

26-301. Definitions

In this chapter, unless the context otherwise requires:

1. "Commercial nuclear generating station" means an electric power generating facility which is owned by a public service corporation, a municipal corporation or a consortium of public service corporations or municipal corporations and which produces electricity by means of a nuclear reactor.
2. "Council" means the state emergency council.
3. "Director" means the director of the division.
4. "Division" means the division of emergency management within the department of emergency and military affairs.
5. "Emergency functions" includes warning and communications services, relocation of persons from stricken areas, radiological defense, temporary restoration of utilities, plant protection, transportation, welfare, public works and engineering, search or rescue, health and medical services, law enforcement, fire fighting, mass care, resource support, urban search or rescue, hazardous materials, food and energy information and planning and other activities necessary or incidental thereto.
6. "Emergency management" means the preparedness, response, recovery and mitigation activities necessary to respond to and recover from disasters, emergencies or contingencies.
7. "Emergency worker" means any person who is registered, whether temporary or permanent, paid or volunteer, with a local or state emergency management organization and certified by the local or state emergency management organization for the purpose of engaging in authorized emergency management activities or performing emergency functions, or who is an officer, agent or employee of this state or a political subdivision of this state and who is called on to perform or support emergency management activities or perform emergency functions.
8. "Hazardous materials" means:
 - (a) Any hazardous material designated pursuant to the hazardous materials transportation act of 1974 (P.L. 93-633; 88 Stat. 2156; 49 United States Code section 1801).
 - (b) Any element, compound, mixture, solution or substance designated pursuant to the comprehensive environmental response, compensation, and liability act of 1980 (P.L. 96-510; 94 Stat. 2767; 42 United States Code section 9602).
 - (c) Any substance designated in the emergency planning and community right-to-know act of 1986 (P.L. 99-499; 100 Stat. 1613; 42 United States Code section 11002).
 - (d) Any substance designated in the water pollution control act (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1317(a) and 1321(b)(2)(A)).
 - (e) Any hazardous waste having the characteristics identified under or listed pursuant to section 49-922.
 - (f) Any imminently hazardous chemical substance or mixture with respect to which action has been taken pursuant to the toxic substances control act (P.L. 94-469; 90 Stat. 2003; 15 United States Code section 2606).
 - (g) Any material or substance determined to be radioactive pursuant to the atomic energy act of 1954 (68 Stat. 919; 42 United States Code section 2011).
 - (h) Any substance designated as a hazardous substance pursuant to section 49-201.

(i) Any highly hazardous chemical or regulated substance as listed in the clean air act of 1963 (P.L. 88-206; 42 United States Code sections 7401 through 7671).

9. "Hazardous materials incident" means the uncontrolled, unpermitted release or potential release of hazardous materials that may present an imminent and substantial danger to the public health or welfare or to the environment.

10. "Local emergency" means the existence of conditions of disaster or of extreme peril to the safety of persons or property within the territorial limits of a county, city or town, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of such political subdivision as determined by its governing body and which require the combined efforts of other political subdivisions.

11. "Mitigation" means measures taken to reduce the need to respond to a disaster and to reduce the cost of disaster response and recovery.

12. "Preparedness" means actions taken to develop the response capabilities needed for an emergency.

13. "Recovery" means short-term activities necessary to return vital systems and facilities to minimum operating standards and long-term activities required to return life to normal or improved levels.

14. "Response" means activities that are designed to provide emergency assistance, limit the primary effects, reduce the probability of secondary damage and speed recovery operations.

15. "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons or property within the state caused by air pollution, fire, flood or floodwater, storm, epidemic, riot, earthquake or other causes, except those resulting in a state of war emergency, which are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city or town, and which require the combined efforts of the state and the political subdivision.

16. "State of war emergency" means the condition which exists immediately whenever this nation is attacked or upon receipt by this state of a warning from the federal government indicating that such an attack is imminent.

26-307. Power of counties, cities, towns and state agencies designated by the governor to make orders, rules and regulations; procedure

A. State agencies when designated by the governor, and counties, cities and towns may make, amend and rescind orders, rules and regulations necessary for emergency functions but such shall not be inconsistent with orders, rules and regulations promulgated by the governor.

B. Any order, rule or regulation issued by the governing body of a county or other political subdivision of the state is effective when a copy is filed in the office of the clerk of the political subdivision. Existing laws, ordinances, orders, rules and regulations in conflict with this chapter or orders, rules or regulations issued under authority of this chapter are suspended during the time and to the extent that they conflict.

C. In a state of war emergency, counties, cities and towns may waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, purchasing and distributing supplies, materials and facilities and appropriating and expending public funds when such governmental entity determines and declares that strict compliance with such procedures and formalities may prevent, hinder or delay mitigation of the effects of the state of war emergency.

D. In the absence of specific authority in state emergency plans and programs, the governing body of each county, city and town of the state shall take emergency measures as deemed necessary to carry out the provisions of this chapter.

26-308. Powers of local government; local emergency management establishment; organization

- A. Each county and incorporated city and town of the state may appropriate and expend funds, make contracts and obtain and distribute equipment, materials and supplies for emergency management purposes.
- B. Each county and incorporated city and town of the state shall establish and provide for emergency management within its jurisdiction in accordance with state emergency plans and programs. Each unincorporated community may establish such emergency management programs.
- C. The chief executive officer or governing body of each county, incorporated city or incorporated town may appoint a director who shall be responsible for the organization, administration and operation of local emergency management programs, subject to the direction and control of such executive officer or governing body.
- D. State emergency plans shall be in effect in each such political subdivision of the state. The governing body of each such political subdivision shall take such action as is necessary to carry out the provisions thereof, including the development of additional emergency plans for the political subdivision in support of the state emergency plans.
- E. Each county's emergency management organization shall:
1. Maintain a list of public and private organizations within the county which have personnel trained and available for assisting in meeting emergency needs.
 2. Maintain an inventory of facilities, equipment, supplies and other resources within the county available for use in meeting emergency needs.
 3. Provide a summary of the information required in paragraphs 1 and 2 to the state director of emergency management.

26-311. Local emergencies; declaration by mayor or chairman of the board; power of political subdivisions; state agency assistance

A. In addition to the powers granted by other provisions of the law or charter, if the mayor of an incorporated city or town or the chairman of the board of supervisors for the unincorporated areas of the county deems that an emergency exists due to fire, conflagration, flood, earthquake, explosion, war, bombing, acts of the enemy or any other natural or man-made calamity or disaster or by reason of threats or occurrences of riots, routs, affrays or other acts of civil disobedience that endanger life or property within the city, town or unincorporated areas of the county, or portion thereof, the mayor or chairman of the board of supervisors, if authorized by ordinance or resolution, may declare, by proclamation, an emergency or a local emergency to exist.

B. If an emergency is declared pursuant to subsection A of this section, the mayor or the chairman of the board of supervisors shall govern during such an emergency by proclamation and shall have the authority to impose all necessary regulations to preserve the peace and order of the city, town, or unincorporated areas of the county, excluding the ordering of the closure of businesses, but including the following:

1. Imposing curfews in all or portions of the political subdivision.
2. Closing to public access any public building, street or other public place.
3. Calling on regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.
4. Notifying the constitutional officers that the county office for which they are responsible may remain open or may close for the emergency.

C. In periods of a local emergency, including an emergency declared pursuant to subsection A of this section, political subdivisions have full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans or agreements therefor.

D. State agencies may provide mutual aid, including personnel, equipment and other available resources, to assist political subdivisions during a local emergency in accordance with emergency plans or at the direction of the governor.

26-312. Authority of executive officers and governing bodies to accept materials or funds

The governor on behalf of the state or the governing body of a political subdivision of this state may accept for purposes of emergency services an offer of the federal government or an agency or officer thereof, or an offer of any person, firm or corporation of services, equipment, supplies, material or funds, whether by gift, grant or loan and may designate an officer of the state or subdivision thereof to receive them on behalf of the state or subdivisions subject to terms, if any, of the offeror.

26-314. Immunity of state, political subdivisions and officers, agents, employees and emergency workers; limitation; rules; definitions

A. This state and its departments, agencies, boards and commissions and all political subdivisions are not liable for any claim based on the exercise or performance, or the failure to exercise or perform, a discretionary function or duty by any emergency worker, except for wilful misconduct, gross negligence or bad faith of the emergency worker, in engaging in emergency management activities or performing emergency functions pursuant to this chapter or title 36, chapter 6, article 9, including operating an unmanned aircraft or a public unmanned aircraft, while engaged in or supporting emergency management activities or performing emergency functions pursuant to this chapter or title 36, chapter 6, article 9.

B. The immunities from liability, exemptions from laws, ordinances and rules, all pensions, relief, disability workers' compensation and other benefits that apply to the activity of officers, agents, employees or emergency workers of this state or of any political subdivision when performing their respective functions within this state or the territorial limits of their respective political subdivisions apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under this chapter or title 36, chapter 6, article 9, except for wilful misconduct, gross negligence or bad faith.

C. Emergency workers engaging in emergency management activities or performing emergency functions under this chapter or title 36, chapter 6, article 9, in carrying out, complying with or attempting to comply with any order or rule issued under this chapter, title 36, chapter 6, article 9 or any local ordinance, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties have the same degree of responsibility for their actions and enjoy the same immunities and disability workers' compensation benefits as officers, agents and employees of this state and its political subdivisions performing similar work. Except as otherwise provided under chapter 3, article 1 of this title, this state and its departments, agencies, boards and commissions and all political subdivisions that supervise or control emergency workers engaging in emergency management activities or performing emergency functions under this chapter or title 36, chapter 6, article 9 are responsible for providing for liability coverage, including legal defense, of an emergency worker if necessary. Coverage is provided if the emergency worker is acting within the course and scope of assigned duties and is engaged in an authorized activity, except for actions of wilful misconduct, gross negligence or bad faith.

D. Any other state or its officers, agents, emergency workers or employees rendering aid in this state pursuant to any interstate mutual aid arrangement, agreement or compact are not liable on account of any act or omission in good faith on the part of the state or its officers, agents, emergency workers or employees while so engaged or on account of the maintenance or use of any equipment or supplies in connection with an emergency.

E. The division shall adopt rules prescribing the procedures for registration of emergency workers.

F. For the purposes of this section, "public unmanned aircraft" and "unmanned aircraft" have the same meanings prescribed in section 13-3729.