

Overview of Chapter 12A: Natural Disaster; State Assistance

Minnesota Statutes, sections 12A.01 to 12A.16

HOUSE RESEARCH

Overview of Chapter 12A Natural Disaster; State Assistance

Chapter 12A, originally enacted in 2008, provides a framework for state agencies to use in responding to a major natural disaster in Minnesota. State appropriations to implement this chapter must be made in law after the presidential declaration of disaster. Disaster related costs that are eligible for federal aid, private insurance coverage, or other reimbursement are ineligible for funding under this chapter. Various state agencies are responsible for responding to the communities within a disaster area. The chapter includes several types of state aid, criteria for granting the aid, and expectations for the assistance. The following is a summary of the sections in chapter 12A. The chapter also provides waivers of rules and statutes which are listed in the appendix. Chapter 12A was the basis for making appropriations for presidentially declared flood disasters in 2009 and 2010.

Chapter 12A

Section

- .01 State response to natural disaster.** States that the purpose is to provide a framework for agencies in assisting local areas with their recovery from a major disaster if the area is included in a presidential disaster declaration.
- .02 Definitions.** Defines the following terms.
 - ▶ “Application” definitions apply to this chapter.
 - ▶ “Appropriation” is made in law specifically to implement this chapter.
 - ▶ “Commissioner” is the head of a named agency.
 - ▶ “Disaster” is a presidential declaration of disaster and the events cited.

- ▶ “Disaster area” is the area included in the disaster declaration or added later.

.03 State assistance. Requires all appropriations to be made in law for disaster recovery assistance, to conform to the requirements of the fund from which the appropriation is made, and to be used for communities within the disaster area.

Requires that assistance with state appropriations must not duplicate federal assistance or private insurance and is for costs that are not eligible for FEMA or Small Business Administration programs. Requires the Department of Public Safety to disburse state matching funds to eligible entities. Specifies that state funds disbursed for FEMA eligible costs are an advance and must be repaid with federal dollars to the appropriate state fund.

Requires agencies to report to the legislature if they provide non-FEMA assistance under this chapter. Allows unused appropriations for specific disaster programs or purposes to be transferred to another program or purpose for unmet disaster needs with the approval of the commissioner of finance and a report to the legislature.

.04 Agriculture. Authorizes the commissioner to develop criteria, in consultation with legislative chairs, for distribution of any state disaster appropriations. Requires a producer to operate an agricultural operation in the disaster area to be eligible for assistance.

.05 Board of Water and Soil Resources. Authorizes the board to use state disaster appropriations in the disaster area for:

- ▶ the RIM program to acquire easements on marginal lands; and
- ▶ erosion and sediment control projects.

Authorizes the use of appropriations provided in law to implement the programs. See appendix for list of waivers.

.06 Education. Authorizes the commissioner to disburse four types of aid to eligible school districts:

- ▶ disaster enrollment impact aid at an amount set in law times the number of pupils lost due to the disaster;
- ▶ disaster relief facilities grants for cleanup, repair, and replacement costs not otherwise reimbursed, with documentation from the affected school district;
- ▶ disaster relief operating grant for school operating costs not otherwise covered, with documentation from

the affected school district; and

- ▶ pupil transportation aid for increased costs of transporting students due to the disaster.

.07 Employment and economic development. Authorizes the commissioner to use state disaster appropriations through the Minnesota Investment Fund for grants to local government for locally administered grants or loans to organizations for eligible costs and unduplicated assistance.

- ▶ Requires commissioner approval for locally established criteria within statutory requirements for disaster assistance through loans with or without interest, or grants subject to appropriation limits, with repayment to the local community.
- ▶ Prohibits using loans to refinance debt existing at the time of the disaster.
- ▶ Provides that businesses, cooperatives, utilities, and nonprofit organizations, including social service organizations, are eligible for assistance.

Authorizes the commissioner to spend a U.S. Department of Labor national emergency grant, if awarded, for the disaster recovery. See appendix for list of waivers.

.08 Health. Assigns responsibility to the commissioner to assess and evaluate health related concerns including health care, mental health, infectious disease, indoor environments, public and nonprofit buildings and facilities, public pools, drinking water systems and private wells. Authorizes the commissioner to take steps to remediate the disaster and ensure maintenance of public health. Authorizes cooperation with private health care providers, facilities, health boards, and volunteers and cooperative agreements for public health services.

.09 Housing finance. Authorizes assistance within state appropriations through the statutory economic development and housing challenge program for homeowners and rental property owners:

- ▶ provides assistance as forgivable loans up to a maximum amount set in law;
- ▶ allows the use of loans for capital improvements to disaster damaged housing;
- ▶ requires homeowners with forgivable loans to remain in the home for the number of years determined by the agency;
- ▶ requires ten years of affordable rents in rental property with forgivable loans;

- ▶ authorizes the agency to set income limits above the program's statutory limits; and
- ▶ requires applicants to apply for and accept federal assistance to be eligible for state assistance.

Authorizes grants for local governments, regional consortia and nonprofit organization in the disaster area to assess housing needs, and to develop and implement plans to meet the needs and provide the capacity for recovery. See appendix for list of waivers.

- .10 Human services.** Authorizes the commissioner to pay for costs of evacuation, transportation, or medical or remedial services provided to vulnerable residents. Payments are made to entities under contract or with another agreement with the department at the time of the disaster. Payment may be made for costs necessary to ensure the health and safety of medical assistance recipients not otherwise covered. Specifies payment methods, source of funding and reimbursement for costs paid for by another source. Authorizes an exception from the nursing home moratorium in the event of an evacuation.
- .11 Minnesota Historical Society.** Authorizes the use of state appropriations for cleanup, renovation, repair, and replacement of historic structures or resources damaged in a disaster.
- .12 Natural resources.** Authorizes the commissioner to use state disaster appropriations:
- ▶ to rehabilitate or replace state facilities damaged in the disaster and restore natural resources;
 - ▶ for the state's share of flood hazard mitigation grants;
 - ▶ to remove disaster related debris from public waters and install or repair warning gauges; and
 - ▶ for cost share for renovating or removing public dams in the disaster area.

Authorizes the commissioner to pay the local share of the flood hazard mitigation project if the project costs exceed two percent of the median household income times the number of households in the affected municipality. See appendix for list of waivers.

- .13 Pollution Control Agency.** Authorizes the use of specific appropriations from the petroleum tank release cleanup fund for grants to rehabilitate or buyout buildings damaged by petroleum contamination resulting from the disaster. See appendix for list of waivers.
- .14 Public Facilities Authority.** Authorizes grants to local governments to rehabilitate or replace public infrastructure if

costs are related to the disaster. Authorizes the use of general fund appropriations for grants to assess disaster-related damage to underground systems and for feasibility studies of extending sewer service to areas with septic systems damaged by the disaster. See appendix for list of waivers.

- .15 Public safety.** Authorizes the use of state disaster appropriations for the state match for federal disaster assistance. Allows the use of state appropriations to pay for the local match up to the level set in law. Requires bond appropriations to be used for the state's share of capital costs for publicly owned capital improvement projects.

Authorizes the commissioner to make grants to counties for disaster-related debris removal and burial from homes and farms, with documentation of unreimbursed costs. Authorizes the commissioner to provide technical assistance or grants to entities working to coordinate long-term recovery activities. See appendix for waiver of contract approval procedures.

- .16 Transportation.** Authorizes the commissioner to use trunk highway fund appropriations for disaster-related operation and maintenance of transportation infrastructure. Authorizes the use of the emergency relief account in the trunk highway fund for infrastructure repair, operation, and maintenance related to a disaster. Authorizes grants to local governments to reconstruct and replace local roads and bridges damaged by the disaster and to mitigate future damage as part of the project. Authorizes the commissioner to determine priorities, review plans, and require changes, as necessary to meet priorities and ensure optimum use of state funds.

Requires the commissioner, in consultation with the commissioner of public safety, to develop guidelines for local governments that allow the local government to respond to the disaster in a manner that maximizes the use of federal disaster assistance. See appendix for list of waivers.

Appendix

Waivers in Chapter 12A – Natural Disaster State Assistance	
Department	Program/Waiver
<p>Board of Water & Soil Resources Minn. Rules, ch. 8400</p>	<p>State cost-share program:</p> <ul style="list-style-type: none"> • all requirements in rule may be waived on contracts to address critical conservation problems resulting from flood • all existing contracts are extended
<p>Employment and Economic Development § 116J.8731, subs. 3, 4, 5 & 7 §§ 116J.993 - 116J.995</p>	<p>Minnesota Investment Fund waivers:</p> <ul style="list-style-type: none"> • limits on the use of the money • limits on project outcomes and other criteria for assistance • the \$1 million maximum grant, requirements for repayment of amounts over \$100,000, and limits on the use for retail operations • compensation, job creation, or enhancement requirements <p>Business subsidy waivers:</p> <ul style="list-style-type: none"> • requirements for receiving a public subsidy including public hearing and notice, wage and job goals, local government monitoring, reporting, pay back requirements for failure to meet goals. Assisted businesses must set goals for jobs retained and wages paid in the disaster area.
<p>Housing Finance Agency § 462A.33, subd. 3 Minn. Rules pt. 4900.3632 & 4900.3634, subd. 4</p>	<p>Economic development and housing challenge program:</p> <ul style="list-style-type: none"> • requirement to use half of appropriation for specified challenge grants or loans • requirements for grants and loans for rental housing • requirements for homeowner loan repayment

Waivers in Chapter 12A – Natural Disaster State Assistance	
Department	Program/Waiver
Natural Resources § 103F.161, subd. 2	Flood hazard mitigation grants: \$150,000 grant maximum for local governments
Pollution Control § 115C.08, subd 4 § 115C.09, subd. 3i	Petroleum tank fund waivers: <ul style="list-style-type: none"> • purposes for expenditure of money • 50 percent reimbursement limit for funding related to a natural disaster
Public Facilities Authority §§ 446A.07, 446A.072, & 446A.081	Water pollution control revolving fund; wastewater infrastructure funding program; drinking water revolving fund waivers: <ul style="list-style-type: none"> • all criteria, limitations, or repayment requirements of the existing programs
Public Safety Ch. 16A, 16B, or 16C, or other law	Contract; Departments of Management and Budget and Administration, and state procurement requirements waiver: <ul style="list-style-type: none"> • procedures for contracting
Transportation § 174.50, subds. 5, 6, 6a & 7	Minnesota state transportation fund for local roads and bridges grant waivers: <ul style="list-style-type: none"> • requirement that the commissioner certify the project prior to funding • rules governing applications for grants, including criteria for priorities and funding • requirements for grants for preliminary engineering of river crossing, including \$300,000 maximum • rules and criteria for administering grants to political subdivisions