

# The Florida Senate

## 2019 Florida Statutes

Title XVII

MILITARY AFFAIRS AND RELATED MATTERS

**Chapter 252**

**EMERGENCY MANAGEMENT**

### CHAPTER 252 EMERGENCY MANAGEMENT

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**252.31 Short title.**— Sections 252.31-252.60 shall be known and may be cited as the “State Emergency Management Act.”

**History.**— s. 1, ch. 74-285; s. 13, ch. 83-334.

**252.311 Legislative intent.**—

(1) The Legislature finds and declares that the state is vulnerable to a wide range of emergencies, including natural, technological, and manmade disasters, all of which threaten the life, health, and safety of its people; damage and destroy property; disrupt services and everyday business and recreational activities; and impede economic growth and development. The Legislature further finds that this vulnerability is exacerbated by the tremendous growth in the state’s population, especially the growth in the number of persons residing in coastal areas, in the elderly population, in the number of seasonal vacationers, and in the number of persons with special needs. This growth has greatly complicated the state’s ability to coordinate its emergency management resources and activities.

(2) It is the intent of the Legislature to reduce the vulnerability of the people and property of this state; to prepare for efficient evacuation and shelter of threatened or affected persons; to provide for the rapid and orderly provision of relief to persons and for the restoration of services and property; and to provide for the coordination of activities relating to emergency preparedness, response, recovery, and mitigation among and between agencies and officials of this state, with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with the private sector.

(3) It is further the intent of the Legislature to promote the state’s emergency preparedness, response, recovery, and mitigation capabilities through enhanced coordination, long-term planning, and adequate funding. State policy for responding to disasters is to support local emergency response efforts. In the case of a major or catastrophic disaster, however, the needs of residents and communities will likely be greater than local resources. In these situations, the state must be capable of providing effective, coordinated, and timely support to communities and the public. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

**History.**— s. 8, ch. 93-211.

**252.32 Policy and purpose.**—

(1) Because of the existing and continuing possibility of the occurrence of emergencies and disasters resulting from natural, technological, or manmade causes; in order to ensure that preparations of this state will be adequate to deal with, reduce vulnerability to, and recover from such emergencies and disasters; to provide for the common defense and to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To create a state emergency management agency to be known as the "Division of Emergency Management," to authorize the creation of local organizations for emergency management in the political subdivisions of the state, and to authorize cooperation with the Federal Government and the governments of other states.

(b) To confer upon the Governor, the Division of Emergency Management, and the governing body of each political subdivision of the state the emergency powers provided herein.

(c) To provide for the rendering of mutual aid among the political subdivisions of the state, with other states, and with the Federal Government with respect to carrying out all emergency management functions and responsibilities.

(d) To authorize the establishment of such organizations and the development and employment of such measures as are necessary and appropriate to carry out the provisions of ss. 252.31-252.90.

(e) To provide the means to assist in the prevention or mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(2) It is further declared to be the purpose of ss. 252.31-252.90 and the policy of the state that all emergency management functions of the state be coordinated to the maximum extent with comparable functions of the Federal Government, including its various departments, agencies of other states and localities, and private agencies of every type, to the end that the most effective preparation and use may be made of the workforce, resources, and facilities of the nation for dealing with any emergency that may occur.

**History.**—s. 1, ch. 74-285; s. 18, ch. 81-169; s. 14, ch. 83-334; s. 6, ch. 84-241; s. 9, ch. 93-211; s. 127, ch. 95-148; s. 30, ch. 2001-61.

**252.33 Limitations.**— Nothing in ss. 252.31-252.60 shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by ss. 252.31-252.60 or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.

(2) Interfere 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 required to transmit or print public service messages furnishing information or instructions in connection with an emergency.

(3) Affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the Armed Forces of the United States, or any personnel thereof, when on active duty; but state, local, and interjurisdictional emergency plans shall place reliance upon the forces available for performance of functions related to emergencies.

(4) Limit, modify, or abridge 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 provisions of ss. 252.31-252.60.

**History.**—s. 1, ch. 74-285; s. 15, ch. 83-334; s. 128, ch. 95-148.

**252.34 Definitions.**— As used in this part, the term:

(1) "Activate" means the execution and implementation of the necessary plans and activities required to mitigate, respond to, or recover from an emergency or disaster pursuant to this chapter and the state comprehensive emergency management plan.

(2) "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

(a) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement.

(b) “Major disaster” means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(c) “Minor disaster” means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

(3) “Division” means the Division of Emergency Management within the Executive Office of the Governor, or the successor to that division.

(4) “Emergency” means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(5) “Emergency management” means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:

(a) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action.

(b) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.

(c) Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.

(d) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(e) Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response, recovery, and mitigation.

(f) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(6) “Local emergency management agency” means an organization created in accordance with the provisions of ss. 252.31-252.90 to discharge the emergency management responsibilities and functions of a political subdivision.

(7) “Manmade emergency” means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

(8) “Natural emergency” means an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.

(9) “Political subdivision” means any county or municipality created pursuant to law.

(10) “Technological emergency” means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.

**History.**—s. 1, ch. 74-285; s. 19, ch. 81-169; s. 22, ch. 83-55; s. 16, ch. 83-334; s. 7, ch. 84-241; s. 10, ch. 93-211; s. 31, ch. 2001-61; s. 98, ch. 2011-142; s. 1, ch. 2016-198.

### **252.35 Emergency management powers; Division of Emergency Management. —**

(1) The division is responsible for maintaining a comprehensive statewide program of emergency management. The division is responsible for coordination with efforts of the Federal Government with other departments and agencies of state government, with county and municipal governments and school boards, and with private agencies that have a role in emergency management.

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties, the division shall:

(a) Prepare a state comprehensive emergency management plan, which shall be integrated into and coordinated with the emergency management plans and programs of the Federal Government. The division must adopt the plan as a rule in accordance with chapter 120. The plan shall be implemented by a continuous, integrated comprehensive emergency management program. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters, and the division shall work closely with local governments

and agencies and organizations with emergency management responsibilities in preparing and maintaining the plan. The state comprehensive emergency management plan shall be operations oriented and:

1. Include an evacuation component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of evacuation activities. This component must, at a minimum: contain guidelines for lifting tolls on state highways; ensure coordination pertaining to evacuees crossing county lines; set forth procedures for directing people caught on evacuation routes to safe shelter; establish strategies for ensuring sufficient, reasonably priced fueling locations along evacuation routes; and establish policies and strategies for emergency medical evacuations.
2. Include a shelter component that includes specific regional and interregional planning provisions and promotes coordination of shelter activities between the public, private, and nonprofit sectors. This component must, at a minimum: contain strategies to ensure the availability of adequate public shelter space in each region of the state; establish strategies for refuge-of-last-resort programs; provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel; provide for a postdisaster communications system for public shelters; establish model shelter guidelines for operations, registration, inventory, power generation capability, information management, and staffing; and set forth policy guidance for sheltering people with special needs.
3. Include a postdisaster response and recovery component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of postdisaster response and recovery activities. This component must provide for postdisaster response and recovery strategies according to whether a disaster is minor, major, or catastrophic. The postdisaster response and recovery component must, at a minimum: establish the structure of the state's postdisaster response and recovery organization; establish procedures for activating the state's plan; set forth policies used to guide postdisaster response and recovery activities; describe the chain of command during the postdisaster response and recovery period; describe initial and continuous postdisaster response and recovery actions; identify the roles and responsibilities of each involved agency and organization; provide for a comprehensive communications plan; establish procedures for monitoring mutual aid agreements; provide for rapid impact assessment teams; ensure the availability of an effective statewide urban search and rescue program coordinated with the fire services; ensure the existence of a comprehensive statewide medical care and relief plan administered by the Department of Health; and establish systems for coordinating volunteers and accepting and distributing donated funds and goods.
4. Include additional provisions addressing aspects of preparedness, response, recovery, and mitigation as determined necessary by the division.
5. Address the need for coordinated and expeditious deployment of state resources, including the Florida National Guard. In the case of an imminent major disaster, procedures should address predeployment of the Florida National Guard, and, in the case of an imminent catastrophic disaster, procedures should address predeployment of the Florida National Guard and the United States Armed Forces.
6. Establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.
7. Establish guidelines and schedules for annual exercises that evaluate the ability of the state and its political subdivisions to respond to minor, major, and catastrophic disasters and support local emergency management agencies. Such exercises shall be coordinated with local governments and, to the extent possible, the Federal Government.
8. Assign lead and support responsibilities to state agencies and personnel for emergency support functions and other support activities.

The complete state comprehensive emergency management plan shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor on February 1 of every even-numbered year.

(b) Adopt standards and requirements for county emergency management plans. The standards and requirements must ensure that county plans are coordinated and consistent with the state comprehensive emergency management plan. If a municipality elects to establish an emergency management program, it must adopt a city emergency management plan that complies with all standards and requirements applicable to county emergency management plans.

(c) Assist political subdivisions in preparing and maintaining emergency management plans.

(d) Review periodically political subdivision emergency management plans for consistency with the state comprehensive emergency management plan and standards and requirements adopted under this section.

(e) Cooperate with the President, the heads of the Armed Forces, the various federal emergency management agencies, and the officers and agencies of other states in matters pertaining to emergency management in the state and the nation and incidents thereof and, in connection therewith, take any measures that it deems proper to carry into effect any request of the President and the appropriate federal officers and agencies for any emergency management action, including the direction or control of:

1. Emergency management drills, tests, or exercises of whatever nature.

2. Warnings and signals for tests and drills, attacks, or other imminent emergencies or threats thereof and the mechanical devices to be used in connection with such warnings and signals.

(f) Make recommendations to the Legislature, building code organizations, and political subdivisions for zoning, building, and other land use controls; safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and other preparedness, prevention, and mitigation measures designed to eliminate emergencies or reduce their impact.

(g) In accordance with the state comprehensive emergency management plan and program for emergency management, ascertain the requirements of the state and its political subdivisions for equipment and supplies of all kinds in the event of an emergency; plan for and either procure supplies, medicines, materials, and equipment or enter into memoranda of agreement or open purchase orders that will ensure their availability; and use and employ from time to time any of the property, services, and resources within the state in accordance with ss. 252.31-252.90.

(h) Anticipate trends and promote innovations that will enhance the emergency management system.

(i) Institute statewide public awareness programs. This shall include an intensive public educational campaign on emergency preparedness issues, including, but not limited to, the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster. The public educational campaign shall include relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters. All educational materials must be available in alternative formats and mediums to ensure that they are available to persons with disabilities.

(j) In cooperation with the Department of Education, coordinate with the Agency for Persons with Disabilities to provide an educational outreach program on disaster preparedness and readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special-needs criteria.

(k) Prepare and distribute to appropriate state and local officials catalogs of federal, state, and private assistance programs.

(l) Coordinate federal, state, and local emergency management activities and take all other steps, including the partial or full mobilization of emergency management forces and organizations in advance of an actual emergency, to ensure the availability of adequately trained and equipped forces of emergency management personnel before, during, and after emergencies and disasters.

(m) Establish a schedule of fees that may be charged by local emergency management agencies for review of emergency management plans on behalf of external agencies and institutions. In establishing such schedule, the division shall consider facility size, review complexity, and other factors.

(n) Implement training programs to improve the ability of state and local emergency management personnel to prepare and implement emergency management plans and programs. This shall include a continuous training program for agencies and individuals that will be called on to perform key roles in state and local postdisaster response and recovery efforts and for local government personnel on federal and state postdisaster response and recovery strategies and procedures.

- (o) Review periodically emergency operating procedures of state agencies and recommend revisions as needed to ensure consistency with the state comprehensive emergency management plan and program.
- (p) Make such surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of ss. 252.31-252.90.
- (q) Prepare, in advance whenever possible, such executive orders, proclamations, and rules for issuance by the Governor as are necessary or appropriate for coping with emergencies and disasters.
- (r) Cooperate with the Federal Government and any public or private agency or entity in achieving any purpose of ss. 252.31-252.90 and in implementing programs for mitigation, preparation, response, and recovery.
- (s) Complete an inventory of portable generators owned by the state and local governments which are capable of operating during a major disaster. The inventory must identify, at a minimum, the location of each generator, the number of generators stored at each specific location, the agency to which each generator belongs, the primary use of the generator by the owner agency, and the names, addresses, and telephone numbers of persons having the authority to loan the stored generators as authorized by the division during a declared emergency.
- (t) Maintain an inventory list of generators owned by the state and local governments. In addition, the division may keep a list of private entities, along with appropriate contact information, which offer generators for sale or lease. The list of private entities shall be available to the public for inspection in written and electronic formats.
- (u) Assist political subdivisions with the creation and training of urban search and rescue teams and promote the development and maintenance of a state urban search and rescue program.
- (v) Delegate, as necessary and appropriate, authority vested in it under ss. 252.31-252.90 and provide for the subdelegation of such authority.
- (w) Report biennially to the President of the Senate, the Speaker of the House of Representatives, and the Governor, no later than February 1 of every odd-numbered year, the status of the emergency management capabilities of the state and its political subdivisions.
- (x) In accordance with chapter 120, create, implement, administer, adopt, amend, and rescind rules, programs, and plans needed to carry out the provisions of ss. 252.31-252.90 with due consideration for, and in cooperating with, the plans and programs of the Federal Government. In addition, the division may adopt rules in accordance with chapter 120 to administer and distribute federal financial predisaster and postdisaster assistance for prevention, mitigation, preparedness, response, and recovery.
- (y) Do other things necessary, incidental, or appropriate for the implementation of ss. 252.31-252.90.

**History.**—s. 1, ch. 74-285; s. 20, ch. 81-169; s. 17, ch. 83-334; s. 8, ch. 84-241; s. 12, ch. 93-211; s. 45, ch. 99-8; s. 4, ch. 2000-140; s. 32, ch. 2001-61; s. 13, ch. 2006-71; s. 29, ch. 2007-5; s. 99, ch. 2011-142.

**252.355 Registry of persons with special needs; notice; registration program.—**

- (1) In order to meet the special needs of persons who would need assistance during evacuations and sheltering because of physical, mental, cognitive impairment, or sensory disabilities, the division, in coordination with each local emergency management agency in the state, shall maintain a registry of persons with special needs located within the jurisdiction of the local agency. The registration shall identify those persons in need of assistance and plan for resource allocation to meet those identified needs.
- (2) In order to ensure that all persons with special needs may register, the division shall develop and maintain a special needs shelter registration program. The registration program must be developed by January 1, 2015, and fully implemented by March 1, 2015.
  - (a) The registration program shall include, at a minimum, a uniform electronic registration form and a database for uploading and storing submitted registration forms that may be accessed by the appropriate local emergency management agency. The link to the registration form shall be easily accessible on each local emergency management agency's website. Upon receipt of a paper registration form, the local emergency management agency shall enter the person's registration information into the database.
  - (b) To assist in identifying persons with special needs, home health agencies, hospices, nurse registries, home medical equipment providers, the Department of Children and Families, the Department of Health, the Agency for Health Care Administration, the Department of Education, the Agency for Persons with Disabilities, the Department

of Elderly Affairs, and memory disorder clinics shall, and any physician licensed under chapter 458 or chapter 459 and any pharmacy licensed under chapter 465 may, annually provide registration information to all of their special needs clients or their caregivers. The division shall develop a brochure that provides information regarding special needs shelter registration procedures. The brochure must be easily accessible on the division's website. All appropriate agencies and community-based service providers, including aging and disability resource centers, memory disorder clinics, home health care providers, hospices, nurse registries, and home medical equipment providers, shall, and any physician licensed under chapter 458 or chapter 459 may, assist emergency management agencies by annually registering persons with special needs for special needs shelters, collecting registration information for persons with special needs as part of the program intake process, and establishing programs to educate clients about the registration process and disaster preparedness safety procedures. A client of a state-funded or federally funded service program who has a physical, mental, or cognitive impairment or sensory disability and who needs assistance in evacuating, or when in a shelter, must register as a person with special needs. The registration program shall give persons with special needs the option of preauthorizing emergency response personnel to enter their homes during search and rescue operations if necessary to ensure their safety and welfare following disasters.

(c) The division shall be the designated lead agency responsible for community education and outreach to the public, including special needs clients, regarding registration and special needs shelters and general information regarding shelter stays.

(d) On or before May 31 of each year, each electric utility in the state shall annually notify residential customers in its service area of the availability of the registration program available through their local emergency management agency by:

1. An initial notification upon the activation of new residential service with the electric utility, followed by one annual notification between January 1 and May 31; or
2. Two separate annual notifications between January 1 and May 31.

The notification may be made by any available means, including, but not limited to, written, electronic, or verbal notification, and may be made concurrently with any other notification to residential customers required by law or rule.

(3) A person with special needs must be allowed to bring his or her service animal into a special needs shelter in accordance with s. 413.08.

(4) All records, data, information, correspondence, and communications relating to the registration of persons with special needs as provided in subsection (1) are confidential and exempt from s. 119.07(1), except that such information shall be available to other emergency response agencies, as determined by the local emergency management director. Local law enforcement agencies shall be given complete shelter roster information upon request.

**History.**—ss. 1, 2, 3, 4, ch. 80-191; s. 18, ch. 83-334; s. 1, ch. 89-184; s. 85, ch. 90-360; s. 15, ch. 93-211; s. 107, ch. 96-406; s. 46, ch. 99-8; s. 10, ch. 2000-140; s. 16, ch. 2006-71; s. 100, ch. 2011-142; s. 48, ch. 2014-19; s. 1, ch. 2014-163.

**252.356 Emergency and disaster planning provisions to assist persons with disabilities or limitations.**— State agencies that contract with providers for the care of persons with disabilities or limitations that make such persons dependent upon the care of others shall include emergency and disaster planning provisions in such contracts at the time the contracts are initiated or upon renewal. These provisions shall include, but shall not be limited to:

- (1) The designation of an emergency coordinating officer.
- (2) A procedure to contact, prior to or immediately following an emergency or disaster, all persons, on a priority basis, who need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities and whose care is provided under the contract.
- (3) A procedure to help persons who would need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities register with the local emergency management agency as provided in s. 252.355.



(4) A procedure to dispatch the emergency coordinating officer or other staff members to special needs shelters to assist clients with special needs, if necessary.

(5) A procedure for providing the essential services the organization currently provides to special needs clients in preparation for, and during and following, a disaster.

**History.**—s. 21, ch. 2000-140.

**252.3568 Emergency sheltering of persons with pets.**— In accordance with s. 252.35, the division shall address strategies for the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan and shall include the requirement for similar strategies in its standards and requirements for local comprehensive emergency management plans. The Department of Agriculture and Consumer Services shall assist the division in determining strategies regarding this activity.

**History.**—s. 17, ch. 2006-71.

**252.3569 Florida state agricultural response team; emergency response to animal, agricultural, and vector issues.**— The Legislature finds that the Department of Agriculture and Consumer Services is the lead agency for animal, agricultural, and vector issues in the state. Pursuant to this responsibility, there is established within the Department of Agriculture and Consumer Services a state agricultural response team.

(1) The state agricultural response team, in coordination with the division, is responsible for the development, training, and support of county agricultural response teams and other nonemergency support functions.

(2) During emergency or disaster situations, as described by the Florida Comprehensive Emergency Management Plan, the division shall coordinate with the Department of Agriculture and Consumer Services for the purposes of:

(a) Oversight of the emergency management functions of preparedness, recovery, mitigation, and response with all agencies and organizations that are involved with the state’s response activities to animal, agricultural, and vector issues; and

(b) Staffing the Emergency Support Function 17 at the State Emergency Operations Center and staffing, as necessary, at county emergency operations centers.

**History.**—s. 2, ch. 2018-84.

**252.357 Monitoring of nursing homes and assisted living facilities during disaster.**— The Florida Comprehensive Emergency Management Plan shall permit the Agency for Health Care Administration, working from the agency’s offices or in the Emergency Operations Center, ESF-8, to make initial contact with each nursing home and assisted living facility in the disaster area. The agency, by July 15, annually, shall publish on the Internet an emergency telephone number that may be used by nursing homes and assisted living facilities to contact the agency on a schedule established by the agency to report requests for assistance. The agency may also provide the telephone number to each facility when it makes the initial facility call.

**History.**—s. 18, ch. 2006-71; s. 19, ch. 2018-110.

**252.358 Emergency-preparedness prescription medication refills.**— All health insurers, managed care organizations, and other entities that are licensed by the Office of Insurance Regulation and provide prescription medication coverage as part of a policy or contract shall waive time restrictions on prescription medication refills, which include suspension of electronic “refill too soon” edits to pharmacies, to enable insureds or subscribers to refill prescriptions in advance, if there are authorized refills remaining, and shall authorize payment to pharmacies for at least a 30-day supply of any prescription medication, regardless of the date upon which the prescription had most recently been filled by a pharmacist, when the following conditions occur:

(1) The person seeking the prescription medication refill resides in a county that:

(a) Is under a hurricane warning issued by the National Weather Service;

(b) Is declared to be under a state of emergency in an executive order issued by the Governor; or

(c) Has activated its emergency operations center and its emergency management plan.

(2) The prescription medication refill is requested within 30 days after the origination date of the conditions stated in this section or until such conditions are terminated by the issuing authority or no longer exist. The time period for

the waiver of prescription medication refills may be extended in 15- or 30-day increments by emergency orders issued by the Office of Insurance Regulation.

This section does not excuse or exempt an insured or subscriber from compliance with all other terms of the policy or contract providing prescription medication coverage.

**History.**—s. 29, ch. 2006-71; s. 20, ch. 2018-110.

**252.359 Ensuring availability of emergency supplies.—**

(1) In order to meet the needs of residents affected during a declared emergency and to ensure the continuing economic resilience of communities impacted by disaster, the division shall establish a statewide system to facilitate the transport and distribution of essentials in commerce.

(2) As used in this section, the term “essentials” means goods that are consumed or used as a direct result of a declared emergency, or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

(3) The division shall develop a system to certify each person who facilitates the transport or distribution of essentials in commerce. The division may not certify a person other than a person who routinely transports or distributes essentials. In developing the system, the division:

(a) May provide for a preemergency or postemergency declaration certification.

(b) Shall allow the certification of an employer, if requested by the employer, to constitute a certification of the employer’s employees.

(c) Shall create an easily recognizable indicium of certification to assist local officials’ efforts in determining which persons have been certified under this subsection.

(d) Shall limit the duration of each certificate to no more than 1 year. Each certificate may be renewed so long as the criteria for certification are met.

(4) A person or employer certified under subsection (3) is not required to obtain any additional certification or fulfill any additional requirement to transport or distribute essentials.

(5) Notwithstanding any curfew, a person or employer certified under subsection (3) may enter or remain in the curfew area for the limited purpose of facilitating the transport or distribution of essentials and may provide service that exceeds otherwise applicable hours of service maximums to the extent authorized by a duly executed declaration of a state of emergency.

(6) This section does not prohibit a law enforcement officer from specifying the permissible route of ingress or egress for a person certified under subsection (3).

**History.**—s. 2, ch. 2016-198.

**252.36 Emergency management powers of the Governor.—**

(1)(a) The Governor is responsible for meeting the dangers presented to this state and its people by emergencies. In the event of an emergency beyond local control, the Governor, or, in the Governor’s absence, her or his successor as provided by law, may assume direct operational control over all or any part of the emergency management functions within this state, and she or he shall have the power through proper process of law to carry out the provisions of this section. The Governor is authorized to delegate such powers as she or he may deem prudent.

(b) Pursuant to the authority vested in her or him under paragraph (a), the Governor may issue executive orders, proclamations, and rules and may amend or rescind them. Such executive orders, proclamations, and rules shall have the force and effect of law.

(2) A state of emergency shall be declared by executive order or proclamation of the Governor if she or he finds an emergency has occurred or that the occurrence or the threat thereof is imminent. The state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor. The Legislature by concurrent resolution may terminate a state of emergency at any time. Thereupon, the Governor shall issue an executive order or

proclamation ending the state of emergency. All executive orders or proclamations issued under this section shall indicate the nature of the emergency, the area or areas threatened, and the conditions which have brought the emergency about or which make possible its termination. An executive order or proclamation shall be promptly disseminated by means calculated to bring its contents to the attention of the general public; and, unless the circumstances attendant upon the emergency prevent or impede such filing, the order or proclamation shall be filed promptly with the Department of State and in the offices of the county commissioners in the counties to which the order or proclamation applies.

(3) An executive order or proclamation of a state of emergency shall:

(a) Activate the emergency mitigation, response, and recovery aspects of the state, local, and interjurisdictional emergency management plans applicable to the political subdivision or area in question; and

(b) Be authority for the deployment and use of any forces to which the plan or plans apply and for the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to ss. 252.31-252.90 or any other provision of law relating to emergencies.

(c) Identify whether the state of emergency is due to a minor, major, or catastrophic disaster.

1. For a major or catastrophic disaster, the proclamation is authority for a health care practitioner licensed in another state to assist in providing health care in the disaster area according to the provisions specified in the proclamation.

2. For a catastrophic disaster, the proclamation constitutes a formal request for mobilization of the military, which shall be communicated to the President of the United States.

(4) During the continuance of a state of emergency, the Governor is commander in chief of the Florida National Guard and of all other forces available for emergency duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or rules, but nothing herein restricts the Governor's authority to do so by orders issued at the time of the emergency.

(5) In addition to any other powers conferred upon the Governor by law, she or he may:

(a) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of any state agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(b) Utilize all available resources of the state government and of each political subdivision of the state, as reasonably necessary to cope with the emergency.

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services.

(d) Subject to any applicable requirements for compensation under s. 252.43, commandeer or utilize any private property if she or he finds this necessary to cope with the emergency.

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if she or he deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery.

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(g) Control ingress and egress to and from an emergency area, the movement of persons within the area, and the occupancy of premises therein.

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. However, nothing contained in ss. 252.31-252.90 shall be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.

(i) Make provision for the availability and use of temporary emergency housing.

(j) Take effective measures for limiting or suspending lighting devices and appliances, gas and water mains, electric power distribution, and all other utility services in the general public interest.

(k) Take measures concerning the conduct of civilians, the movement and cessation of movement of pedestrian and vehicular traffic prior to, during, and subsequent to drills and actual or threatened emergencies, the calling of public meetings and gatherings, and the evacuation and reception of civilian population, as provided in the emergency management plan of the state and political subdivisions thereof.

(l) Authorize the use of forces already mobilized as the result of an executive order, rule, or proclamation to assist the private citizens of the state in cleanup and recovery operations during emergencies when proper permission to enter onto or into private property has been obtained from the property owner. The provisions of s. 768.28(9) apply to this paragraph.

(m) Authorize businesses and their employees who sell commodities as defined in s. 501.160(1)(a) to exceed the times of curfews for the purpose of ensuring that the supplies of commodities are made available to the public and direct local law enforcement to assist and accommodate those businesses and their employees in ensuring that commodities are available in coping with the emergency.

(n) By executive order, authorize the operator of solid waste disposal facilities to extend operating hours to ensure the health, safety, and welfare of the general public.

(6) The Governor shall take such action and give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of ss. 252.31-252.90 and with the orders and rules made pursuant thereto.

(7) The Governor shall employ such measures and give such directions to the Department of Health and the Agency for Health Care Administration as may be reasonably necessary for the purpose of securing compliance with the provisions of ss. 252.31-252.90 or with the findings or recommendations of such agency of health by reason of conditions arising from emergencies or threats of emergency.

(8) The Governor shall delegate emergency responsibilities to the officers and agencies of the state and of the political subdivisions thereof prior to an emergency or threat of an emergency and shall utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof, including their personnel and other resources, as the primary emergency management forces of the state, and all such officers and agencies shall cooperate with and extend their services and facilities to the division, as it may require.

(9) The Governor and the division shall establish agencies and offices and appoint executive, professional, technical, clerical, and other personnel as may be necessary to carry out the provisions of ss. 252.31-252.90.

(10) The Governor shall formulate and execute plans and rules for the control of traffic in order to provide for the rapid and safe movement or evacuation over public highways and streets of people, troops, or vehicles and materials for national defense or for use in any defense industry and may coordinate the activities of the departments or agencies of the state and the political subdivisions thereof concerned directly or indirectly with public highways and streets in a manner which will best effectuate such plans.

**History.**—s. 1, ch. 74-285; s. 1, ch. 77-47; s. 4, ch. 79-12; s. 21, ch. 81-169; s. 2, ch. 83-44; s. 19, ch. 83-334; s. 11, ch. 93-211; s. 129, ch. 95-148; s. 47, ch. 99-8; s. 33, ch. 2001-61; s. 2, ch. 2005-283; s. 1, ch. 2006-100.

### **252.363 Tolling and extension of permits and other authorizations.—**

(1)(a) The declaration of a state of emergency issued by the Governor for a natural emergency tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 6 months in addition to the tolled period. This paragraph applies to the following:

1. The expiration of a development order issued by a local government.
2. The expiration of a building permit.
3. The expiration of a permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373.
4. The buildout date of a development of regional impact, including any extension of a buildout date that was previously granted as specified in s. 380.06(7)(c).

(b) Within 90 days after the termination of the emergency declaration, the holder of the permit or other authorization shall notify the issuing authority of the intent to exercise the tolling and extension granted under paragraph (a). The notice must be in writing and identify the specific permit or other authorization qualifying for extension.

(c) If the permit or other authorization for a phased construction project is extended, the commencement and completion dates for any required mitigation are extended such that the mitigation activities occur in the same

timeframe relative to the phase as originally permitted.

(d) This subsection does not apply to:

1. A permit or other authorization for a building, improvement, or development located outside the geographic area for which the declaration of a state of emergency applies.
2. A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.
3. The holder of a permit or other authorization who is determined by the authorizing agency to be in significant noncompliance with the conditions of the permit or other authorization through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or an equivalent action.
4. A permit or other authorization that is subject to a court order specifying an expiration date or buildout date that would be in conflict with the extensions granted in this section.

(2) A permit or other authorization that is extended shall be governed by the laws, administrative rules, and ordinances in effect when the permit was issued, unless any party or the issuing authority demonstrates that operating under those laws, administrative rules, or ordinances will create an immediate threat to the public health or safety.

(3) This section does not restrict a county or municipality from requiring property to be maintained and secured in a safe and sanitary condition in compliance with applicable laws, administrative rules, or ordinances.

**History.**—s. 494, ch. 2011-142; s. 12, ch. 2018-158; s. 13, ch. 2019-165.

#### **252.365 Emergency coordination officers; disaster-preparedness plans.—**

(1) The head of each executive department, the executive director of each water management district, the Public Service Commission, the Fish and Wildlife Conservation Commission, and the Department of Military Affairs shall select from within such agency a person to be designated as the emergency coordination officer for the agency and an alternate.

(2) The emergency coordination officer is responsible for coordinating with the division on emergency preparedness issues, preparing and maintaining emergency preparedness and postdisaster response and recovery plans for such agency, maintaining rosters of personnel to assist in disaster operations, and coordinating appropriate training for agency personnel.

(3) These individuals shall be responsible for ensuring that each state agency and facility, such as a prison, office building, or university, has a disaster preparedness plan that is coordinated with the applicable local emergency-management agency and approved by the division.

(a) The disaster-preparedness plan must outline a comprehensive and effective program to ensure continuity of essential state functions under all circumstances. The plan must identify a baseline of preparedness for a full range of potential emergencies to establish a viable capability to perform essential functions during any emergency or other situation that disrupts normal operations.

(b) The plan must include, at a minimum, the following elements: identification of essential functions, programs, and personnel; procedures to implement the plan and personnel notification and accountability; delegations of authority and lines of succession; identification of alternative facilities and related infrastructure, including those for communications; identification and protection of vital records and databases; and schedules and procedures for periodic tests, training, and exercises.

(c) The division shall develop and distribute guidelines for developing and implementing the plan. Each agency is encouraged to initiate and complete development of its plan immediately, but no later than July 1, 2003.

(4) The head of each agency shall notify the Governor and the division in writing of the person initially designated as the emergency coordination officer for such agency and her or his alternate and of any changes in persons so designated thereafter.

**History.**—s. 13, ch. 93-211; s. 130, ch. 95-148; s. 71, ch. 99-245; s. 1, ch. 2002-43.

#### **252.3655 Natural hazards interagency workgroup.—**

(1)(a) An interagency workgroup is created for the purpose of sharing information on the current and potential impacts of natural hazards throughout the state, coordinating the ongoing efforts of state agencies in addressing the

impacts of natural hazards, and collaborating on statewide initiatives to address the impacts of natural hazards. As used in this section, the term “natural hazards” includes, but is not limited to, extreme heat, drought, wildfire, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

(b) Each agency within the executive branch of state government, each water management district, and the Florida Public Service Commission shall select from within such agency a person to be designated as the agency liaison to the workgroup.

(c) The director of the Division of Emergency Management or his or her designee shall serve as the liaison to and coordinator of the workgroup.

(d) Each liaison shall provide information from his or her respective agency on the current and potential impacts of natural hazards to his or her agency, agency resources available to mitigate against natural hazards, and efforts made by the agency to address the impacts of natural hazards.

(e) The workgroup shall meet in person or by teleconference on a quarterly basis to share information, leverage agency resources, coordinate ongoing efforts, and provide information for inclusion in the annual progress report submitted pursuant to subsection (2).

(2)(a) On behalf of the workgroup, the Division of Emergency Management shall prepare an annual progress report on the implementation of the state’s hazard mitigation plan, developed and submitted in accordance with 42 U.S.C. s. 5165 and any implementing regulations, as it relates to natural hazards. At a minimum, the annual progress report must:

1. Assess the relevance, level, and significance of current agency efforts to address the impacts of natural hazards; and
2. Strategize and prioritize ongoing efforts to address the impacts of natural hazards.

(b) Each liaison is responsible for ensuring that the workgroup’s annual progress report is posted on his or her agency’s website.

(c) By January 1, 2019, and each year thereafter, the workgroup shall submit the annual progress report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

**History.**—s. 1, ch. 2017-48.

### **252.37 Financing.—**

(1) The Legislature intends and declares it to be the policy of the state that funds to meet emergencies shall always be available.

(2) It is the legislative intent that the first recourse be made to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds in coping with a particular disaster declared by the Governor as a state of emergency are unreasonably great, she or he may make funds available by transferring and expending moneys appropriated for other purposes, by transferring and expending moneys out of any unappropriated surplus funds, or from the Budget Stabilization Fund. Following the expiration or termination of the state of emergency, the Governor may transfer moneys with a budget amendment, subject to approval by the Legislative Budget Commission, to satisfy the budget authority granted for such emergency.

(3) Nothing contained in this section shall be construed to limit the authority of the Governor to apply for, administer, and expend any grants, gifts, or payments in aid of emergency prevention, mitigation, preparedness, response, or recovery.

(4)(a) Whenever the Federal Government or any agency or officer thereof offers to the state or, through the state, to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for the purposes of emergency management, the state, acting through the division, or such political subdivision, acting with the consent of the Governor or the Governor’s authorized representative, may accept such offer. Upon such acceptance, the division or the presiding officer or governing body of such political subdivision may authorize receipt of the gift, grant, or loan on behalf of the state or such political subdivision, subject to the terms of the offer and the rules and regulations of the agency making the offer.

(b) Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, loan, or other agreement for the purpose of emergency management, the state, acting through the division, or such political subdivision, acting through its governing body or a local emergency management agency, may accept such offer. Upon such acceptance, the division or the presiding officer or governing body of the political subdivision may authorize receipt of the gift, grant, or loan on behalf of the state or such political subdivision, subject to the terms of the offer.

(5) Unless otherwise specified in the General Appropriations Act:

(a) Whenever the state accepts financial assistance from the Federal Government or its agencies under the federal Public Assistance Program and such financial assistance is conditioned upon a requirement for matching funds, the state shall provide the entire match requirement for state agencies and one-half of the required match for grants to local governments. The affected local government shall be required to provide one-half of the required match prior to receipt of such financial assistance.

(b) The Executive Office of the Governor may approve a waiver, subject to the requirement for legislative notice and review under s. 216.177, of all or a portion of the required match for public assistance projects for local governments if the Executive Office of the Governor determines that such a match requirement cannot be provided, or that doing so would impose a documented hardship on the local government, and if the local government applies for the waiver within the first 18 months after the disaster is declared.

(6) Whenever the state accepts financial assistance from the Federal Government or its agencies under the federal Hazard Mitigation Assistance Grant Program and such financial assistance is conditioned upon a requirement for matching funds, the eligible subgrantee recipient shall be required to provide the full amount of the required match prior to receipt of such financial assistance unless otherwise specified in the General Appropriations Act.

**History.**—s. 1, ch. 74-285; s. 20, ch. 83-334; s. 5, ch. 93-128; s. 131, ch. 95-148; s. 14, ch. 98-73; s. 52, ch. 2000-371; s. 1, ch. 2004-482; s. 42, ch. 2005-152; s. 37, ch. 2006-122.

**252.371 Emergency Management, Preparedness, and Assistance Trust Fund.**— There is created the Emergency Management, Preparedness, and Assistance Trust Fund to be administered by the division.

**History.**—s. 1, ch. 93-128; s. 101, ch. 2011-142.

**252.372 Imposition and collection of surcharge.**— In order to provide funds for emergency management, preparedness, and assistance, an annual surcharge of \$2 per policy shall be imposed on every homeowners, mobile home owners, tenant homeowners, and condominium unit owners policy, and an annual \$4 surcharge shall be imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy, issued or renewed on or after May 1, 1993. The surcharge shall be paid by the policyholder to the insurer. The insurer shall collect the surcharge and remit it to the Department of Revenue, which shall collect, administer, audit, and enforce the surcharge pursuant to s. 624.5092. The surcharge is not to be considered premiums of the insurer; however, nonpayment of the surcharge by the insured may be a valid reason for cancellation of the policy. For those policies in which the surplus lines tax and the service fee are collected and remitted to the Surplus Lines Service Office, as created under s. 626.921, the surcharge must be remitted to the service office at the same time as the surplus lines tax is remitted. All penalties for failure to remit the surplus lines tax and service fee are applicable for those surcharges required to be remitted to the service office. The service office shall deposit all surcharges that it collects into the Emergency Management, Preparedness, and Assistance Trust Fund at least monthly. All proceeds of the surcharge shall be deposited in the Emergency Management, Preparedness, and Assistance Trust Fund and may not be used to supplant existing funding.

**History.**—s. 2, ch. 93-128; s. 22, ch. 2005-280.

**252.373 Allocation of funds; rules.**—

(1) Funds appropriated from the Emergency Management, Preparedness, and Assistance Trust Fund shall be allocated by the division for the following purposes:

(a) To implement and administer state and local emergency management programs, including administration, training, and operations.

(b) For grants and loans to state or regional agencies, local governments, and private organizations to implement projects that will further state and local emergency management objectives. These projects must include, but need not be limited to, projects that will promote public education on disaster preparedness and recovery issues, enhance coordination of relief efforts of statewide private sector organizations, and improve the training and operations capabilities of agencies assigned lead or support responsibilities in the state comprehensive emergency management plan, including the State Fire Marshal's Office for coordinating the Florida fire services. The division shall establish criteria and procedures for competitive allocation of these funds by rule. No more than 5 percent of any award made pursuant to this subparagraph may be used for administrative expenses. This competitive criteria must give priority consideration to hurricane evacuation shelter retrofit projects.

(c) To meet any matching requirements imposed as a condition of receiving federal disaster relief assistance.

(2) The division shall allocate funds from the Emergency Management, Preparedness, and Assistance Trust Fund to local emergency management agencies and programs pursuant to criteria specified in rule. Such rules shall include, but are not limited to:

(a) Requiring that, at a minimum, a local emergency management agency either:

1. Have a program director who works at least 40 hours a week in that capacity; or
2. If the county has fewer than 75,000 population or is party to an interjurisdictional emergency management agreement entered into pursuant to s. 252.38(3)(b), that is recognized by the Governor by executive order or rule, have an emergency management coordinator who works at least 20 hours a week in that capacity.

(b) Specifying a formula that establishes a base grant allocation and weighted factors for funds to be allocated over the base grant amount.

(c) Specifying match requirements.

(d) Preferential funding to provide incentives to counties and municipalities to participate in mutual aid agreements.

(3) If adequate funds are available as determined by the division, every county shall receive funds at least sufficient to fund a dedicated, full-time emergency preparedness officer position.

**History.**—s. 3, ch. 93-128; s. 11, ch. 98-258; s. 7, ch. 2000-140; s. 54, ch. 2000-171; ss. 42, 53, ch. 2001-254; ss. 53, 79, ch. 2002-402; s. 72, ch. 2003-399; s. 4, ch. 2004-235; s. 48, ch. 2004-269; s. 11, ch. 2005-3; s. 43, ch. 2006-26; s. 4, ch. 2008-5; s. 102, ch. 2011-142.

**252.38 Emergency management powers of political subdivisions.**—Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.

(1) COUNTIES.—

(a) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. 252.31-252.90, each county within this state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. 252.31-252.90, each local emergency management agency shall have jurisdiction over and serve an entire county. Unless part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule, each county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.

(b) Each county emergency management agency created and established pursuant to ss. 252.31-252.90 shall have a director. The director must meet the minimum training and education qualifications established in a job description approved by the county. The director shall be appointed by the board of county commissioners or the chief administrative officer of the county, as described in chapter 125 or the county charter, if applicable, to serve at the pleasure of the appointing authority, in conformance with applicable resolutions, ordinances, and laws. A county constitutional officer, or an employee of a county constitutional officer, may be appointed as director following prior notification to the division. Each board of county commissioners shall promptly inform the division of the



appointment of the director and other personnel. Each director has direct responsibility for the organization, administration, and operation of the county emergency management agency. The director shall coordinate emergency management activities, services, and programs within the county and shall serve as liaison to the division and other local emergency management agencies and organizations.

(c) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized and, in addition, shall conduct such activities outside its territorial limits as are required pursuant to ss. 252.31-252.90 and in accordance with state and county emergency management plans and mutual aid agreements. Counties shall serve as liaison for and coordinator of municipalities' requests for state and federal assistance during postdisaster emergency operations.

(d) During a declared state or local emergency and upon the request of the director of a local emergency management agency, the district school board or school boards in the affected area shall participate in emergency management by providing facilities and necessary personnel to staff such facilities. Each school board providing transportation assistance in an emergency evacuation shall coordinate the use of its vehicles and personnel with the local emergency management agency.

(e) County emergency management agencies may charge and collect fees for the review of emergency management plans on behalf of external agencies and institutions. Fees must be reasonable and may not exceed the cost of providing a review of emergency management plans in accordance with fee schedules established by the division.

(2) MUNICIPALITIES.—Legally constituted municipalities are authorized and encouraged to create municipal emergency management programs. Municipal emergency management programs shall coordinate their activities with those of the county emergency management agency. Municipalities without emergency management programs shall be served by their respective county agencies. If a municipality elects to establish an emergency management program, it must comply with all laws, rules, and requirements applicable to county emergency management agencies. Each municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan. In addition, each municipality must coordinate requests for state or federal emergency response assistance with its county. This requirement does not apply to requests for reimbursement under federal public disaster assistance programs.

(3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.—

(a) In carrying out the provisions of ss. 252.31-252.90, each political subdivision shall have the power and authority:

1. To appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency; and direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.

2. To appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.

3. To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

4. To assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes, as the primary emergency management forces of the political subdivision for employment within or outside the political limits of the subdivision.

5. To request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an emergency affecting only one political subdivision. The duration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
- b. Entering into contracts.
- c. Incurring obligations.
- d. Employment of permanent and temporary workers.
- e. Utilization of volunteer workers.
- f. Rental of equipment.
- g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
- h. Appropriation and expenditure of public funds.

(b) Upon the request of two or more adjoining counties, or if the Governor finds that two or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate emergency management agencies and services, the Governor may delineate by executive order or rule an interjurisdictional area adequate to plan for, prevent, mitigate, or respond to emergencies in such area and may direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency plan, a provision for mutual aid, or an area organization for emergency planning and services. A finding of the Governor pursuant to this paragraph shall be based on one or more factors related to the difficulty of maintaining an efficient and effective emergency prevention, mitigation, preparedness, response, and recovery system on a unijurisdictional basis, such as:

1. Small or sparse population.
2. Limitations on public financial resources severe enough to make maintenance of a separate emergency management agency and services unreasonably burdensome.
3. Unusual vulnerability to emergencies as evidenced by a past history of emergencies, topographical features, drainage characteristics, emergency potential, and presence of emergency-prone facilities or operations.
4. The interrelated character of the counties in a multicounty area.
5. Other relevant conditions or circumstances.

**History.**—s. 1, ch. 74-285; s. 1, ch. 77-174; s. 22, ch. 81-169; s. 21, ch. 83-334; s. 102, ch. 92-279; s. 55, ch. 92-326; s. 14, ch. 93-211; s. 132, ch. 95-148; s. 5, ch. 2000-140; s. 34, ch. 2001-61.

### **252.385 Public shelter space.—**

(1) It is the intent of the Legislature that this state not have a deficit of safe public hurricane evacuation shelter space in any region of the state by 1998 and thereafter.

(2)(a) The division shall administer a program to survey existing schools, universities, community colleges, and other state-owned, municipally owned, and county-owned public buildings and any private facility that the owner, in writing, agrees to provide for use as a public hurricane evacuation shelter to identify those that are appropriately designed and located to serve as such shelters. The owners of the facilities must be given the opportunity to participate in the surveys. The state university boards of trustees, district school boards, community college boards of trustees, and the Department of Education are responsible for coordinating and implementing the survey of public schools, universities, and community colleges with the division or the local emergency management agency.

(b) By January 31 of each even-numbered year, the division shall prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval, subject to the requirements for approval in s. 1013.37(2). The plan shall identify the general location and square footage of special needs shelters, by regional planning council region, during the next 5 years. The plan shall also include information on the availability of shelters that accept pets. The Department of Health shall assist the division in determining the estimated need for special needs shelter space and the adequacy of facilities to meet the needs of persons with special needs based on information from the registries of persons with special needs and other information.

(3) The division shall annually provide to the President of the Senate, the Speaker of the House of Representatives, and the Governor a list of facilities recommended to be retrofitted using state funds. State funds should be maximized and targeted to regional planning council regions with hurricane evacuation shelter deficits. Retrofitting facilities in regions with public hurricane evacuation shelter deficits shall be given first priority and should be completed by 2003. All recommended facilities should be retrofitted by 2008. The owner or lessee of a public hurricane evacuation shelter

that is included on the list of facilities recommended for retrofitting is not required to perform any recommended improvements.

(4)(a) Public facilities, including schools, postsecondary education facilities, and other facilities owned or leased by the state or local governments, but excluding hospitals, hospice care facilities, assisted living facilities, and nursing homes, which are suitable for use as public hurricane evacuation shelters shall be made available at the request of the local emergency management agencies. The local emergency management agency shall coordinate with these entities to ensure that designated facilities are ready to activate prior to a specific hurricane or disaster. Such agencies shall coordinate with the appropriate school board, university, community college, state agency, or local governing board when requesting the use of such facilities as public hurricane evacuation shelters.

(b) The Department of Management Services shall incorporate provisions for the use of suitable leased public facilities as public hurricane evacuation shelters into lease agreements for state agencies. Suitable leased public facilities include leased public facilities that are solely occupied by state agencies and have at least 2,000 square feet of net floor area in a single room or in a combination of rooms having a minimum of 400 square feet in each room. The net square footage of floor area shall be determined by subtracting from the gross square footage the square footage of spaces such as mechanical and electrical rooms, storage rooms, open corridors, restrooms, kitchens, science or computer laboratories, shop or mechanical areas, administrative offices, records vaults, and crawl spaces.

(c) The Department of Management Services shall, in consultation with local and state emergency management agencies, assess Department of Management Services facilities to identify the extent to which each facility has public hurricane evacuation shelter space. The Department of Management Services shall submit proposed facility retrofit projects that incorporate hurricane protection enhancements to the division for assessment and inclusion in the annual report prepared in accordance with subsection (3).

(d) The Department of Management Services shall include in the annual state facilities inventory report required under ss. 216.015-216.016 a separate list of state-owned facilities, including, but not limited to, meeting halls, auditoriums, conference centers, and training centers that have unoccupied space suitable for use as an emergency shelter during a storm or other catastrophic event. Facilities must be listed by the county and municipality where the facility is located and must be made available in accordance with paragraph (a). As used in this paragraph, the term "suitable for use as an emergency shelter" means meeting the standards set by the American Red Cross for a hurricane evacuation shelter, and the term "unoccupied" means vacant due to suspended operation or nonuse. The list must be updated by May 31 of each year.

**History.**—s. 16, ch. 93-211; s. 6, ch. 2000-140; s. 1, ch. 2006-67; s. 19, ch. 2006-71; s. 28, ch. 2013-15.

### **252.39 Local services.—**

(1) Whenever the employees of any political subdivision are rendering outside aid pursuant to the authority contained in s. 252.38, such employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

(2)(a) The political subdivision in which any equipment is used pursuant to this section shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for such loss, damage, or expense shall be allowed unless an itemized notice of such claim under oath is served by mail or otherwise upon the chief fiscal officer of the political subdivision in which the equipment was used within 60 days after the loss, damage, or expense is sustained or incurred.

(b) The political subdivision which is aided pursuant to this section shall also pay and reimburse the political subdivision furnishing such aid for compensation paid to employees furnished under this section during the time of the rendition of such aid and shall defray the actual travel and maintenance expenses of such employees while they are rendering such aid. Such reimbursement shall include any amounts paid or due for compensation due to personal injury or death while such employees are engaged in rendering such aid. The term "employee" as used in this section means, and the provisions of this section apply with equal effect to, paid, volunteer, and auxiliary employees and emergency management services workers.

**History.**—s. 1, ch. 74-285; s. 22, ch. 83-334.

**252.40 Mutual aid arrangements.—**

(1) The governing body of each political subdivision of the state is authorized to develop and enter into mutual aid agreements within the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted. Copies of such agreements shall be sent to the division. Such agreements shall be consistent with the state comprehensive emergency management plan and program, and in time of emergency it shall be the duty of each local emergency management agency to render assistance in accordance with the provisions of such mutual aid agreements to the fullest possible extent.

(2) The Governor may enter into a compact with any state if she or he finds that joint action with that state is desirable in meeting common intergovernmental problems of emergency management planning or emergency prevention, mitigation, response, and recovery.

**History.**—s. 1, ch. 74-285; s. 23, ch. 83-334; s. 56, ch. 85-80; s. 133, ch. 95-148.

**252.41 Emergency management support forces.—**

(1) The division is authorized to provide, within or without the state, such support from available personnel, equipment, and other resources of state agencies and the political subdivisions of the state as may be necessary to reinforce emergency management agencies in areas stricken by emergency. Such support shall be rendered with due consideration of the plans of the Federal Government, this state, the other states, and of the criticalness of the existing situation. Emergency management support forces shall be called to duty upon orders of the division and shall perform functions in any part of the state or, upon the conditions specified in this section, in other states.

(2) Personnel of emergency management support forces while on duty, whether within or without the state, shall:

(a) If they are employees of the state, have the powers, duties, rights, privileges, and immunities, and receive the compensation, incidental to their employment.

(b) If they are employees of a political subdivision of the state, whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities, and receive the compensation, incidental to their employment.

(c) If they are not employees of the state or a political subdivision thereof, they shall be entitled to the same rights and immunities as are provided by law for the employees of this state and to such compensation as may be fixed by the division. All personnel of emergency management support forces shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving and shall be reimbursed for all actual and necessary travel and subsistence expenses to the extent of funds available.

**History.**—s. 1, ch. 74-285; s. 24, ch. 83-334.

**252.42 Government equipment, services, and facilities.—**In the event of any emergency, the division may make available any equipment, services, or facilities owned or organized by the state or its political subdivisions for use in the affected area upon request of the duly constituted authority of the area or upon the request of any recognized and accredited relief agency through such duly constituted authority.

**History.**—s. 1, ch. 74-285; s. 25, ch. 83-334.

**252.43 Compensation.—**

(1) Compensation for services or for the taking or use of property shall be owed only to the extent that a claimant may not be deemed to have volunteered her or his services or property without compensation and only to the extent that such taking exceeds the legal responsibility of a claimant to render such services or make such property so available.

(2) Compensation owed for personal services shall be only such as may be fixed by the division.

(3) Compensation for property shall be owed only if the property was commandeered or otherwise used in coping with an emergency and its use or destruction was ordered by the Governor or a member of the emergency forces of this state.

(4) Any person claiming compensation for the use, damage, loss, or destruction of property under ss. 252.31-252.60 shall file a claim therefor with the division in the form and manner that the division provides.

(5) Unless the amount of compensation owed on account of property damaged, lost, or destroyed is agreed between the claimant and the division, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

(6) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a firebreak or damage resulting from the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood or applies to or authorizes compensation beyond the extent of funds available for such compensation.

**History.**—s. 1, ch. 74-285; s. 1, ch. 77-174; s. 26, ch. 83-334; s. 134, ch. 95-148.

**252.44 Emergency mitigation.**—

(1) In addition to prevention measures included in the state and local comprehensive emergency management plans, the Governor shall consider on a continuing basis steps that could be taken to mitigate the harmful consequences of emergencies. At the Governor's direction and pursuant to 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, air quality, public works, land use and land use planning, and construction standards, shall make studies of emergency-mitigation-related matters. The Governor, from time to time, shall make such recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for mitigation of the harmful consequences of emergencies.

(2) The appropriate state agencies, in conjunction with the division, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence, manmade or natural. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by these occurrences or the consequences thereof.

(3) If the division believes, on the basis of the studies or other competent evidence, that an area is susceptible to an emergency 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 emergency; 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. If the Governor upon review of the recommendation finds after public hearing that changes are essential, she or he shall so recommend to the agencies or political subdivisions with jurisdiction over the area and subject matter. If no action, or insufficient action, pursuant to her or his recommendations is taken within the time specified by the Governor, she or he shall so inform the Legislature and request legislative action appropriate to mitigate the impact of such an emergency.

**History.**—s. 1, ch. 74-285; s. 27, ch. 83-334; s. 135, ch. 95-148.

**252.45 Lease or loan of state property; transfer of state personnel.**—Notwithstanding any inconsistent provision of law:

(1) Whenever the Governor deems it to be in the public interest, she or he may:

(a) Authorize any department or agency of the state to lease or lend, on such terms and conditions as it may deem necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state government to the President, the heads of the Armed Forces, or the various federal emergency management agencies of the United States.

(b) Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state, on such terms and conditions as she or he may deem necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state government or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state.

(2) The governing body of each political subdivision of the state may:

(a) Enter into such contract or lease with the state, accept any such loan, or employ such personnel, and such political subdivision may equip, maintain, utilize, and operate any such property and employ necessary personnel

therefor in accordance with the purposes for which such contract is executed.

(b) Do all things and perform any and all acts which it may deem necessary to effectuate the purpose for which such contract was entered into.

**History.**—s. 1, ch. 74-285; s. 28, ch. 83-334; s. 136, ch. 95-148.

#### **252.46 Orders and rules.—**

(1) In accordance with the provisions of chapter 120, the political subdivisions of the state and other agencies designated or appointed by the Governor or in the state comprehensive emergency management plan are authorized and empowered to make, amend, and rescind such orders and rules as are necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31-252.90, but which are not inconsistent with any orders or rules adopted by the division or by any state agency exercising a power delegated to it by the Governor or the division.

(2) All orders and rules adopted by the division or any political subdivision or other agency authorized by ss. 252.31-252.90 to make orders and rules have full force and effect of law after adoption in accordance with the provisions of chapter 120 in the event of issuance by the division or any state agency or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk or recorder of the political subdivision or agency promulgating the same. All existing laws, ordinances, and rules inconsistent with the provisions of ss. 252.31-252.90, or any order or rule issued under the authority of ss. 252.31-252.90, shall be suspended during the period of time and to the extent that such conflict exists.

(3) In order to attain uniformity so far as practicable throughout the country in measures taken to aid emergency management, all action taken under ss. 252.31-252.90 and all orders and rules made pursuant to such sections shall be taken or made with due consideration of the orders, rules, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, actions, recommendations, and requests.

**History.**—s. 1, ch. 74-285; s. 1, ch. 77-174; s. 12, ch. 78-95; s. 23, ch. 81-169; s. 29, ch. 83-334; s. 18, ch. 93-211; s. 35, ch. 2001-61.

**252.47 Enforcement.—**The law enforcement authorities of the state and the political subdivisions thereof shall enforce the orders and rules issued pursuant to ss. 252.31-252.90.

**History.**—s. 1, ch. 74-285; s. 30, ch. 83-334; s. 19, ch. 93-211; s. 36, ch. 2001-61.

**252.50 Penalties.—**Any person violating any provision of ss. 252.31-252.90 or any rule or order made pursuant to ss. 252.31-252.90 is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 1, ch. 74-285; s. 31, ch. 83-334; s. 20, ch. 93-211; s. 37, ch. 2001-61.

**252.51 Liability.—**Any person or organization, public or private, owning or controlling real estate or other premises who voluntarily and without compensation, other than payment or reimbursement of costs and expenses, grants a license or privilege or otherwise permits the designation by the local emergency management agency or use of the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice emergency, together with her or his successor in interest, if any, shall not be liable for the death of, or injury to, any person on or about such real estate or premises during the actual, impending, mock, or practice emergency, or for loss of, or damage to, the property of such person, solely by reason or as a result of such license, privilege, designation, or use, unless the gross negligence or the willful and wanton misconduct of such person owning or controlling such real estate or premises or her or his successor in interest is the proximate cause of such death, injury, loss, or damage occurring during such sheltering period. Any such person or organization who provides such shelter space for compensation shall be deemed to be an instrumentality of the state or its applicable agency or subdivision for the purposes of s. 768.28.

**History.**—s. 1, ch. 74-285; s. 32, ch. 83-334; s. 137, ch. 95-148; s. 8, ch. 2000-140.

#### **252.515 Postdisaster Relief Assistance Act; immunity from civil liability.—**

(1) This section may be cited as the “Postdisaster Relief Assistance Act.”

(2) Any person who gratuitously and in good faith provides temporary housing, food, water, or electricity to emergency first responders or the immediate family members of emergency first responders in response to an emergency situation related to and arising out of a public health emergency declared pursuant to s. 381.00315 or a state of emergency declared pursuant to s. 252.36 may not be held liable for any civil damages as a result of providing the temporary housing, food, water, or electricity unless the person acts in a manner that demonstrates a reckless disregard for the consequences of another.

(3) As used in this section, the term:

(a) "Emergency first responder" means:

1. A physician licensed under chapter 458.
2. An osteopathic physician licensed under chapter 459.
3. A chiropractic physician licensed under chapter 460.
4. A podiatric physician licensed under chapter 461.
5. A dentist licensed under chapter 466.
6. An advanced practice registered nurse licensed under s. 464.012.
7. A physician assistant licensed under s. 458.347 or s. 459.022.
8. A worker employed by a public or private hospital in the state.
9. A paramedic as defined in s. 401.23(17).
10. An emergency medical technician as defined in s. 401.23(11).
11. A firefighter as defined in s. 633.102.
12. A law enforcement officer as defined in s. 943.10.
13. A member of the Florida National Guard.
14. Any other personnel designated as emergency personnel by the Governor pursuant to a declared emergency.

(b) "Immediate family member" means any parent, spouse, child, or sibling.

(4) The immunity provided by this section does not apply to damages as a result of any act or omission:

(a) That occurs more than 6 months after the declaration of the public health emergency pursuant to s. 381.00315 or state of emergency pursuant to s. 252.36, unless the emergency is extended as provided in those sections, in which case the immunity provided by this section continues to apply for the duration of the extension and 6 months thereafter; or

(b) That is unrelated to the original declared emergency or any extension thereof.

(5) As used in this section, the term "reckless disregard" means conduct that a reasonable person knew or should have known at the time such services were provided would likely result in injury so as to affect the life or health of another, taking into account the extent or serious nature of the prevailing circumstances.

(6) A person may register with a county emergency management agency as a temporary provider of housing, food, water, or electricity for emergency first responders if the county provides for such registration. A person who has registered with a county emergency management agency as a provider of temporary housing, food, water, or electricity to emergency first responders or the immediate family members of emergency first responders is presumed to have acted in good faith in providing such housing, food, water, or electricity.

**History.**—s. 1, ch. 2011-43; s. 129, ch. 2013-183; s. 10, ch. 2018-106.

**252.52 Liberality of construction.**— Sections 252.31-252.90 shall be construed liberally in order to effectuate their purposes.

**History.**—s. 1, ch. 74-285; s. 33, ch. 83-334; s. 21, ch. 93-211; s. 38, ch. 2001-61.

**252.55 Civil Air Patrol, Florida Wing.**—

(1) As used in this section, the term:

(a) "Benefits" means all benefits, other than salary and wages, provided or made available to employees by an employer and includes group life insurance, health insurance, disability insurance, and pensions, regardless of whether such benefits are provided by a policy or practice of the employer.

(b) "Civil Air Patrol leave" means leave requested by an employee who is a Civil Air Patrol member for the purpose of participating in a Civil Air Patrol training or mission.

(c) "Civil Air Patrol member" means a senior member of the Florida Wing of the Civil Air Patrol with at least an emergency services qualification.

(d) "Employee" means any person who may be permitted, required, or directed by an employer, in consideration of direct or indirect gain or profit, to engage in any employment and who has been employed by the same employer for at least 90 days immediately preceding the commencement of Civil Air Patrol leave. The term includes an independent contractor.

(e) "Employer" means a private or public employer, or an employing or appointing authority of this state, a county, a school district, a municipality, a political subdivision, a career center, a Florida College System institution, or a state university.

(2) The Florida Wing of the Civil Air Patrol, an auxiliary of the United States Air Force, is recognized as a nonprofit, educational, and emergency-management-related organization and is eligible to purchase materials from the various surplus warehouses of the state.

(3) Funds shall be appropriated annually from the Emergency Management, Preparedness, and Assistance Trust Fund for the purpose of acquisition, installation, conditioning, and maintenance of the Florida Wing of the Civil Air Patrol. However, the annual appropriation, or any part thereof, may not be expended for the purchase of uniforms or personal effects of members of the organization or for compensation or salary to such members.

(4) The wing commander of the Florida Wing of the Civil Air Patrol may employ administrative help and purchase educational materials for the training of Florida youth for which funds from the annual appropriation may be used.

(5) Purchase of aircraft is limited to not more than \$15,000 per year, and not more than \$15,000 per year may be placed in a building reserve fund to be used for the acquisition of a permanent state headquarters and operations facility.

(6) The wing commander of the Florida Wing of the Civil Air Patrol shall biennially furnish the division a 2-year projection of the goals and objectives of the Civil Air Patrol which shall be reported in the division's biennial report submitted pursuant to s. 252.35.

(7) An employer:

(a) That employs 15 or more employees shall provide up to 15 days of unpaid Civil Air Patrol leave annually to an employee, subject to the conditions in this section.

(b) May not require a Civil Air Patrol member returning to employment following Civil Air Patrol leave to use vacation, annual, compensatory, or similar leave for the period during which the member was on Civil Air Patrol leave. However, any such returning member is, upon his or her request, authorized to use any vacation, annual, compensatory, or similar leave with pay accrued by the member before the commencement of his or her Civil Air Patrol leave.

(c) May not discharge, reprimand, or otherwise penalize a Civil Air Patrol member because of his or her absence by reason of taking Civil Air Patrol leave.

(8)(a) Upon the completion of a Civil Air Patrol leave, the Civil Air Patrol member shall promptly notify the employer of his or her intent to return to work.

(b) An employer is not required to allow a Civil Air Patrol member to return to work upon the completion of his or her Civil Air Patrol leave if:

1. The employer's circumstances have so changed as to make employment impossible or unreasonable;
2. Employment would impose an undue hardship on the employer;
3. The employment from which the member takes such leave is for a brief, nonrecurring period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period; or
4. The employer had legally sufficient cause to terminate the member at the time he or she commenced such leave.

The employer has the burden of proving any circumstance specified in subparagraphs 1.-4. which served as the employer's basis for not allowing a Civil Air Patrol member to return to work upon completion of Civil Air Patrol



leave.

(c) A Civil Air Patrol member who returns to work following his or her Civil Air Patrol leave is entitled to:

1. The seniority that the member had at his or her place of employment on the date his or her leave began and any other rights and benefits that inure to the member as a result of such seniority; and
2. Any additional seniority that the member would have attained at his or her place of employment if he or she had remained continuously employed and any other rights and benefits that would have inured to the member as a result of such seniority.

(d) A Civil Air Patrol member who returns to work following his or her Civil Air Patrol leave may not be discharged from such employment for a period of 1 year after the date the member returns to work, except for cause.

(9) If the wing commander of the Florida Wing of the Civil Air Patrol certifies that there is probable cause to believe that an employer has violated this section, an aggrieved employee who had taken Civil Air Patrol leave may bring a civil action against the employer in a court in the county where the employer resides or has his or her principal place of business or in the county where the alleged violation occurred. Upon adverse adjudication, the defendant is liable for actual damages or \$500, whichever is greater. The prevailing party is entitled to recover reasonable attorney fees and court costs.

(10) The certification of probable cause may not be issued until the wing commander of the Florida Wing of the Civil Air Patrol, or his or her designee, has completed an investigation. All employers and other personnel involved with the subject of such an investigation must cooperate with the wing commander in the investigation.

**History.**— ss. 1, 2, 3, 4, ch. 74-333; s. 34, ch. 83-334; s. 13, ch. 96-423; s. 31, ch. 98-34; s. 57, ch. 2010-102; s. 103, ch. 2011-142; s. 1, ch. 2017-73.

#### **252.60 Radiological emergency preparedness.—**

(1) **PURPOSE AND INTENT.**—It is the purpose of this section to establish the means by which certain radiological emergency response plans and preparedness requirements of the United States Nuclear Regulatory Commission and the Federal Emergency Management Agency can be developed and tested by the state, the appropriate counties, and each operator licensed by the United States Nuclear Regulatory Commission to operate a commercial nuclear electric generating facility. It is the expressed intent of the Legislature that no department, commission, agency, or political subdivision of the state be considered to have assumed or be responsible for the funding of any activity or program required by this section from any sources of funds other than those specifically identified in this section.

(2) **DEFINITIONS.**—For the purposes of this section, the following terms shall have the meanings indicated:

(a) “Facility” means a commercial nuclear electric generating reactor operated for the purpose of providing heat to produce electricity for sale to persons other than the owner of the facility.

(b) “Operator” means that person who has applied for or who has been granted a license by the United States Nuclear Regulatory Commission for the operation of a facility.

(c) “Appropriate county” means a county which is required by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency to be designated a risk or a host county.

(d) “Plans” means the radiological emergency response plans and preparedness in support of nuclear power plants requirements, including facilities and equipment, currently contained in NUREG-0654 and FEMA-REP-1 or as may be required by cognizant federal agencies in the future.

(3) **EMERGENCY RESPONSE PLANS.**—In addition to the other plans required by this chapter, the division shall develop, prepare, test, and implement as needed, in conjunction with the appropriate counties and the affected operator, such radiological emergency response plans and preparedness requirements as may be imposed by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency as a requirement for obtaining or continuing the appropriate licenses for a commercial nuclear electric generating facility.

(4) **POWERS AND DUTIES.**—In implementing the requirements of this section, the director of the division, or the director’s designated representative, shall:

(a) Negotiate and enter into such additional contracts and arrangements among the division, appropriate counties, and each operator to provide for the level of funding and the respective roles of each in the development, preparation, testing, and implementation of the plans.

(b) Evaluate and determine the adequacy of the plans based upon consultations with the United States Nuclear Regulatory Commission and other agencies, as appropriate, and upon the results of such tests as may be conducted.

(c) Limited to such funding as is available based upon the requirements of subsection (5), require the participation of appropriate counties and operators in the development, preparation, testing, or implementation of the plans as needed.

(d) Determine the reasonableness and adequacy of the provisions, terms, and conditions of the plans and, in the event the appropriate counties and the operators cannot agree, resolve such differences and require compliance by the appropriate counties and the operators with the plans. In resolving such differences, the director shall consider:

1. The requirements and parameters placed on the operators by federal law and agencies;
2. The reasonableness and adequacy of the funding for appropriate counties from any sources of funds other than local revenue sources; and
3. The reasonableness and appropriateness of the costs to the appropriate counties likely to be incurred in complying with provisions, terms, and conditions of the plans.

(e) Receive, expend, and disburse such funds as are made available by each licensee pursuant to this section.

(f) Limited to such funding as is available based upon the requirements of subsection (5), coordinate all activities undertaken pursuant to this section or required of appropriate counties and operators by any federal or state agency.

(5) **FUNDING.**—All funds for the implementation of this section shall be provided by the operators as required by subsection (4), except that operators may enter into bilateral agreements with other state agencies or appropriate counties when necessary. No political subdivision of the state shall be considered to have obligated or consented to have obligated any funds from any local revenue source whatsoever by complying with the provisions of this section.

**History.**—s. 29, ch. 82-186; s. 9, ch. 84-241; s. 138, ch. 95-148; s. 104, ch. 2011-142.

**252.61 List of persons for contact relating to release of toxic substances into atmosphere.**—The Division of Emergency Management shall maintain a list of contact persons.

**History.**—s. 13, ch. 85-269; s. 3, ch. 85-277; s. 71, ch. 87-224; s. 105, ch. 2011-142.

**252.62 Director of Office of Financial Regulation; powers in a state of emergency.**—

(1) It is the purpose and intent of this section to provide the Director of the Office of Financial Regulation of the Financial Services Commission the authority to make temporary modifications to or suspensions of the financial institutions codes in order to expedite the recovery of communities affected by a disaster or other emergency and in order to encourage financial institutions to meet the credit, deposit, and other financial needs of such communities.

(2)(a) When the Governor declares a state of emergency pursuant to s. 252.36, the Director of the Office of Financial Regulation may issue:

1. One or more general orders applicable to all financial institutions that are subject to the financial institutions codes and that serve any portion of the area of the state under the state of emergency; or
2. One or more specific orders to particular financial institutions that are subject to the financial institution codes and that normally derive more than 60 percent of their deposits from persons in the area of the state under the state of emergency,

which orders may modify or suspend, as to those institutions, all or any part of the financial institutions codes, as defined in s. 655.005, or any applicable rule, consistent with the stated purposes of the financial institutions codes and with maintaining the safety and soundness of the financial institutions system in this state.

(b) An order issued by the director under this section becomes effective upon issuance and continues for 120 days unless it is terminated by the director. The director may extend an order for one additional period of 120 days if he or she determines that the emergency conditions that gave rise to the initial order still exist. The Legislature, by concurrent resolution, may terminate any order issued under this section.

(3) The director shall publish, in the next available publication of the Florida Administrative Register, a copy of the text of any order issued under this section, together with a statement describing the modification or suspension and

explaining how the modification or suspension will facilitate recovery from the emergency and maintain the safety and soundness of financial institutions in this state.

**History.**—s. 1, ch. 93-47; s. 270, ch. 2003-261; s. 19, ch. 2013-14.

**252.63 Commissioner of Insurance Regulation; powers in a state of emergency. —**

(1) When the Governor declares a state of emergency pursuant to s. 252.36, the commissioner may issue one or more general orders applicable to all insurance companies, entities, and persons, as defined in s. 624.04, that are subject to the Florida Insurance Code and that serve any portion of the area of the state under the state of emergency.

(2) An order issued by the commissioner under this section becomes effective upon issuance and continues for 120 days unless terminated sooner by the commissioner. The commissioner may extend an order for one additional period of 120 days if he or she determines that the emergency conditions that gave rise to the initial order still exist. By concurrent resolution, the Legislature may terminate any order issued under this section.

(3) The commissioner shall publish in the next available publication of the Florida Administrative Register a copy of the text of any order issued under this section, together with a statement describing the modification or suspension and explaining how the modification or suspension will facilitate recovery from the emergency.

**History.**—s. 6, ch. 2006-12; s. 20, ch. 2013-14.

**PART II  
FLORIDA EMERGENCY PLANNING AND  
COMMUNITY RIGHT-TO-KNOW ACT**

- 252.81 Short title.
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- 252.87 Supplemental state reporting requirements.
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- 252.89 Tort liability.
- 252.90 Commission and committee duties.
- 252.905 Emergency planning information; public records exemption.

**252.81 Short title.**—Part II of this chapter, consisting of ss. 252.81-252.90, may be cited as the “Florida Emergency Planning and Community Right-to-Know Act.”

**History.**—s. 1, ch. 88-200; s. 1, ch. 92-150; s. 1, ch. 2005-5.

**252.82 Definitions.**—As used in this part:

- (1) “Commission” means the State Hazardous Materials Emergency Response Commission created pursuant to s. 301 of EPCRA.
- (2) “Committee” means any local emergency planning committee established in the state pursuant to s. 301 of EPCRA.
- (3) “Division” means the Division of Emergency Management within the Executive Office of the Governor.
- (4) “Facility” means facility as defined in s. 329 of EPCRA. Vehicles placarded according to title 49 Code of Federal Regulations are not considered a facility except for purposes of s. 304 of EPCRA.
- (5) “Hazardous material” means any hazardous chemical, toxic chemical, or extremely hazardous substance, as defined in s. 329 of EPCRA.
- (6) “EPCRA” means the Emergency Planning and Community Right-to-Know Act of 1986, title III of the Superfund Amendments and Reauthorization Act of 1986, ss. 300-329, 42 U.S.C. ss. 11001 et seq.; and federal regulations adopted thereunder.

(7) “Trust fund” means the Operating Trust Fund of the division.

**History.**—s. 1, ch. 88-200; s. 2, ch. 92-150; s. 36, ch. 93-120; s. 4, ch. 2000-118; s. 23, ch. 2000-152; s. 106, ch. 2011-142.

### **252.83 Powers and duties of the division.—**

(1) The division shall have the authority:

(a) To coordinate its activities under this part with its other emergency management responsibilities, including its responsibilities under part I of this chapter, and activities and with the related activities of other agencies, keeping separate accounts for all activities supported or partially supported from the Operating Trust Fund.

(b) To make rules, with the advice and consent of the commission, to implement this part.

(2) The division shall provide administrative support, including staff, facilities, materials, and services, to the commission and shall provide funding to the committees to enable the commission and the committees to perform their functions under EPCRA and this part.

(3) The division and the commission, to the extent possible, shall use the emergency planning capabilities of local governments to reduce duplication and paperwork to achieve the intent of this part. It is the intent of the Legislature that this part be implemented in the most cost-efficient manner possible, with the least possible financial impact on local government and the community.

**History.**—s. 1, ch. 88-200; s. 3, ch. 92-150; s. 37, ch. 93-120; s. 38, ch. 2000-158; s. 107, ch. 2011-142.

### **252.84 Funding.—**

(1) It is the intent of the Legislature that the state activities and expenditures under this part be self-sustaining, supported primarily by the fees provided in this part.

(2) All fees and penalties collected pursuant to this part shall be deposited in the Operating Trust Fund.

**History.**—s. 1, ch. 88-200; s. 35, ch. 93-120.

### **252.85 Fees.—**

(1) Any owner or operator of a facility required under s. 302 or s. 312 of EPCRA, or by s. 252.87, to submit a notification or an annual inventory form to the commission shall be required to pay an annual registration fee. The fee for any company, including all facilities under common ownership or control, shall not be less than \$25 nor more than \$2,000. The division shall establish a reduced fee, of not less than \$25 nor more than \$500, applicable to any owner or operator regulated under part I of chapter 368, chapter 527, or s. 376.303, which does not have present any extremely hazardous substance, as defined by EPCRA, in excess of a threshold planning quantity, as established by EPCRA. The division shall establish a reduced fee of not less than \$25 nor more than \$1,000, applicable to any owner or operator of a facility with a Standard Industrial Classification Code of 01, 02, or 07, which is eligible for the “routine agricultural use” exemption provided in ss. 311 and 312 of EPCRA. The fee under this subsection shall be based on the number of employees employed within the state at facilities under the common ownership or control of such owner or operator, which number shall be determined, to the extent possible, in accordance with data supplied by the Department of Economic Opportunity or its tax collection service provider. In order to avoid the duplicative reporting of seasonal and temporary agricultural employees, fees applicable to owners or operators of agricultural facilities, which are eligible for the “routine agricultural use” reporting exemption provided in ss. 311 and 312 of EPCRA, shall be based on employee data which most closely reflects such owner or operator’s permanent nonseasonal workforce. The division shall establish by rule the date by which the fee is to be paid, as well as a formula or method of determining the applicable fee under this subsection without regard to the number of facilities under common ownership or control. The division may require owners or operators of multiple facilities to demonstrate common ownership or control for purposes of this subsection.

(2) Any owner or operator of a facility required to notify or who has notified the commission under s. 302 of EPCRA shall pay a one-time filing fee of \$50. Such fee shall be due at the time of initial notification. The fee under this subsection shall not be required for any agricultural facilities with a Standard Industrial Classification Code of 01, 02, or 07 subject to the notification or annual inventory form requirement solely because of the presence of EPCRA listed substances in temporary or portable storage units located at the facility for less than 48 consecutive hours.

(3) Any owner or operator of a facility that is required to submit a report or filing under s. 313 of EPCRA shall pay an annual reporting fee not to exceed \$150 for those s. 313 EPCRA listed substances in effect on January 1, 2005. The division shall establish by rule the date by which the fee is to be paid, as well as a formula or method of determining the applicable fee under this subsection.

(4)(a) The division may assess a late fee for the failure to submit a report or filing that substantially complies with the requirements of EPCRA or s. 252.87 by the specified date or for failure to pay any fee, including any late fee, required by this section. This late fee shall be in addition to the fee otherwise imposed pursuant to this section. If the division elects to impose a late fee, it shall provide the owner or operator with a written notice that identifies the specific requirements which have not been met and advises of its intent to assess a late fee.

(b) The division may impose a late fee, subject to the limitations set forth below:

1. If the report, filing, or fee is submitted within 30 days after the receipt of the division's notice, no late fee may be assessed.

2. If the report, filing, or fee is not submitted within 30 days after the receipt of the division's notice, the division may impose a late fee in an amount equal to the amount of the annual registration fee, filing fee, or s. 313 fee due, not to exceed \$2,000.

3. If the report, filing, or fee is not submitted within 90 days after the receipt of the division's notice, the division may issue a second notice. If the report, filing, or fee is not submitted within 30 days after receipt of the division's second notice, the division may assess a second late fee in an amount equal to twice the amount of the annual registration fee, filing fee, or s. 313 fee due, not to exceed \$4,000.

4. The division may consider, but is not limited to considering, the following factors in assessing late fees: good faith attempt to comply; history of noncompliance; ability to pay or continue in business; threat to health and safety posed by noncompliance; and degree of culpability.

(5) The division shall establish by rule the dates by which the fee is to be paid, as well as a formula or method of determining the facility registration fee and late fee.

**History.**—s. 1, ch. 88-200; s. 1, ch. 90-82; ss. 4, 9, ch. 92-150; ss. 1, 4, ch. 96-308; s. 35, ch. 97-100; s. 3, ch. 98-193; s. 2, ch. 2005-5; s. 108, ch. 2011-142; s. 6, ch. 2011-213.

#### **252.86 Penalties and remedies.—**

(1) The owner or operator of a facility, an employer, or any other person submitting written information pursuant to EPCRA or this part to the commission, a committee, or a fire department shall be liable for a civil penalty of \$5,000 for each item of information in the submission that is false, if such person knew or should have known the information was false or if such person submitted the information with reckless disregard of its truth or falsity. The division may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for the amount indicated in this subsection. However, the court may receive evidence in mitigation.

(2) Any person who knowingly and willfully provides false information or causes false information to be provided pursuant to EPCRA or this part to the commission, a committee, or a fire department in writing, with the intent to mislead the commission, committee, or fire department in the performance of its official duties, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any provision of s. 325 or s. 326 of EPCRA which creates a federal cause of action shall create a corresponding cause of action under state law, with jurisdiction in the circuit courts. Any provision of s. 325 or s. 326 of EPCRA which imposes or authorizes the imposition of a civil penalty by the Administrator of the Environmental Protection Agency, or which creates a liability to the United States, shall impose or authorize the imposition of such a penalty by the division or create such a liability to and for the benefit of the state, to be paid into the Operating Trust Fund. Venue shall be proper in the county where the violation occurred or where the defendant has its principal place of business.

(4) No action may be commenced under this section if the administrator of the United States Environmental Protection Agency has commenced and is diligently pursuing an administrative order or civil action to enforce the specific requirement concerned or to impose a civil penalty under EPCRA with respect to a violation of that requirement.

**History.**—s. 1, ch. 88-200; s. 5, ch. 92-150; s. 38, ch. 93-120; s. 109, ch. 2011-142.

**252.87 Supplemental state reporting requirements.—**

(1) The Legislature intends the reporting requirements of ss. 311 and 312 of EPCRA to apply to both the manufacturing sector and the nonmanufacturing sector, as those terms are used in federal regulations adopted by the Occupational Safety and Health Administration and implemented in its Hazard Communications Standard. The Legislature also intends that these reporting requirements apply to governmental bodies.

(2) The state reporting requirements set forth in this section are supplemental to the federal reporting requirements of EPCRA. Nothing in this section shall be construed to provide an exemption from or otherwise conflict with the requirements of EPCRA.

(3) As used in this section,

(a) “Governmental body” means the state, its political subdivisions, and all agencies and instrumentalities thereof.

(b) “Employer” means:

1. Any governmental body; and

2. Any employer subject to the Hazard Communication Standard adopted by the Occupational Safety and Health Administration as codified in 29 C.F.R. s. 1910.1200, as amended by 52 F.R. 31,852, August 24, 1987. The term specifically includes those employers subject to this standard in the manufacturing sector and the nonmanufacturing sector.

(4) Each employer that owns or operates a facility in this state at which hazardous materials are present in quantities at or above the thresholds established under ss. 311(b) and 312(b) of EPCRA shall comply with the reporting requirements of ss. 311 and 312 of EPCRA. Such employer shall also be responsible for notifying the division, the local emergency planning committee, and the local fire department in writing within 30 days if there is a discontinuance or abandonment of the employer’s business activities that could affect any stored hazardous materials.

(5) Compliance with any reporting requirements of EPCRA on or before the date specified for compliance under EPCRA or federal regulations adopted thereunder, if any, shall constitute compliance with the requirements of this section.

(6) Governmental bodies are exempt from the fees provided in s. 252.85(1).

(7) The division shall avoid duplicative reporting requirements by using the reporting requirements of other state agencies that regulate hazardous materials to the extent feasible and shall request the information authorized under EPCRA. With the advice and consent of the State Emergency Response Commission for Hazardous Materials, the division may require by rule that the maximum daily amount entry on the chemical inventory report required under s. 312 of EPCRA provide for reporting in estimated actual amounts. The division may also require by rule an entry for the Federal Employer Identification Number on this report. To the extent feasible, the division shall encourage and accept required information in a form initiated through electronic data interchange and shall describe by rule the format, manner of execution, and method of electronic transmission necessary for using such form. To the extent feasible, the Department of Financial Services, the Department of Agriculture and Consumer Services, the Department of Environmental Protection, the Public Service Commission, the Department of Revenue, and other state agencies which regulate hazardous materials shall coordinate with the division in order to avoid duplicative requirements contained in each agency’s respective reporting or registration forms. The other state agencies that inspect facilities storing hazardous materials and suppliers and distributors of covered substances shall assist the division in informing the facility owner or operator of the requirements of this part. The division shall provide the other state agencies with the necessary information and materials to inform the owners and operators of the requirements of this part to ensure that the budgets of these agencies are not adversely affected.

**History.**—s. 1, ch. 88-200; s. 7, ch. 91-305; s. 6, ch. 92-150; s. 63, ch. 94-356; s. 2, ch. 2000-317; s. 271, ch. 2003-261; s. 110, ch. 2011-142; s. 7, ch. 2011-213.

**252.88 Public records.—**

(1) Whenever EPCRA authorizes an employer to exclude trade secret information from its submittals, the employer shall furnish the information so excluded to the commission upon request. Such information shall be confidential and exempt from the provisions of s. 119.07(1). The commission shall not disclose such information except

pursuant to a final determination under s. 322 of EPCRA by the Administrator of the Environmental Protection Agency that such information is not entitled to trade secret protection, or pursuant to an order of court.

(2) Whenever EPCRA authorizes an owner or operator to elect to withhold from disclosure the location of specific hazardous chemicals, such information shall be confidential and exempt from the provisions of s. 119.07(1).

(3) All information, including, but not limited to, site plans and specific location information on hazardous chemicals furnished to a fire department pursuant to EPCRA or this part, shall be confidential and exempt from the provisions of s. 119.07(1) while in the possession of the fire department.

(4) The division, the commission, and the committees shall furnish copies of public records submitted under EPCRA or this part, and may charge a fee of \$1 per page per person per year for over 25 pages of materials copied.

**History.**—s. 1, ch. 88-200; s. 86, ch. 90-360; s. 7, ch. 92-150; s. 1, ch. 95-121; s. 108, ch. 96-406; s. 111, ch. 2011-142.

**252.89 Tort liability.**— The commission and the committees shall be state agencies, and the members of the commission and committees shall be officers, employees, or agents of the state for the purposes of s. 768.28.

**History.**—s. 1, ch. 88-200.

**252.90 Commission and committee duties.**—

(1) The commission shall establish by October 1, 1989, a mission statement defining the authorities and responsibilities of the committees, limiting those authorities and responsibilities to activities required by EPCRA and this part.

(2) In order to further the purposes of this part, the commission shall encourage participation by all major segments of the affected businesses and industries on each committee on a continuing basis.

(3) Each committee shall provide the commission with a copy of the agenda for each committee meeting at least 7 days prior to each meeting and shall provide to the commission a copy of the official minutes of each such meeting within 7 days following the meeting.

**History.**—s. 15, ch. 89-324; s. 8, ch. 92-150; s. 1, ch. 2019-5.

**252.905 Emergency planning information; public records exemption.**— Any information furnished by a person or a business to the division for the purpose of being provided assistance with emergency planning is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to information held by the division before, on, or after the effective date of this exemption.

**History.**—s. 1, ch. 2014-188; s. 1, ch. 2019-29.

**PART III  
EMERGENCY MANAGEMENT  
ASSISTANCE COMPACT**

- 252.921 Short title.
- 252.922 Purpose and authorities.
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**252.921 Short title.**— Sections 252.921-252.933 may be cited as the “Emergency Management Assistance Compact.”

**History.**—s. 1, ch. 96-244; s. 1, ch. 2015-55.

**252.922 Purpose and authorities.**—

(1) This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For purposes of this compact, the term “states” means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

(2) 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 duly declared by the governor of the affected state(s), whether arising from natural disaster, technological hazard, manmade disaster, civil emergency aspects of resource 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 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.

**History.**—s. 1, ch. 96-244.

**252.923 General implementation.**—

(1) Each party state entering into this compact recognizes many emergencies transcend political jurisdictional 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 which 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 they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(2) 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 an emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

(3) On behalf of the governor of each state participating in the compact, the legally designated 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.

**History.**—s. 1, ch. 96-244.

**252.924 Party state responsibilities.**—

(1) 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 article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(a) 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, manmade disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.

(b) Review party states’ individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

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

(d) Assist in warning communities adjacent to or crossing the state boundaries.

(e) 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.

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



(g) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(2) The authorized representative of a party state may request assistance of another party state by contacting the authorizing 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 verbal or in writing. If verbal, the request shall be confirmed in writing within 90 days of the verbal request. Requests shall provide the following information:

(a) 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 code inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

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

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

(3) 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.

**History.**—s. 1, ch. 96-244; s. 26, ch. 2000-372.

**252.925 Limitation.**— Any party state requested to render mutual aid or 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 hereof; provided that 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 other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except those powers 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 and/or training for mutual aid and shall continue so long as the exercises and/or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving states, whichever is longer.

**History.**—s. 1, ch. 96-244.

**252.926 License and permits.**— 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, such 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 situation, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

**History.**—s. 1, ch. 96-244.

**252.927 Liability.**— Officers or employees of a party state rendering aid in another state pursuant to this compact 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 state pursuant to this compact shall be 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 therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

**History.**—s. 1, ch. 96-244.

**252.928 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 the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

**History.**—s. 1, ch. 96-244.

**252.929 Reimbursement.**— Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state 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 cost incurred in connection with such requests. However, any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or costs; and any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Costs incurred in payment of compensation and death benefits under s. 252.928 shall not be reimbursable under this provision.

**History.**—s. 1, ch. 96-244.

**252.931 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 services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such 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, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement for out-of-pocket expenses incurred in receiving and caring for such 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 such evacuees.

**History.**—s. 1, ch. 96-244.

**252.932 Implementation.**—

(1) This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(2) Any party state may withdraw from this compact by enacting a statute repealing same, but no such withdrawal shall take effect until 30 days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of the withdrawal.

(3) Duly authenticated copies of this compact and of such 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.

**History.**—s. 1, ch. 96-244.

**252.933 Validity.**— This compact shall be construed to effectuate the purposes stated in s. 252.922. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

**History.**—s. 1, ch. 96-244.

**252.9335 Expense reimbursement under compact.**— Travel expense reimbursement limits provided in s. 112.061(6) do not apply to an employee of the state or of a political subdivision of the state traveling under the Emergency Management Assistance Compact when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

**History.**—s. 2, ch. 2015-55.

**PART IV  
ACCIDENTAL RELEASE PREVENTION AND  
RISK MANAGEMENT PLANNING**

- 252.934 Short title.
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- 252.942 Inspections and audits.
- 252.943 Public records.
- 252.944 Tort liability.
- 252.946 Public records.

**252.934 Short title.**— This part may be cited as the “Florida Accidental Release Prevention and Risk Management Planning Act.”

**History.**—s. 1, ch. 98-193.

**252.935 Purpose.**— The purpose of this part is to establish adequate state authorities to implement, fund, and enforce the requirements of the Accidental Release Prevention Program of s. 112(r)(7) of the federal Clean Air Act and federal implementing regulations for specified sources. To ensure the efficient use of resources, it is the intent of the Legislature for the state to seek delegation of the s. 112(r)(7) Accidental Release Prevention Program from the United States Environmental Protection Agency for specified sources and for duplication and redundancy to be avoided to the maximum extent practicable with no expansion or addition of the regulatory program.

**History.**—s. 1, ch. 98-193.

**252.936 Definitions.**— As used in this part, the term:

- (1) “Accidental release” means an unanticipated emission of a regulated substance into the ambient air from a stationary source.
- (2) “Accidental Release Prevention Program” means the program to implement the accidental release prevention, detection, and response provisions of s. 112(r)(7) of the Clean Air Act and federal implementing regulations.
- (3) “Audit” means a review of information at, or submitted by, a stationary source subject to s. 112(r)(7), to determine whether that stationary source is in compliance with this part and rules adopted to administer this part. Audits must include a review of the adequacy of the stationary source’s Risk Management Plan, may consist of reviews of information submitted to the division or the United States Environmental Protection Agency to determine whether the plan is complete or whether revisions to the plan are needed, and the reviews may be conducted at the stationary source to confirm that information onsite is consistent with reported information.
- (4) “Chemical Safety and Hazard Investigation Board” means the federal Chemical Safety and Hazard Investigation Board created under s. 112(r)(6) of the Clean Air Act.
- (5) “Clean Air Act” means the federal Clean Air Act, as amended, codified at 42 U.S.C. ss. 7401-7671q.

(6) “Commission” means the State Emergency Response Commission for Hazardous Materials created by Executive Order 94-138.

(7) “Committee” means any local emergency planning committee established in the state under s. 301 of the federal Emergency Planning and Community Right To Know Act, 42 U.S.C. ss. 11001 et seq.

(8) “Division” means the Division of Emergency Management in the Executive Office of the Governor.

(9) “Inspection” means a review of information at a stationary source subject to s. 112(r)(7), including documentation and operating practices and access to the source and to any area where an accidental release could occur, to determine whether the stationary source is in compliance with this part or rules adopted to administer this part.

(10) “Owner or operator” means any person who owns, leases, operates, controls, or supervises any stationary source subject to s. 112(r)(7) of the Clean Air Act.

(11) “Person” means an individual, corporation, partnership, association, state or any agency or institution thereof, municipality, political subdivision of the state, and any agency, department, or instrumentality of the United States, and any officer, agent, or employee thereof, and, for the purposes of s. 252.941, any responsible corporate officer.

(12) “Process” means a process as that term is defined under 40 C.F.R. part 68.

(13) “Program level” means a Program 1, Program 2, or Program 3 stationary source level as determined under 40 C.F.R. part 68.

(14) “Regulated substance” means any regulated substance defined or listed under s. 112(r)(3) of the Clean Air Act and federal implementing regulations. Consistent with s. 112(r)(7) federal implementing regulations, ammonia used as an agricultural nutrient, when held by farmers, is exempt from this part.

(15) “Risk Management Plan” means the Risk Management Plan required under s. 112(r)(7) of the Clean Air Act and federal implementing regulations.

(16) “Section 112(r)” means the provisions of s. 112(r) of the Clean Air Act.

(17) “Section 112(r)(7)” means the accidental release prevention, detection, and response provisions in s. 112(r)(7) of the Clean Air Act.

(18) “Stationary source” means any buildings, structures, equipment, installations, or regulated substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. The term does not apply to transportation, including storage incident to transportation of any regulated substance under the provisions of this part. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at the stationary source for loading or unloading. Transportation includes, but is not limited to, transportation that is subject to oversight or regulation under 49 C.F.R. parts 192, 193, or 195 or a state natural gas or hazardous liquid program for which the state has in effect a certification to the United States Department of Transportation under 40 U.S.C. s. 60105. A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties may not be considered contiguous solely because of a railroad or gas pipeline right-of-way. Stationary sources subject to chapter 527 whose only regulated substance subject to s. 112(r)(7) is liquefied petroleum gas are exempt from this part.

(19) “Trust fund” means the Operating Trust Fund of the division.

**History.**—s. 1, ch. 98-193; s. 112, ch. 2011-142.

### **252.937 Division powers and duties.—**

(1) The division has the power and duty to:

(a)1. Seek delegation from the United States Environmental Protection Agency to implement the Accidental Release Prevention Program under s. 112(r)(7) of the Clean Air Act and the federal implementing regulations for specified sources subject to s. 112(r)(7) of the Clean Air Act. Implementation for all other sources subject to s. 112(r)(7) of the Clean Air Act shall be performed by the United States Environmental Protection Agency; and

2. Ensure the timely submission of Risk Management Plans and any subsequent revisions of Risk Management Plans.

(b) Adopt, modify, and repeal rules, with the advice and consent of the commission, necessary to obtain delegation from the United States Environmental Protection Agency and to administer the s. 112(r)(7) Accidental Release Prevention Program in this state for the specified stationary sources with no expansion or addition of the regulatory program.

(c) Make and execute contracts and other agreements necessary or convenient to the administration of this part.

(d) Coordinate its activities under this part with its other emergency management responsibilities, including its responsibilities and activities under parts I, II, and III of this chapter and with the related activities of other state and local agencies, keeping separate accounts for all activities conducted under this part which are supported or partially supported from the trust fund.

(e) Establish, with the advice and consent of the commission, a technical assistance and outreach program to assist owners and operators of specified stationary sources subject to s. 112(r)(7) in complying with the reporting and fee requirements of this part. This program is designed to facilitate and ensure timely submission of proper certifications or compliance schedules and timely submission and registration of Risk Management Plans and revised registrations and Risk Management Plans if required for these sources.

(f) Make a quarterly report to the State Emergency Response Commission on income and expenses for the state's Accidental Release Prevention Program under this part.

(2) To ensure that this program is self-supporting, the division shall provide administrative support, including staff, facilities, materials, and services to implement this part for specified stationary sources subject to s. 252.939 and provide necessary funding to local emergency planning committees and county emergency management agencies for work performed to implement this part. Each state agency with regulatory, inspection, or technical assistance programs for specified stationary sources subject to this part shall enter into a memorandum of understanding with the division which specifically outlines how each agency's staff, facilities, materials, and services will be used to support implementation. It is the Legislature's intent to implement this part as efficiently and economically as possible, using existing expertise and resources, if available and appropriate.

(3) To prevent the duplication of investigative efforts and resources, the division, on behalf of the commission, shall coordinate with any federal agencies or agents thereof, including the federal Chemical Safety and Hazard Investigation Board, or its successor, which are performing accidental release investigations for specified stationary sources, and may coordinate with any agencies of the state which are performing accidental release investigations. This accidental release investigation coordination is not intended to limit or take the place of any individual agency accidental release investigation under separate authority.

(4) To promote efficient administration of this program and specified stationary sources, only the division may seek delegation from the United States Environmental Protection Agency for this program. Further, the division may not delegate this program to any local environmental agency.

**History.**—s. 1, ch. 98-193; s. 235, ch. 99-245; s. 2, ch. 99-353; s. 113, ch. 2011-142; s. 8, ch. 2011-213.

#### **252.938 Funding.—**

(1) It is the intent of the Legislature that the state activities and expenditures under this part be self-sustaining through fees contributed by specified sources as provided in this part.

(2) All fees and penalties collected under this part must be deposited in the Operating Trust Fund for appropriation to fund the state's Accidental Release Prevention Program under this part.

**History.**—s. 1, ch. 98-193.

#### **252.939 Fees.—**

(1)(a) Any owner or operator of a specified stationary source in the state which must submit a Risk Management Plan to the United States Environmental Protection Agency under s. 112(r)(7) shall pay an annual registration fee for each specified stationary source to the division. The annual registration fee is due to the division upon initial submission of a stationary source's Risk Management Plan to the United States Environmental Protection Agency, and every April 1 thereafter.

(b) Prior individual written notice shall be provided by United States mail by the division to owners or operators of specified stationary sources in the state subject to the requirements under s. 112(r)(7) to submit Risk Management Plans and corresponding state registration fees. This notice must include the requirements of the state fee schedule and must be mailed at least 90 days before the due date for the specified stationary source's initial registration and Risk Management Plan submission year and at least 30 days before the registration fee due date for subsequent years.

(c) The division shall establish a fee schedule for the specified stationary sources, upon the advice and consent of the commission. The annual registration fee must be based on a stationary source's highest program level, as determined under the federal implementing regulations for s. 112(r)(7) and may not exceed the following:

1. Program 1 Stationary Sources, \$100. Multiple Program 1 stationary sources which are under common ownership and which have the same single chemical process, shall pay a full fee for the first stationary source location and a 50 percent fee for subsequent locations with no owner of such multiple stationary sources paying more than \$1,000. To be eligible for this multiple stationary source fee provision, one single fee payment must be submitted by the owner of the eligible multiple stationary source locations with a listing of the multiple stationary source locations and the single chemical process.

2. Program 2 Stationary Sources, \$200. Multiple Program 2 stationary sources which are under common ownership and which have the same single chemical process, shall pay a full fee for the first three stationary source locations and a 50 percent fee for subsequent locations with no owner of such multiple stationary sources paying more than \$2,000. Multiple Program 2 stationary sources which are under common ownership and which are classified under one of the following Standard Industrial Classification group numbers 01, 02, or 07 shall pay a full fee, not to exceed \$100 for the first stationary source location and a 50 percent fee for subsequent locations with no owner of such multiple stationary sources paying more than \$800. To be eligible for these multiple stationary source fee provisions, one single fee payment must be submitted by the owner of the eligible multiple stationary source locations with a listing of the multiple stationary source locations and the chemical process.

3. Program 3 Stationary Sources, \$1,000.

(d) Annual registration fees under this section are not required until after the division receives final delegation approval from the United States Environmental Protection Agency to administer the s. 112(r)(7) Accidental Release Prevention Program for the specified stationary sources.

(2) The division shall establish late fees, not to exceed 10 percent per month of the annual registration fee owed, and not to exceed a total of 50 percent, for failure to timely submit an annual registration fee. A late fee may not be assessed against a stationary source during the initial registration and submission year if 90 days' prior written notice was not provided to that stationary source.

(3) In determining whether an annual registration fee is timely submitted under subsections (1) and (2), if the fee is:

(a) Mailed via United States mail, the date of submittal is the date evidenced by the postmark.

(b) Delivered by overnight or other private mail carriers, the date of submittal is the date the package is deposited with the overnight carrier.

(c) Hand-delivered, other than by overnight or private mail carrier, the date of submittal is the date of actual receipt.

(4) If the Legislature directs the division to seek authority to implement and enforce s. 112(r)(7) of the Clean Air Act for additional stationary sources, the division shall, with the advice of the commission, review and suggest revisions, if necessary and appropriate, to the fees specified in this section.

**History.**—s. 1, ch. 98-193; s. 31, ch. 99-13; s. 29, ch. 2013-15; s. 2, ch. 2019-5.

#### **252.940 Enforcement; procedure; remedies.—**

(1) The division has the following enforcement authority and remedies for specified stationary sources available to it for violations of this part as specified in s. 252.941:

(a) To institute a civil action in a court of competent jurisdiction in order to seek injunctive relief to immediately restrain or enjoin any person from engaging in any activity in violation of this part which is presenting an imminent

and substantial endangerment to the public health or welfare or the environment; and to seek injunctive relief to enforce compliance with this part or any rule, regulation, program requirement, or order implementing this part.

(b) To institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation, as specified in s. 252.941(1), in an amount of not more than \$10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) To seek criminal remedies, including fines, for violations as specified in s. 252.941(2).

(d) Failure to comply with the fee provisions under s. 252.939 is not a violation under s. 252.941. Section 252.939(2) is the sole remedy for fee provisions in s. 252.939, except that the division may enforce a final order entered under that section pursuant to s. 120.69.

(2) An action may not be commenced or continued under this section if the Administrator of the United States Environmental Protection Agency has commenced and is diligently pursuing an administrative order or civil or criminal action to enforce a specific requirement or to impose a civil or criminal penalty under s. 112(r) with respect to the specific violation. If the United States Environmental Protection Agency initiates any action after the state has initiated an action based on the same cause, the state suit shall be dismissed without prejudice and may be refiled only in the event that the United States Environmental Protection Agency discontinues the enforcement action prior to settlement or final judgment.

(3) For the purposes of this section, the division may offer and accept the use of emergency planning, training, and response-related Supplemental Environmental Projects, consistent with the guidelines established by the United States Environmental Protection Agency.

(4) The authorities and remedies provided under this section shall not take effect until after such time as the division has received final delegation approval from the United States Environmental Protection Agency to administer the s. 112(r)(7) Accidental Release Prevention Program for specified stationary sources.

**History.**—s. 1, ch. 98-193; s. 30, ch. 2013-15.

**252.941 Prohibitions, violations, penalties, intent.**—

(1) It is a violation of this part, and it is prohibited for any person to:

(a) Fail to make any submittal required by this part or by rule or regulation implementing this part, or to violate or fail to comply with any rule, regulation, order, plan, or certification adopted or issued by the division pursuant to its lawful authority under this part, other than fees under s. 252.939.

(b) Knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this part, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this part or by any program, rule, regulation, or order issued under this part.

(c) Fail to report to the appropriate representative of the division, as established by division rule, within 1 working day of discovery of an accidental release of a regulated substance from the stationary source, if the owner or operator is required to report the release to the United States Environmental Protection Agency under s. 112(r)(6).

(2) Any person who willfully commits a violation specified in subsection (1) is guilty of a misdemeanor of the first degree punishable as provided in s. 775.083(1)(g) by a fine of not more than \$10,000 for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(3) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this section.

(4) The prohibitions and violations provided under this section shall take effect after such time as the division has received final delegation approval from the United States Environmental Protection Agency to administer the s. 112(r)(7) Accidental Release Prevention Program for specified stationary sources.

**History.**—s. 1, ch. 98-193; s. 31, ch. 2013-15.

**252.942 Inspections and audits.**—

(1)(a) Any duly authorized representative of the division may at any reasonable time enter to inspect and audit, in order to ascertain compliance with this part or rules adopted to implement this part, any specified stationary source subject to the requirements of s. 112(r)(7), except a building that is used exclusively for a private residence.

(b) Any duly authorized representative may at any reasonable time have access to any specified stationary source subject to s. 112(r)(7) for inspection and copying any supporting documentation required under this part.

(c) A person may not refuse reasonable entry or access to any authorized representative of the division who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with such inspection.

(2) An inspection or audit under subsection (1) may be conducted only after:

(a) Consent for the inspection is received from the owner, operator, or person in charge; or

(b) The appropriate inspection warrant as provided in this section is obtained.

(3)(a) An inspection warrant as authorized by this chapter may be issued by a judge of any county court or circuit court of this state which has jurisdiction over the place or thing to be searched.

(b) When a proper affidavit is made, the judge may issue an inspection warrant if:

1. It appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this part or any rule properly promulgated thereunder; or

2. The inspection sought is an integral part of a larger scheme of systematic routine inspections that are necessary to, and consistent with, the continuing efforts of the division to ensure compliance with the provisions of this part and any rules adopted thereunder.

(c) The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the division; and he or she may receive further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The affidavit and further proof must set forth the facts tending to establish the grounds specified in paragraph (b) or the reasons for believing that such grounds exist.

(d) Upon examination of the application and proofs submitted and if satisfied that cause exists for issuing the inspection warrant, the judge shall issue a warrant, signed by him or her with the name of his or her office, to any division representative, which warrant will authorize the representative to inspect the property described in the warrant.

(4) The division shall periodically audit Risk Management Plans submitted by owners or operators of stationary sources subject to s. 112(r)(7) and require revisions of such plans when necessary to ensure compliance with this part. The audit and revision requirements must substantially comply with federal regulations implementing s. 112(r)(7). The division shall develop, with the advice and consent of the commission, an annual audit work plan which identifies specified stationary sources or audits based on the program resources available. Stationary sources will be prioritized for audits based on factors which include, but are not limited to, stationary source location and proximity to population centers, chemical characteristics and inventories, stationary source accident history, process accident history, compliance or inspection by allied agency programs, and the results of stationary sources' self-audits.

(5) Upon request, owners or operators of specified stationary sources subject to s. 112(r)(7) shall receive an oral exit interview at the conclusion of an inspection or audit.

(6) Following an audit or inspection, the division shall issue the owner or operator a written preliminary determination of any necessary revisions to the stationary source Risk Management Plan to ensure that the plan meets the requirements of this part and rules adopted to implement this part. The preliminary determination must include an explanation of the basis for the revisions, reflecting industry standards and guidelines to the extent that such standards and guidelines are applicable, and must include a timetable for their implementation.

(7) The division shall provide reasonable notice of its intent to conduct an onsite inspection or audit of a specified stationary source. Inspections or audits may be conducted without notice in response to an accidental release or to protect the public health, safety, and welfare.

**History.**—s. 1, ch. 98-193; s. 32, ch. 2013-15.

**252.943 Public records.**—



(1) The division shall protect records, reports, or information or particular parts thereof, other than release or emissions data, contained in a risk management plan from public disclosure pursuant to ss. 112(r) and 114(c) of the federal Clean Air Act and authorities cited therein, based upon a showing satisfactory to the Administrator of the United States Environmental Protection Agency, by any owner or operator of a stationary source subject to the Accidental Release Prevention Program, that public release of such records, reports, or information would divulge methods or processes entitled to protection as trade secrets as provided for in 40 C.F.R. part 2, subpart B. Such records, reports, or information held by the division are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless a final determination has been made by the Administrator of the Environmental Protection Agency that such records, reports, or information are not entitled to trade secret protection, or pursuant to an order of court.

(2) The division shall protect records, reports, or information or particular parts thereof, other than release or emissions data, obtained from an investigation, inspection, or audit from public disclosure pursuant to ss. 112(r) and 114(c) of the federal Clean Air Act and authorities cited therein, based upon a showing satisfactory to the Administrator of the United States Environmental Protection Agency, by any owner or operator of a stationary source subject to the Accidental Release Prevention Program, that public release of such records, reports, or information would divulge methods or processes entitled to protection as trade secrets as provided for in 40 C.F.R. part 2, subpart B. Such records, reports, or information held by the division are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless a final determination has been made by the Administrator of the Environmental Protection Agency that such records, reports, or information are not entitled to trade secret protection, or pursuant to a court order.

**History.**—s. 1, ch. 98-406; s. 1, ch. 2003-103; s. 114, ch. 2011-142.

**252.944 Tort liability.**—The commission and the committees are state agencies, and the members of the commission and committees are officers, employees, or agents of the state for the purpose of s. 768.28.

**History.**—s. 1, ch. 98-193.

**252.946 Public records.**—With regard to information submitted to the United States Environmental Protection Agency under this part or s. 112(r)(7), the division, the State Hazardous Materials Emergency Response Commission, and any local emergency planning committee may assist persons in electronically accessing such information held by the United States Environmental Protection Agency in its centralized database. If requested, the division, the commission, or a committee may furnish copies of such United States Environmental Protection Agency records.

**History.**—s. 1, ch. 98-193; s. 115, ch. 2011-142.

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