituted for "commissioner of community and regional affairs" in accordance with Sec. 91(a)(6), ch. 58, SLA 1999.

In 2004, in subsection (b), "labor and workforce development" was substituted for "labor" in accordance with ch. 58, SLA 1999.

In 2004, in (b) of this section, "commissioner of community and economic development" was changed to "commissioner of commerce, community, and economic development", in accordance with Sec. 3, ch. 47, SLA 2004.

Cross References -

For transitional provisions relating to the transfer of the commission to the Department of Military and Veterans' Affairs, see Sec. 29(a)-(c), ch. 32, SLA 1994 in the Temporary and Special Acts.

Editors Notes -

Section 29(d), ch. 32, SLA 1994 provides that "[n]otwithstanding any other law to the contrary, the terms of the public members of the Alaska State Emergency Response Commission [appointed

under former AS 46.13.020] who hold office on August 6, 1994, are terminated on August 6, 1994, subject to reappointment in a manner that complies with this Act."

Sec. 26.23.073. Emergency planning districts and committees.

(a) The commission shall set the boundaries of local emergency planning districts. The commission shall set the boundaries of a district so that they are coextensive with the boundaries of a single political subdivision except when it would be more appropriate, based on findings of the commission, for the district to include more than one political subdivision or some area that is not contained within a political subdivision. Before the commission sets the boundaries for a district under this subsection so that it includes more than one political subdivision or some area that is not within a political subdivision, the commission shall consult the emergency response organizations and the political subdivisions in the proposed district.

(b) If, after the commission sets boundaries for districts under (a) of this section, there remain areas of the state that are not included in any district, those areas constitute a local emergency planning district.

(c) If the commission sets boundaries for a district under this section that includes more than one political subdivision, the commission shall recommend to the governor the designation of an interjurisdictional disaster planning and service area under AS 26.23.070 whose boundaries are coextensive with the boundaries of the local emergency planning district established under this section.

(d) The commission shall appoint the members of a local emergency planning committee for each emergency planning district established under (a) and (b) of this section. In making appointments for a district that contains only one political subdivision, the commission shall follow the recommendations of the political subdivision if those recommendations would constitute a committee that meets the requirements of this subsection. In making appointments for a district that contains more than one political subdivision, the commission shall consider the recommendations of each political subdivision and follow the recommendations to the extent that the political subdivisions are in agreement and their recommendations would constitute a committee that meets the requirements of this subsection. To the extent required under regulations that may be adopted by the commission, the political subdivisions in a district that includes more than one political subdivision shall follow a process under which they develop coordinated recommendations to submit to the commission under this subsection. In making appointments for a district that includes some area that is not contained within a political subdivision, the commission shall consider the recommendations of emergency response organizations in the district. In making appointments for the district formed under (b) of this section, the commission shall attempt to achieve equitable geographical representation on the committee. Except as provided in (e) of this section, each committee must include, at a minimum, representatives of each of the following seven categories:

(1) elected local officials;

(2) law enforcement, civil defense, fire fighting, first aid, health, local environmental, hospital, and transportation personnel;

(3) broadcast or print media;

(4) community groups;

(5) owners and operators of facilities subject to the requirements of 42 U.S.C. 11001 - 11005;

(6) representatives of a local or interjurisdictional disaster planning and service area if one has been established that includes part of the district; and

(7) members of the public that are not described in (1) - (6) of this subsection.

(e) If advertisement and the commission's own initiative do not result in the acceptance of appointment to a committee by at least one person from a category under (d)(1) - (7) of this section, the requirement of (d) of this section that there be representation of that category on that committee is suspended until sufficient willing appointees become available.

(f) A person may request the commission to change the membership of a local emergency planning committee.

(g) Each local emergency planning committee shall

(1) establish procedures for receiving and processing requests from the public for information under 42 U.S.C. 11044, including tier II information under 42 U.S.C. 11022;

(2) appoint a chair and establish rules by which the committee shall function, including provisions for public notification of committee activities, public advertising of positions available on the committee, public meetings to discuss the emergency plan, public comments, response to the comments by the committee, distribution of the emergency plan, and designation of an official to serve as coordinator for information;

(3) prepare and periodically review an emergency plan in accordance with 42 U.S.C. 11003(a) in a manner that includes coordination with the political subdivisions covered by the plan;

(4) evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and submit recommendations to the political subdivisions in the emergency planning district with respect to the resources that may be required and the means for providing the resources;

(5) to the extent consistent with the constitution and law of the state, perform all other functions prescribed for emergency planning committees in 42 U.S.C. 11001 - 11005;

(6) to the extent considered advisable by the committee, make recommendations to political subdivisions, representatives of interjurisdictional disaster planning and service areas, and state agencies about the preparation of local, state, and interjurisdictional plans; and

(7) serve as an advisory committee to the political subdivisions within the emergency planning district or the interjurisdictional planning and service area established under AS 26.23.070 with respect to emergency planning, training, and response.

(h) A state agency represented on the commission shall, upon request, provide technical assistance to a local emergency planning committee in the performance of its duties under this section.

History -

(Sec. 12 ch 32 SLA 1994)

Sec. 26.23.075. Emergency plans.

(a) An emergency plan prepared under AS 26.23.073 must include

(1) identification of facilities subject to the requirements of 42 U.S.C. 11001 - 11005 that are within the emergency planning district, identification of routes likely to be used for the transportation of substances on the list of extremely hazardous substances referred to in 42 U.S.C. 11002(a), and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to the requirements of 42 U.S.C. 11001 - 11005 such as hospitals or natural gas facilities;

(2) methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to a release of hazardous substances or a release of substances on the list of extremely hazardous substances referred to in 42 U.S.C. 11002(a);

(3) designation of an emergency coordinator, as required under AS 26.23.060(d), and facility emergency coordinators, who shall make determinations necessary to implement the emergency plan;

(4) procedures providing reliable, effective, and timely notification by the facility emergency coordinators to persons designated in the emergency plan, and to the public, that a release has occurred, consistent with the emergency notification requirements of 42 U.S.C. 11004;

(5) methods for determining the occurrence of a release and the area or population likely to be affected by that release;

(6) a description of emergency equipment and facilities in the community and at each facility in the community subject to the requirements of 42 U.S.C. 11001 - 11005, and an identification of the persons responsible for the equipment and facilities;

(7) evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes;

(8) training programs, including schedules for training of local emergency response and medical personnel; and

(9) methods and schedules for exercising the emergency plan.

(b) An emergency plan prepared under AS 26.23.073 may include descriptions, procedures, and programs related to disasters other than those caused by releases of hazardous substances.

(c) Each emergency plan prepared under AS 26.23.073 must incorporate within it an incident command system. The incident command system must be substantially equivalent in relevant respects to the incident command systems established under AS 46.04.200 - 46.04.210 and meet the requirements of AS 26.23.077.

History -

(Sec. 12 ch 32 SLA 1994)

Sec. 26.23.077. Plan review; incident command systems.

(a) The commission shall review and make recommendations about local, interjurisdictional, regional, and state emergency plans, including plans prepared under this chapter and AS 46.04.200 - 46.04.210 and all emergency plans prepared by state agencies under other authorities.

(b) When making recommendations about a plan, the commission shall suggest changes that ensure that the plan includes an incident command system that describes the respective roles of affected persons and agencies in a clear and specific manner and that the respective roles of state agencies are consistent with their statutory duties. The commission shall also suggest changes that ensure that the plans are well-integrated with related plans.

(c) To the extent consistent with other law, an incident command system recommended under this section or included in a plan reviewed under this section must provide that the Department of Military and Veterans' Affairs has a major role in mobilization of personnel and resources, communications, transportation planning, and other logistics involved in a state response to a disaster or other emergency.

History -

(Sec. 12 ch 32 SLA 1994)

Sec. 26.23.080. Federal disaster loans to political subdivisions.

Whenever, at the request of the governor, the President has declared a major disaster to exist in this state, the governor may

(1) upon the governor's determination that a political subdivision of the state will suffer a substantial loss of tax and other revenue from the disaster and has demonstrated a need for financial

assistance to perform its governmental functions, apply to the federal government, on behalf of the political subdivision, for a loan; the governor may receive and disburse the proceeds of any approved loan to any applicant political subdivision;

(2) determine the amount needed by any applicant political subdivision to restore or resume its governmental functions, and to certify the amount to the federal government;

(3) recommend to the federal government, based upon review by the governor, the cancellation of all or any part of repayment when, for the first three full fiscal years following the major disaster, the revenue of the political subdivision is insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 8 ch 178 SLA 1990)

Sec. 26.23.090. Grants to disaster victims.

(a) Whenever the President, at the request of the governor, has declared a major disaster to exist in this state, the governor may

(1) upon the governor's determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, accept a grant by the federal government to fund that financial assistance, subject to the terms and conditions that may be imposed upon the grant;

(2) enter into an agreement with the federal government, or any officer or agency of it, pledging the state to participate in the funding of the financial assistance authorized in (1) of this subsection, in an amount not to exceed 25 percent of the assistance and, if state funds are not otherwise available to the governor, to accept an advance of the state's share from the federal government to be repaid when the state is able to do so.

(b) The governor is authorized to make financial grants to an individual or family to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by the disaster that cannot otherwise adequately be met from other means of assistance. The governor may make a grant to an individual and family under this subsection as follows:

(1) when the President declares a major disaster, the governor may make a grant of an amount whose total of federal and state shares does not exceed the maximum amount authorized by 42 U.S.C. 5174(h) for grants payable to individuals and families;

(2) when the President does not declare a major disaster but the governor declares a disaster emergency, the governor may make a grant of an amount not to exceed one-half of the maximum grant amount established under (1) of this subsection.

(c) [Repealed, Sec. 18 ch 178 SLA 1990].

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 9, 18 ch 178 SLA 1990; am Sec. 1 ch 39 SLA 2010)

Amendment Notes -

The 2010 amendment, effective June 3, 2010, in (b), substituted "42 U.S.C. 5174(h)" for "42 U.S.C. 5178(f)", and substituted "one-half of the maximum grant amount established under (1) of this subsection" for "\$5,000".

History Reports -

For governor's transmittal letter for ch. 39, SLA 2010 (HB 292), amending (b) of this section to increase the limits on state grants payable to disaster victims, see 2009 House Journal 1288 - 1289.

Sec. 26.23.100. Temporary housing.

(a) Whenever the governor has proclaimed a disaster emergency, or the President, at the request of the governor, has declared an emergency or a major disaster to exist in this state, the governor may

(1) purchase, lease, or make other arrangements with any agency of the United States or state for temporary housing units to be occupied by disaster victims and to make those units available to any political subdivision of the state;

(2) assist any political subdivision of this state that is the location of temporary housing for disaster victims to acquire sites necessary for the temporary housing and do all things necessary to prepare the site to receive and use temporary housing units by

(A) advancing or lending funds available to the governor from an appropriation made by the legislature or from any other source;

(B) passing through funds made available by any agency, public or private; or

(C) becoming a copartner with a political subdivision for the execution and performance of any temporary housing for disaster-victim projects and, for those purposes, pledging the credit of the state on terms considered appropriate, having due regard for current debt transactions of the state;

(3) under whatever relevant regulations the governor may adopt, temporarily suspend or modify, for not more than 60 days, any public health, safety, zoning, transportation, or other requirement of law or regulation of the state, when by proclamation, the governor declares a suspension or modification essential to provide temporary housing for disaster victims.

(b) A political subdivision of this state may acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, that are necessary to prepare or equip those sites to receive and use the housing units.

History -

(Sec. 3 ch 104 SLA 1977)

Sec. 26.23.110. Debris and wreckage removal in disaster emergency or major disaster.

(a) When the governor has declared a disaster emergency, or the President, at the request of the governor, has declared a major disaster or emergency to exist in this state, the governor may

(1) through the use of state agencies, clear from publicly or privately owned land or water, debris and wreckage that may threaten public health, safety, or property;

(2) apply for and accept funds from the federal government and use those funds to make grants to a political subdivision for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(b) Authority under (a)(1) of this section may not be exercised unless the affected political subdivision, corporation, organization, or individual unconditionally authorizes the removal of the debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, first agrees to indemnify the state government against claims arising from the removal.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 10, 11 ch 178 SLA 1990)

Sec. 26.23.120. - 26.23.130I Interstate Civil Defense and Disaster Compact entered into; compact terms. [Repealed, Sec. 5 ch 55 SLA 2002].

Repealed or Renumbered

Sec. 26.23.135. Emergency Management Assistance Compact enacted and entered into.

The Emergency Management Assistance Compact is hereby enacted into law and entered into with all jurisdictions legally joining in it in a form substantially as contained in AS 26.23.136.

History -

(Sec. 3 ch 55 SLA 2002)

History Reports -

For governor's transmittal letter for ch. 55, SLA 2002 (CSSB 235(STA)), see 2002 Senate Journal 1952 - 1954.

Sec. 26.23.136. Compact terms.

The terms and provisions of the compact referred to in AS 26.23.135 are as follows:

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

ARTICLE I

PURPOSES; DEFINITIONS

This compact is made and entered into by and between the participating member states that enact this compact, which are called party states. For the purposes of this agreement, "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is declared by the governor of the affected state or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide 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, such actions occurring 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 between states.

ARTICLE II

GENERAL IMPLEMENTATION

Each party state entering into this compact recognizes many emergencies transcend political jurisdiction boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies that require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources that they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating 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 is the underlying principle on which all articles of this compact are understood.

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

ARTICLE III

PARTY STATE RESPONSIBILITIES

(a) It is the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall

(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; and

(7) provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the responsibilities listed in (1) - (6) of this subsection.

(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 only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) a description of the emergency service function for which assistance is needed, such as, but not limited to, 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; and

(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 between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV

LIMITATIONS

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms of the compact; however, it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such 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 they are 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 or states, whichever is longest.

ARTICLE V

LICENSES AND PERMITS

Notwithstanding any contrary provision of law, whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, the person is deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such a skill to meet a declared emergency or disaster, subject to the limitations and conditions as the governor of the requesting state may prescribe by proclamation or otherwise.

ARTICLE VI

LIABILITY

Officers or employees of a party state rendering aid in another state under this compact are considered agents of the requesting state for tort liability and immunity purposes; and a party state or its officers or employees rendering aid in another state in accordance with this compact is not liable on account of any act or omission 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 with the rendering of that aid. Good faith in this article does not include wilful misconduct, gross negligence, or recklessness.

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 states that are party to the compact, this instrument contains elements of a broad base common to all states, and nothing contained in the compact precludes any state from entering into supplementary agreements with another state or affects any other agreements already in force between states. Supplementary agreements may comprehend, but are not limited to, 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.

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 such 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.

ARTICLE IX

REIMBURSEMENT

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 such a request; however, 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 and, further, any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses are not reimbursable under this provision.

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 between the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. The plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting the 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, and the forwarding of the evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The 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 like items. Such 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 come shall assume the responsibility for the ultimate support of repatriation of the evacuees.

ARTICLE XI

IMPLEMENTATION

(a) This compact becomes operative immediately upon its enactment into law by any two states; after that, this compact becomes effective as to any other state upon its enactment by that state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the compact, but the withdrawal does not take effect until 30 days after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. The action does not relieve the withdrawing state from obligations assumed under the compact before the effective date of withdrawal.

(c) Duly 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 United States government.

ARTICLE XII

VALIDITY

This Act shall be construed to effectuate the purposes stated in Article I of this compact. If any provision of this compact is declared unconstitutional, or the applicability of the compact to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability of the compact to other persons and circumstances are not affected by the invalidity of any provision of the compact.

ARTICLE XIII

ADDITIONAL PROVISIONS

Nothing in this compact authorizes or permits 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 U.S.C. 1385.

History -

(Sec. 3 ch 55 SLA 2002)

Sec. 26.23.140. Local disaster emergencies.

(a) A local disaster emergency may be declared only by the principal executive officer of a political subdivision. It may not be continued or renewed for a period in excess of seven days, except by or with the consent of the governing board of the political subdivision. An order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the Alaska division of homeland security and emergency management and the appropriate municipal clerk.

(b) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or interjurisdictional disaster emergency plans, and to authorize the furnishing of aid and assistance under those plans.

(c) A representative of an interjurisdictional disaster planning and service area may not declare a local disaster emergency unless expressly authorized by the principal executive officer of each political subdivision in the emergency area.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 13 ch 32 SLA 1994)

Revisors Notes -

In 2004, in (a) of this section, "division of emergency services" was changed to "division of homeland security and emergency management" in accordance with Sec. 26(b), ch. 179, SLA 2004.

Sec. 26.23.150. Disaster prevention.

(a) In addition to disaster prevention measures as included in the state, local, and interjurisdictional disaster plans, the governor shall consider, on a continuing basis, steps that could be taken to prevent or reduce the harmful consequences of disasters. At the governor's direction, and under any other authority and competence they have, state agencies, including but not limited to those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, environmental quality, public works, land use and land use planning, and construction standards, shall make studies of disaster-prevention-related matters. The governor, from time to time, shall make recommendations to the legislature, local governments, and other appropriate public and private entities as may facilitate measures for the prevention or reduction of the harmful consequences of disasters.

(b) Appropriate departments, in conjunction with the Alaska division of homeland security and emergency management, shall keep land uses and location of structures and other facilities under continuing study, and identify areas that are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by this occurrence or the consequences of it.

(c) If the Alaska division of homeland security and emergency management believes, on the basis of the studies or other competent evidence and after consultation with the appropriate local planning agencies, that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the governor.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 14 ch 32 SLA 1994)

Revisors Notes -

In 2004, in (b) and (c) of this section, "division of emergency services" was changed to "division of homeland security and emergency management" in accordance with Sec. 26(b), ch. 179, SLA 2004.

Sec. 26.23.160. Compensation.

(a) Personal services may not be compensated by the state or a political subdivision or agency of it, except in accordance with Alaska law or a local ordinance.

(b) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a disaster emergency, and its use or destruction was ordered by the governor or by a member of the disaster emergency forces of this state who is authorized by the Alaska division of homeland security and emergency management to issue such an order.

(c) A person claiming compensation for the use, damage, loss, or destruction of property occasioned by action taken under AS 26.23.010 - 26.23.220 shall file a claim for that compensation with the Alaska division of homeland security and emergency management in the form and manner required by the division.

(d) Unless the amount of compensation resulting from property damaged, lost, or destroyed is agreed upon between the claimant and the Alaska division of homeland security and emergency management, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property under the condemnation laws of this state.

History -

(Sec. 3 ch 104 SLA 1977)

Revisors Notes -

In 1990, in (c) of this section a reference to AS 26.23.010 - 26.23.220 was substituted for "this chapter" to reflect the enactment of AS 26.23.300 and 26.23.400 by ch. 178 SLA 1990.

In 2004, in (b) - (d) of this section, "division of emergency services" was changed to "division of homeland security and emergency management" in accordance with Sec. 26(b), ch. 179, SLA 2004.

Sec. 26.23.170. Communications.

(a) The Department of Military and Veterans' Affairs shall ascertain what means exist for rapid and efficient communications in times of disaster emergency. The department shall consider the desirability of supplementing these communications resources, or of integrating them into a comprehensive state or state-federal telecommunications network or other communication system or network. In studying the character and feasibility of any system or its several parts, the department shall evaluate the possibility of multi-purpose use of it or its parts for general state and local governmental purposes. The department shall make recommendations to the governor as appropriate.

(b) A statewide 911 coordinator is established within the Department of Military and Veterans' Affairs to coordinate and facilitate the implementation of 911 systems throughout the state. The 911 coordinator shall

(1) participate in efforts to set uniform statewide standards for automatic number identification and automatic location identification data transmission for telecommunications systems;

(2) make recommendations as necessary for implementation of basic and enhanced 911 service.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 18, 19 ch 179 SLA 2004)

Amendment Notes -

The 2004 amendment, effective July 27, 2004, substituted "Department of Military and Veterans' Affairs" for "Alaska division of emergency services" in the first sentence, and "department" for "division" in each of the remaining sentences and, effective March 1, 2005, added subsection (b).

Sec. 26.23.180. Mutual aid.

(a) Political subdivisions not participating in interjurisdictional arrangements under AS 26.23.010 - 26.23.220 nevertheless shall be encouraged and assisted by the Alaska division of homeland security and emergency management to conclude suitable arrangements for furnishing mutual aid in coping with disasters. The arrangements must include provision of aid by persons and units in public employment.

(b) In concurring with local disaster plans, the governor shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.

(c) It is a sufficient reason for the governor to require an interjurisdictional agreement or arrangement under AS 26.23.070 that the area involved and political subdivisions in it have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis, and that the political subdivisions have not already made adequate provision for mutual aid; but in requiring an interjurisdictional arrangement in order to accomplish the purpose of this section, the governor need not require establishment and maintenance of an interjurisdictional disaster planning and service area or arrangement for any other disaster purposes.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 15 ch 32 SLA 1994)

Revisors Notes -

In 1990, in (a) of this section a reference to AS 26.23.010 - 26.23.220 was substituted for "this chapter" to reflect the enactment of AS 26.23.300 and 26.23.400 by ch. 178, SLA 1990.

In 2004, in (a) of this section, "division of emergency services" was changed to "division of homeland security and emergency management" in accordance with Sec. 26(b), ch. 179, SLA 2004.

Sec. 26.23.190. Emergency powers.

(a) If entry is reasonably necessary to actually alleviate or prevent the disaster, all persons authorized to carry out emergency measures directed under the provisions of AS 26.23.010 - 26.23.220 shall be accorded free access to all public and private land and public buildings within the areas specified, and are authorized to enter them and to perform work and take measures that are appropriate without the consent of the owners of the land or buildings.

(b) [Repealed, Sec. 28 ch 32 SLA 1994].

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 3 ch 190 SLA 1990; am Sec. 28 ch 32 SLA 1994)

Revisors Notes -

In 1990, in this section a reference to AS 26.23.010 - 26.23.220 was substituted for "this chapter" to reflect the enactment of AS 26.23.300 and 26.23.400 by ch. 178, SLA 1990.

Sec. 26.23.195. Discharge response actions. [Repealed, Sec. 28 ch 32 SLA 1994].

Repealed or Renumbered

Sec. 26.23.200. Limitations.

Nothing in AS 26.23.010 - 26.23.220

(1) interferes with or allows interference with the course or conduct of a labor dispute, except that actions otherwise authorized by AS 26.23.010 - 26.23.220 or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) interferes with or allows interference with dissemination of news or comment on public affairs; but any communications facility or organization, including but not limited to radio and television stations, wire services, and newspapers, may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency, in a manner that encroaches as little as possible upon the normal functions of the news media;

(3) affects the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States, or of any personnel of them, when on active duty; but state, local,

and interjurisdictional disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(4) limits, modifies, or abridges the authority of the governor to proclaim martial law, or exercise any other powers vested in the governor under the constitution, statutes, or common law of this state independent of, or in conjunction with, any provision of AS 26.23.010 - 26.23.220; or

(5) authorizes the confiscation of a firearm lawfully owned, possessed, or carried by a law-abiding citizen.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 1 ch 32 SLA 2006)

Revisors Notes -

In 1992, "AS 26.23.010 - 26.23.220" was substituted for "this chapter" in three places in this section to reflect the 1990 enactment of AS 26.23.300 and 26.23.400.

Amendment Notes -

The 2006 amendment, effective August 16, 2006, added paragraph (5).

Sec. 26.23.205. Confiscation of firearms.

(a) A person convicted of official misconduct under AS 11.56.850, or interference with constitutional rights under AS 11.76.110, as a result of confiscating, attempting to confiscate, or ordering the confiscation of a firearm, under color of law, during a disaster emergency,

(1) forfeits any appointed government position and, if under the jurisdiction of the Alaska Police Standards Council, is subject to revocation of the person's police certification;

(2) is subject to impeachment under art. II, sec. 20, Constitution of the State of Alaska; or

(3) is subject to having the person's elected municipal office declared vacant under AS 29.20.170 or 29.20.280.

(b) This section does not apply if the person is acting as a private citizen who has been directed to confiscate a firearm by another whom the person reasonably believes to be a peace officer or active member of the armed forces or militia.

(c) A conviction described in (a) of this section is an offense involving a violation of the oath of office for purposes of AS 29.20.170 or 29.20.280.

History -

(Sec. 2 ch 32 SLA 2006)

Effective Date Notes -

Section 2, ch. 32, SLA 2006, which enacted this section, took effect August 16, 2006.

Sec. 26.23.210. Relationship to homeland security and civil defense laws.

(a) In the event of a conflict between this chapter and AS 26.20, including in the event the governor declares a disaster under this chapter due to an attack or credible threat of imminent enemy or terrorist attack as described in AS 26.23.900(2), the provisions of this chapter shall govern.

(b) The provisions of AS 26.20.140, providing for immunity of government, employees, and other authorized persons in certain circumstances, apply when the entities or persons covered by AS 26.20.140 perform duties under AS 26.23.010 - 26.23.220, except as otherwise provided in AS 26.23.136 for entities or other persons providing assistance to the state under a compact in a form substantially as contained in AS 26.23.136.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 12 ch 178 SLA 1990; am Sec. 4 ch 55 SLA 2002; am Sec. 10 ch 43 SLA 2003; am Sec. 20 ch 179 SLA 2004)

Cross References -

For applicability provision relating to (c) of this section, see Sec. 13, ch. 43, SLA 2003, in the 2003 Temporary and Special Acts.

Amendment Notes -

The 2002 amendment, effective June 20, 2002, in subsection (b) deleted ", other than AS 26.23.130," following "of this chapter" and substituted "human made" for "manmade."

The 2003 amendment, effective September 4, 2003, added subsection (c).

The 2004 amendment, effective July 27, 2004, rewrote this section.

History Reports -

For governor's transmittal letter for ch. 43, SLA 2003 (HB 245), which added (c) of this section, see 2003 House Journal 777- 783.

Sec. 26.23.215. Relationship to other planning statutes. [Repealed, Sec. 28 ch 32 SLA 1994].

Repealed or Renumbered

Sec. 26.23.220. Administration.

AS 26.23.010 - 26.23.220 shall be administered by the Department of Military and Veterans' Affairs, which is responsible to, and which may receive delegations of authority from, the governor.

History -

(Sec. 3 ch 104 SLA 1977; am E.O. No. 58, Sec. 17 (1984))

Revisors Notes -

In 1990, in this section a reference to AS 26.23.010 - 26.23.220 was substituted for "this chapter" to reflect the enactment of AS 26.23.300 and 26.23.400 by ch. 178, SLA 1990.

Sec. 26.23.230. [Renumbered as AS 26.23.900].

Repealed or Renumbered

Sec. 26.23.240. Short title.

AS 26.23.010 - 26.23.240 and 26.23.900 may be cited collectively as the Alaska Disaster Act.

History -

(Sec. 16 ch 58 SLA 2010)

Effective Date Notes -

Section 33, ch. 58, SLA 2010 makes this section effective June 10, 2010, in accordance with AS 01.10.070(c).

Article 02. DISASTER RELIEF FUND

Sec. 26.23.300. Disaster relief fund.

(a) There is in the Office of the Governor a disaster relief fund. The Department of Revenue is custodian of the fund.

(b) Subject to the restrictions of AS 26.23.020(h) - (k), the governor may expend the assets of the disaster relief fund for the following purposes:

(1) to implement provisions of law relating to disaster relief in the case of a disaster or an incident;

(2) to alleviate the effects of a disaster or an incident by making grants or loans to persons or political subdivisions on terms the governor considers appropriate or by other means the governor considers appropriate.

(c) [Repealed, Sec. 7 ch 4 SLA 2000].

(d) The governor shall present to the legislature an annual accounting of money expended from the disaster relief fund.

(e) The governor shall adopt regulations to carry out the provisions of this section.

History -

(Sec. 17 ch 178 SLA 1990; am Sec. 5, 7 ch 4 SLA 2000)

Amendment Notes -

The 2000 amendment, effective June 16, 2000, in subsection (b) rewrote the introductory language and inserted "or an incident" in paragraphs (1) and (2); and repealed subsection (c).

Article Notes -

Administrative Code. For disaster assistance programs, see 6 AAC 94.

Article 03. FUEL EMERGENCY

Sec. 26.23.400. Fuel emergency fund.

There is established in the Office of the Governor the fuel emergency fund. When the governor determines that a shortage of fuel is sufficiently severe to justify state assistance, the governor may make a grant from the fuel emergency fund to a political subdivision to purchase emergency supplies of fuel.

History -

(Sec. 17 ch 178 SLA 1990)

Article 04. GENERAL PROVISIONS

Sec. 26.23.900. Definitions.

In this chapter,

- (1) "commission" means the Alaska State Emergency Response Commission;
- (2) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from
 - (A) an incident such as storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic, explosion, or riot;
 - (B) the release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage;
 - (C) equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;
 - (D) enemy or terrorist attack or a credible threat of imminent enemy or terrorist attack in or against the state that the adjutant general of the Department of Military and Veterans' Affairs or a designee of the adjutant general, in consultation with the commissioner of public safety or a designee of the commissioner of public safety, certifies to the governor has a high probability of occurring in the near future; the certification must meet the standards of AS 26.20.040(c); in this subparagraph, "attack" has the meaning given under AS 26.20.200; or
 - (E) an outbreak of disease or a credible threat of an imminent outbreak of disease that the commissioner of health and social services or a designee of the commissioner of health and social services certifies to the governor has a high probability of occurring in the near future; the certification must be based on specific information received from a local, state, federal, or international agency, or another source that the commissioner or the designee determines is reliable;
- (3) "disaster emergency" means the condition declared by proclamation of the governor or declared by the principal executive officer of a political subdivision to designate the imminence or occurrence of a disaster;
- (4) [Repealed, Sec. 22 ch 179 SLA 2004].
- (5) "hazardous substance" has the meaning given in AS 46.03.826;
- (6) "major disaster" has the meaning given in 42 U.S.C. 5122;
- (7) "political subdivision" means

(A) a municipality;

(B) an unincorporated village; or

(C) another unit of local government;

(8) "temporary housing" has the meaning given in the federal Disaster Relief Act as amended;

(9) "unorganized militia" means all persons comprising that component of the militia of the state, as described in AS 26.05.010.

History -

(Sec. 3 ch 104 SLA 1977; am Sec. 49 ch 74 SLA 1985; am Sec. 4 ch 59 SLA 1986; am Sec. 2 ch 5 SLA 1987; am Sec. 13 - 16 ch 178 SLA 1990; am Sec. 16 ch 32 SLA 1994; am Sec. 6 ch 4 SLA 2000; am Sec. 21, 22 ch 179 SLA 2004)

Revisors Notes -

Formerly AS 26.23.230. Renumbered in 1990. Paragraphs (1) and (5) were enacted as (8) and (9), respectively, and renumbered in 1994, at which time the other paragraphs were renumbered accordingly.

Amendment Notes -

The 2000 amendment, effective June 16, 2000, rewrote paragraph (2).

The 2004 amendment, effective July 27, 2004, added paragraphs (2)(D) and (E), and deleted paragraph (4), which defined "emergency."

Editors Notes -

With regard to the reference to "the federal Disaster Relief Act" in paragraph (8) of this section, most federal disaster relief statutes can be found at 42 U.S.C. 5121 - 5206. Assistance for temporary housing is covered by 42 U.S.C. 5174. However, no definition for the term exists at 42 U.S.C. 5174 or in 42 U.S.C. 5122, which contains most definitions for disaster relief.