

APPENDIX K: AUTHORITIES

The Stafford Act, the federal disaster assistance law as passed by Congress in 1973 and amended in 1988, 1994 and 2000, allows for discretionary disaster assistance to states. The President of the United States has the discretion to declare a disaster and direct the Federal Emergency Management Agency (FEMA) to assist states when a disaster overwhelms a state's capability to respond and recover. The Stafford Act also allows for partial funding for state emergency management programs for disaster preparedness, response, recovery and mitigation if the state agrees to a performance contract. Title 44 of the Code of Federal Regulations, Emergency Management and Assistance, describes the administrative policies, rules and regulations governing the application of the Stafford Act and FEMA's role as a federal agency.

The federal and state legislation that addresses hazard mitigation is listed below. These are the authorities that empower Wisconsin's mitigation activities.

FEDERAL AUTHORITIES

Part 201 of Title 44 of the Code of Federal Regulations, Mitigation Planning:

Sections 201.1 through 201.7 describe the policies and procedures for state, local, and tribal all hazards mitigation planning as required by the provisions of section 322 of the Stafford Act. These sections require that state and local governments and tribal organizations to develop hazard mitigation plans to qualify for continued receipt of federal disaster assistance.

Section 203 of Title 44 of the Code of Federal Regulations, Pre-Disaster

Mitigation: Established a pre-disaster mitigation program to provide funding for cost-effective hazard mitigation measures to states and local governments.

Subpart N of Section 206 of Title 44 of the Code of Federal Regulations, Hazard

Mitigation Grant Program: Sections 206.430 through 206.440 describe the requirements for implementing the Hazard Mitigation Grant Program at the state level.

Subpart H of Section 206 of Title 44 of the Code of Federal Regulations, Public

Assistance Eligibility: Section 206,226(e) allows cost effective hazard mitigation measures as in allowable cost in restoration projects.

Part 78 of Title 44 of the Code of Federal Regulations, Flood Mitigation

Assistance: The Flood Mitigation Assistance program was created as part of the National Flood Insurance Reform Act of 1994 with the goal of reducing or eliminating claims under the National Flood Insurance Program. Flood Mitigation Assistance is a pre-disaster grant program awarding separate grants for flood mitigation planning as well as flood mitigation projects.

Part 79 of Title 44 of the Code of Federal Regulations, Flood Mitigation Grants:

The purpose of this part is to prescribe actions, procedures, and requirements for

administration of the hazard mitigation grant programs made available under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et seq.* The Severe Repetitive Loss (SRL) and Flood Mitigation Assistance (FMA) grant programs mitigate losses from floods, minimizing impacts to the National Flood Insurance Fund (NFIF).

Part 80 of Title 44 of the Code of Federal Regulations, Property Acquisition and Relocation for Open Space: This part provides guidance on the administration of FEMA mitigation assistance for projects to acquire property for open space purposes under all FEMA hazard mitigation assistance programs. It provides information on the eligibility and procedures for implementing projects for acquisition and relocation of at-risk properties from the hazard area to maintain the property for open space purposes.

STATE AUTHORITIES

Wisconsin State Statute, Chapter 166 (Emergency Management): Authorizes and establishes the organization for state and local emergency management programs, which are charged with the responsibility to the state and its subdivisions to cope with natural and technological disasters. Includes authorization for Wisconsin Emergency Management to require satisfactory completion of an annual plan of work from local county emergency management directors in return for receiving partial funding from the state for local emergency management positions.

Wisconsin Statutes, Chapter 87: Authorizes the Wisconsin Department of Natural Resources to construct, maintain and alter flood control structures.

Wisconsin Administrative Rules, NR 115: Establishes minimum shoreland protection rules.

Wisconsin Administrative Rules, NR 116: Describes the Wisconsin Department of Natural Resources Floodplain Management Program. Section 87.30 Wisconsin Statutes requires communities to zone their flood hazard areas in accordance with minimum statewide standards that are established in NR 116.

Wisconsin Administrative Rules, NR 117: Describes the Wisconsin Department of Natural Resources minimum statewide standards for how local communities zone their shorelands and wetlands.

Wisconsin Administrative Rules, NR 199: The Municipal Flood Control and Riparian Restoration Program provides grants to local governments to minimize flooding and flood-related damages by acquiring property, floodproofing structures, creating open-space flood storage areas, constructing flood control structures and restoring the flood-carrying capacity and natural and beneficial functions of watercourses.

Governor's Executive Order 67: Requires all state actions affecting construction of any structure or facility to be consistent with and obey state statutes regulating floodplains, wetlands, erosion and shoreland management.

Governor's Executive Order 73: Requires flood mitigation for state owned or leased property and otherwise prohibits state government buildings from being built in a 100-year floodplain for most facilities or the 500-year floodplain for critical facilities.

Wisconsin Building Codes: Wisconsin Administrative Code Comm. 61 to 65 includes the Wisconsin Enrolled Commercial Building Code and the adopted provisions of the International Code Council codes: International Building Code, International Energy Conservation Code, International Mechanical Code, and the International Fuel Gas Code. Wisconsin Administrative Code Comm. 20 and 21 includes the State's Uniform Dwelling Code (UDC) for one and two-family dwellings.

Home Safety Act of 2003: Requires the UDC be enforced in all municipalities and requires that new construction be inspected for code compliance.

Wisconsin State Statute 66.1001, Comprehensive Planning Law: After January 1, 2010, communities are required to have a comprehensive plan if they want to make land use decisions. All community programs and actions that affect land use must be guided by, and consistent with, the community's comprehensive plan.

State of Wisconsin Administrative Plan for the Hazard Mitigation Grant Program: Describes Wisconsin Emergency Management's policies and guidelines for administering the HMGP portion of disaster assistance funds in accordance with Subpart N of Section 206 of Title 44 CFR.

Wisconsin State Statute, Chapter 31: Ensures that dams are safely built, operated and maintained. NR 333 provides design and construction standards for large dams and requires all large dams to have Emergency Action Plans (EAP). EAPs identify potential emergency conditions at a high hazard dam and prescribe procedures to be followed to eliminate the loss of life and minimize property damage. NR 335 covers the administration of the Municipal Dam Repair and Removal Grant Program. DNR is responsible for administration of these regulations.

Wisconsin State Statutes 917 and 1997 Wisconsin Act 27: Provides Forest Fire Protection Grants to increase forest fire protection and suppression capabilities through cooperative efforts with local fire departments. Priority factors include 1) whether the fire departments serve areas that are part of a forest fire control area; 2) fire departments respond to wild fires within their jurisdiction at no cost to the DNR; and 3) fire departments with a majority of members meeting NFPA 1051 standards for wildland fire fighting training. Municipal fire departments that have executed a forest fire suppression agreement acceptable to the DNR are eligible to apply. There is a 50% local match required. Eligible fire departments can receive a maximum grant award of \$10,000. Eligible county fire associations can receive a maximum grant award of \$25,000.