

## The Vermont Statutes Online

### **Title 20: Internal Security and Public Safety**

#### ***Chapter 1: EMERGENCY MANAGEMENT***

##### **§ 1. Purpose and policy**

(a) Because of the increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from all-hazards and in order to insure that preparation of this state will be adequate to deal with such disasters or emergencies, 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:

(1) To create a state emergency management agency, and to authorize the creation of local and regional organizations for emergency management.

(2) To confer upon the governor and upon the executive heads or legislative branches of the towns and cities of the state the emergency powers provided herein.

(3) To provide for the rendering of mutual aid among the towns and cities of the state, and with other states and Canada, and with the federal government with respect to the carrying out of emergency management functions.

(4) To authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out the provisions of this chapter.

(b) It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's resources and facilities for dealing with any emergencies resulting from all-hazards. (Amended 1989, No. 252 (Adj. Sess.), § 2; 2005, No. 209 (Adj. Sess.), § 2.)

##### **§ 2. Definitions**

As used in this chapter:

(1) "All-hazards" means any natural disaster, health or disease-related emergency, accident, civil insurrection, use of weapons of mass destruction, terrorist or criminal incident, radiological incident, significant event, and designated special event, any of which may occur individually, simultaneously, or in combination and which poses a threat or may pose a threat, as determined by the commissioner or designee, to property or public safety in Vermont.

(2) "Commissioner" means the commissioner of public safety.

(3) "Director" means the director of Vermont division of emergency management.

(4) "Emergency functions" include services provided by the department of public safety, firefighting services, police services, sheriff's department services, medical and health services, rescue, engineering, emergency warning services, communications, evacuation of persons, emergency welfare services, protection of critical infrastructure, emergency transportation, temporary restoration of public utility services, other functions related to civilian protection and all other activities necessary or incidental to the preparation for and carrying out of these functions.

(5) "EPCRA" means the federal Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 11000-11050 (1986).

(6) "Emergency management" means the preparation for and implementation of all emergency functions, other than the functions for which military forces or other federal agencies are primarily responsible, to prevent, plan for, mitigate, and support response and recovery efforts from all hazards. Emergency management includes the equipping, exercising, and training designed to insure that this state and its communities are prepared to deal with all-hazards.

(7) "Hazard mitigation" means any action taken to reduce or eliminate the threat to persons or property from all-hazards.

(8) "Hazardous chemical or substance" means:

(A) Any chemical covered by 42 U.S.C. §§ 11021 and 11022 and defined in 29 C.F.R. § 1910.1200(c) or in 18 V.S.A. § 1722.

(B) Any substance as defined in 42 U.S.C. § 9601(14) or designated hazardous by the administrator of the United States Environmental Protection Agency pursuant to 42 U.S.C. §§ 9602(a) or 11002(a)(2).

(C) Any hazardous material pursuant to 5 V.S.A. § 2001.

(D) Fungicides, herbicides, insecticides or rodenticides as defined in 6 V.S.A. § 911.

(E) Any hazardous waste or material as defined in 10 V.S.A. § 6602.

(F) Any of the dangerous substances defined in section 2799 of this title.

(9) "Hazardous chemical or substance incident" means any mishap or occurrence involving hazardous chemicals or substances that may pose a threat to persons or property.

(10) "Homeland security" means the preparation for and carrying out of all emergency functions, other than the functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, or repair injury and damage resulting from or caused by enemy attack, sabotage, or other hostile action.

(11) "Radiological incident" means any mishap or occurrence involving radiological activity which may pose a threat to persons or property. (Amended 1971, No. 209 (Adj. Sess.), eff. April 3, 1972; 1989, No. 252 (Adj. Sess.), § 3; 2005, No. 209 (Adj. Sess.), § 3.)

### **§ 3. Vermont emergency management division**

(a) There is hereby created within the department of public safety a division to be known as the Vermont emergency management division.

(b) There shall be a director of Vermont emergency management who shall be in immediate charge of the division. The director shall be appointed by the commissioner, with the approval of the governor. The director shall serve at the pleasure of the commissioner and shall hold no other state office. The director shall perform all the following duties:

(1) Coordinate the activities of all emergency management organizations within the state.

(2) Maintain liaison and cooperation with emergency management agencies and organizations of the federal government, other states, and Canada.

(3) Perform additional duties and responsibilities required pursuant to this chapter and prescribed by the governor.

(c) The commissioner, subject to the approval of the governor, shall delegate to the several departments and agencies of the state government appropriate emergency management responsibilities, and review and coordinate the emergency

management activities of the departments and agencies with each other and with the activities of the districts and neighboring states, the neighboring Canadian province of Quebec, and the federal government. (Amended 1965, No. 125, § 17, eff. July 2, 1965; 1985, No. 4, eff. March 9, 1985; 1989, No. 252 (Adj. Sess.), § 4; 2005, No. 209 (Adj. Sess.), § 4.)

### **§ 3a. Emergency management division; duties; budget**

(a) In addition to other duties required by law, the emergency management division shall:

(1) Establish and define emergency planning zones and prepare and maintain a comprehensive state emergency management strategy that includes an emergency operations plan, establish and define emergency planning zones and prepare and maintain a radiological emergency response plan for use in those zones, and prepare an all-hazards mitigation plan in cooperation with other state, regional, and local agencies for use in such zones and in compliance with adopted federal standards for emergency management. The strategy shall be designed to protect the lives and property including domestic animals of persons within this state who might be threatened as the result of all-hazards and shall align state coordination structures, capabilities, and resources into a unified and multi-disciplined all-hazards approach to incident management.

(2) Design the radiological emergency response plan to protect persons and property within this state who or which might be threatened as the result of their proximity to any operating nuclear reactor. The plan shall be formulated in accordance with procedures approved by the Federal Nuclear Regulatory Commission. At a minimum, the plan shall provide for all the following:

(A) Monitoring radiological activity within the state.

(B) Emergency evacuation routes within a ten-mile radius of any operating nuclear reactor.

(C) Adequate notification and communications systems.

(D) Contingency procedures as deemed necessary in the event of an incident or accident involving an operating nuclear reactor.

(3) Assist the state emergency response commission, the local emergency planning committees and the municipally established local organizations referred to in section 6 of this title in carrying out their designated emergency functions, including developing, implementing, and coordinating emergency response plans.

(4) Provide administrative support to the state emergency response commission.

(b) Each fiscal year, the division of emergency management, in collaboration with state and local agencies, the management of the nuclear reactor, the legislative bodies of the municipalities in the emergency planning zone where the nuclear reactor is located, the Windham regional planning commission, and any other municipality or emergency planning zone entity required by the state to support the radiological emergency response plan, shall develop the budget for expenditures from the radiological emergency response plan fund. The expenditure budget shall include all costs for evacuation notification systems.

(c) From the fund, each town within the emergency planning zone shall receive an annual base payment of no less than \$5,000.00 for radiological emergency response related expenditures from the radiological emergency response plan fund. Additional expenditures by municipalities in the emergency planning zone, the Windham regional planning commission, and any other municipality or emergency planning entity defined by the state as required to support the plan, shall be determined during the budget development process established by subsection (b) of this section. (Added 1989, No. 252 (Adj. Sess.), § 5; amended 1993, No. 194 (Adj. Sess.), § 1, eff. June 14, 1994; 2005, No. 209 (Adj. Sess.), § 5; 2005, No. 215 (Adj. Sess.), § 68a.)

### **§ 4. Repealed. 1996, No. 188, § 4.**

## **§ 5. Public safety districts**

(a) The governor shall divide the state into public safety districts, one to correspond to each Vermont state police troop area, as defined by the commissioner. Each district shall be a reasonably self-sustaining, operating emergency management unit.

(b) The emergency management executive in each district shall be known as the district coordinator. The district coordinator shall be appointed by the commissioner and shall serve during the pleasure of the commissioner. The district coordinator shall discharge emergency management powers within his or her district. Each public safety district shall maintain on file an all-hazards incident response plan in cooperation with any local emergency planning committee (LEPC) in that district and other state and local agencies. (Amended 1959, No. 23, § 1, eff. March 6, 1959; 1985, No. 4, eff. March 9, 1985; 1989, No. 252 (Adj. Sess.), § 7; 1995, No. 188 (Adj. Sess.), § 5; 2005, No. 209 (Adj. Sess.), § 6.)

## **§ 6. Local organization for emergency management**

(a) Each town and city of this state is hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program. Except in a town that has a town manager in accordance with chapter 37 of Title 24, the executive officer or legislative branch of the town or city is authorized to appoint a town or city emergency management director who shall have direct responsibility for the organization, administration, and coordination of the local organization for emergency management, subject to the direction and control of the executive officer or legislative branch. If the town or city that has not adopted the town manager form of government and the executive officer or legislative branch of the town or city has not appointed an emergency management director, the executive officer or legislative branch shall be the town or city emergency management director. The town or city emergency management director may appoint an emergency management coordinator and other staff as necessary to accomplish the purposes of this chapter.

(b) Except as provided in subsection (d) of this section, each local organization for emergency management shall perform emergency management functions within the territorial limits of the town or city within which it is organized, and, in addition, shall conduct such functions outside of the territorial limits as may be required pursuant to the provisions of this chapter and in accord with such regulations as the governor may prescribe.

(c) Each local organization shall participate in the development of an all-hazards plan with the local emergency planning committee and the public safety district.

(d) Each local organization shall annually notify the local emergency planning committee on forms provided by the state emergency response commission of its capacity to perform emergency functions in response to an all-hazards incident. Each local organization shall perform the emergency functions indicated on the most recently submitted form in response to an all-hazards incident. (Amended 1989, No. 252 (Adj. Sess.), § 8; 1993, No. 194 (Adj. Sess.), § 2, eff. June 14, 1994; 2005, No. 209 (Adj. Sess.), § 7.)

## **§ 7. Mobile support units**

(a) Organization. The commissioner is authorized to create and establish such number of mobile support units as may be necessary to reinforce emergency management organizations in stricken areas and with due consideration of the plans of the federal government, the government of Canada, and other states. A mobile support unit shall be subject to call to duty and shall perform these functions in this state, in Canada, or in other states in accord with its charter and regulations prescribed by the governor and with the terms of this chapter.

(b) Personnel; powers and immunities, compensation.

(1) Personnel of mobile support units while engaged in emergency management, 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, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; and

(C) if they are not employees of the state, or a political subdivision thereof, be entitled to appropriate compensation as fixed by the commissioner or designee with the approval of the governor, and to the same rights and immunities as are provided by law for the employees of this state.

(2) All personnel of mobile support units, while engaged in emergency management, shall 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.

(c) Reimbursement of municipalities. The state shall reimburse a political subdivision of the state for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of such political subdivision of the state while serving as members of a mobile support unit, and for all payments of death, disability, or injury of such employees incurred in the course of such duty, and for all losses of or damage to supplies and equipment of such political subdivision of the state resulting from the operation of such mobile support unit.

(d) Aid from other states. Whenever a mobile support unit of another state shall render aid in this state pursuant to the orders of the governor of its home state and upon the request of the governor of this state, this state shall reimburse such other state for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of the personnel of such mobile support unit while rendering such aid, and for all payments for death, disability, or injury of such personnel incurred in the course of rendering such aid, and for all losses of or damage to supplies and equipment of such other state or a political subdivision thereof resulting from the rendering of such aid: provided, that the laws of such other state contain provisions substantially similar to this section or that provisions to the foregoing effect are embodied in a reciprocal mutual-aid agreement or compact or that the federal government has authorized or agreed to make reimbursements for such mutual aid as above provided.

(e) Aid to other states. No personnel of mobile support units of this state shall be ordered by the governor to operate in any other state unless the laws of such other state contain provisions substantially similar to this section or unless the reciprocal mutual aid agreements or compacts include provisions providing for such reimbursements or unless such reimbursements will be made by the federal government by law or agreement. (Amended 1989, No. 252 (Adj. Sess.), § 9; 2005, No. 209 (Adj. Sess.), § 8.)

## **§ 8. General powers of governor**

(a) The governor shall have general direction and control of the emergency management agency and shall be responsible for the carrying out of the provisions of this chapter.

(b) In performing the duties under this chapter, the governor is further authorized and empowered:

(1) Orders, rules and regulations. To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this chapter with due consideration of the plans of the federal government.

(2) Plans.

(A) To prepare a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government, the Canadian government, and other states to the fullest possible extent; and

(B) To coordinate the preparation of plans and programs for emergency management with public safety districts, local emergency planning committees, regional planning commissions, and by the municipalities of this state, such plans to be integrated into and coordinated with the emergency management plans and program of this state to the fullest possible extent.

(3) Inventories, training, mobilization. In accordance with such plan and program for the emergency management of the state:

(A) to ascertain the requirements of the state or the municipalities for food or clothing or other necessities of life in any all-hazards event and to plan for and procure supplies, medicines, materials, and equipment for the purposes set forth in this chapter;

(B) to make surveys of the industries, resources and facilities within the state as are necessary to carry out the purposes of this chapter, provided that no inventory or record of privately owned firearms shall be made under authority of this or any other provision of this chapter; and

(C) to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(4) Cooperation with the president and others. To cooperate with the president and the heads of the armed forces, and the homeland security agency of the United States, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation, to take any measures not inconsistent with the constitution of this state, which the governor may deem proper to carry into effect any request for the president and the appropriate federal officers and agencies, for any action looking to emergency management, including the direction or control of mobilization of emergency management and homeland security forces, tests and exercises, warnings and signals for drills or emergencies, shutting off water mains, gas mains, electric power connections and the suspension of all other utility services, the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack, public meetings or gatherings, and the evacuation and reception of the civilian population.

(5) Services and facilities. To utilize the services and facilities of existing officers and agencies of the state and of the counties and municipalities of the state, and all the officers and agencies shall cooperate with and extend services and facilities to the governor as the governor may request.

(6) Law enforcement. To take such action and give such directions 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 this chapter and with the orders, rules, and regulations made pursuant thereto.

(7) Delegation of authority. To delegate any authority vested in the governor under this chapter to the commissioner or designee.

(8) Mutual aid agreements with other states. On behalf of this state, to enter into reciprocal aid agreements under this chapter and pursuant to compacts with other states and the federal government or province of a foreign country under such terms as the Congress of the United States may prescribe. These mutual aid arrangements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; national or state guards while under the control of the state; health; medical and related services; fire fighting, rescue, transportation and construction services and equipment; personnel necessary to provide or conduct these services; and such other supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, fire fighting, and police units and health units; and on such terms and conditions as are deemed necessary.

(9) Mutual aid among municipalities. To sponsor, develop, and approve mutual aid plans and agreements among the towns and cities of the state, similar to the mutual aid arrangements referred to in this section. (Amended 1989, No. 252 (Adj. Sess.), § 10; 2005, No. 209 (Adj. Sess.), § 9.)

## **§ 9. Emergency powers of governor**

Subject to the provisions of this chapter, in the event of an all-hazards event in or directed upon the United States or Canada which causes or may cause substantial damage or injury to persons or property within the bounds of the state in any manner, the governor may proclaim a state of emergency within the entire state or any portion or portions of the state. Thereafter, the governor shall have and may exercise for as long as the governor determines the emergency to exist the following additional powers within such area or areas:

(1) To enforce all laws, rules and regulations relating to emergency management and to assume direct operational control of all emergency management personnel and helpers in the affected area or areas.

(2) To formulate and execute plans and regulations for the control of traffic and to coordinate the activities of the departments or agencies of the state and of the political subdivisions thereof concerned directly or indirectly with public highways and streets, in a manner which will best effectuate such plans.

(3) To prescribe the maximum rates of speed at which motor vehicles may be operated on any road, highway or street in the state; prescribe the sizes and weights of such motor vehicles; suspend the application of any statute or regulation levying or assessing any license, insofar as such statute or regulation relates to the entry into or the privilege of operation in this state of any motor vehicle, including busses or house trailers, registered in any other state and with respect to which a valid and unexpired license has been issued by the other state.

(4) To employ such measures and give such directions to the state or local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this chapter.

(5) To utilize the services and facilities of existing officers, and agencies of the state and of the cities and towns thereof; and all such officers and agencies shall cooperate with and extend their services and facilities to the governor as he or she may request.

(6) To use and employ within the state, from time to time, and as he or she may deem expedient, any of the property, services and resources of the state, for the purposes set forth in this chapter.

(7) To establish agencies and offices and to appoint executive, technical, clerical, and other personnel as may be necessary to carry out the provisions of this chapter.

(8) Upon the declaration of an emergency as authorized in federal legislation which includes the state of Vermont, to cooperate with the president of the United States, the army, navy, and air force, with other federal departments, agencies and independent establishments, and other states in matters pertaining to emergency management; and in connection therewith to take such action, not inconsistent with the constitution and laws of the state which he or she may deem proper to carry into effect any request of the president, the secretary of defense, the secretary of homeland security, the secretary of health and human services, and the director of the federal emergency management agency.

(9) To order the evacuation of persons living or working within all or a portion of an area for which a state of emergency has been proclaimed.

(10) As provided in 30 V.S.A. § 248(1), in consultation with the chair of the public service board and the commissioner of the department of public service or their designees, to waive the prohibitions contained in 30 V.S.A. § 248 upon site preparation for or construction of an electric transmission facility or a generating facility necessary to assure the stability or reliability of the electric system or a natural gas facility. Waivers issued under this subdivision shall be subject to such conditions as are required by the governor and shall be valid for the duration of the declared emergency

plus 180 days, or such lesser overall term as determined by the governor. Upon the expiration of a waiver under this subdivision, if a certificate of public good has not been issued by the public service board under 30 V.S.A. § 248, the board shall require the removal, relocation, or alteration of the facilities, subject to the waiver, as the board finds will best promote the general good of the state.

(11) In consultation with the secretary of the agency of natural resources or designee, to authorize the agency to issue temporary emergency permits, with appropriate conditions to minimize significant adverse environmental impacts, after limited or no opportunity for public comment, allowing site preparation for, construction of, or operation of an electric transmission facility or a generating facility necessary to assure the stability or reliability of the electric system or a natural gas facility. A permit issued under this subdivision shall be subject to such conditions as are required by the governor and shall be valid for the duration of the declared emergency plus 180 days, or such lesser overall term as determined by the governor. Upon the expiration of a temporary emergency permit under this subdivision, if any applicable permits have not been issued by the secretary or the commissioner of environmental conservation, the secretary may seek enforcement under applicable law. (Amended 1959, No. 23, § 2, eff. March 6, 1959; 1983, No. 115 (Adj. Sess.), § 1, eff. March 16, 1984; 1989, No. 252 (Adj. Sess.), § 11; 2003, No. 82 (Adj. Sess.), § 5; 2005, No. 209 (Adj. Sess.), § 10.)

#### **§ 10. Request to governor by municipal authorities**

The all-hazards event provisions of this chapter shall not be brought into action, unless the municipal director of emergency management, a member of the legislative body of the municipality, the city or town manager, or the mayor of a city that is within the area affected by an all-hazards event shall declare an emergency and request the governor to find that a state of emergency exists and the governor so finds, or unless the governor declares a state of emergency under section 9 of this title. (Amended 2005, No. 209 (Adj. Sess.), § 11.)

#### **§ 11. Additional emergency powers**

In the event of an all-hazards event, the governor may exercise any or all of the following additional powers:

(1) To authorize any department or agency of the state to lease or lend, on such terms and conditions and for such period as he or she may deem necessary to promote the public welfare and protect the interest of the state, any real or personal property of the state government or authorize the temporary transfer or employment of personnel of the state government to or by the army, navy, air force, or any other branch of the armed forces of the United States of America.

(2) To enter into a contract on behalf of the state for the lease or loan, on such terms and conditions and for such period as he or she 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 thereof to any town or city of the state. The chief executive or legislative branch of such town or city is hereby authorized for and in the name thereof to enter into said contract with the governor for the leasing or lending of such property and personnel, and the chief executive or legislative branch of such town or city may equip, maintain, utilize and operate such property except newspapers and other publications, radio stations, places of worship and assembly, and other facilities for the exercise of constitutional freedom, and employ necessary personnel therefor in accordance with the purposes for which such contract is executed; and may do all things and perform all acts which may be deemed necessary to effectuate the purpose for which such contract was entered into.

(3) To seize, take, or condemn property for the protection of the public or at the request of the president, or his or her authorized representatives including:

(A) All means of transportation;

(B) All stocks of fuel of whatever nature;

(C) Food, clothing, equipment, materials, medicines, and all supplies;



(D) Facilities, including buildings and plants; provided that neither this nor any other authority in this chapter shall be deemed to authorize the eviction of a householder and his or her family from their own home.

(4) To sell, lend, give or distribute all or any such property among the inhabitants of the state and to account to the state treasurer for any funds received for such property.

(5) To make compensation for the property so seized, taken, or condemned on the following basis:

(A) In case property is taken for temporary use, the governor, at the time of the taking, shall fix the amount of compensation to be paid therefor; and in case such property shall be returned to the owner in a damaged condition or shall not be returned to the owner, the governor shall fix the amount of compensation to be paid for such damage or failure to return. Whenever the governor shall deem it advisable for the state to take title to property taken under this section, he shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid, and forthwith cause to be filed a copy of said notice with the secretary of state.

(B) Any owner of property of which possession has been taken under the provisions of this chapter to whom no award has been made or who is dissatisfied with the amount awarded him or her by the governor, may file a petition in the superior court within the county wherein the property was situated at the time of taking to have the amount to which he or she is entitled by way of damages or compensation determined, and thereafter either the petitioner or the state shall have the right to have the amount of such damages or compensation fixed after hearing by three disinterested appraisers appointed by said court, and who shall operate under substantive and administrative procedure to be established by the superior judges. If the petitioner is dissatisfied with the award of the appraisers, he or she may file an appeal therefrom in said court and thereafter have a trial by jury to determine the amount of such damages or compensation in such manner as the court shall provide. The court costs of a proceeding brought under this section by the owner of the property shall be paid by the state; and the fees and expenses of any attorney for such owner shall also be paid by the state after allowances by the court wherein the petition is brought in such amount as the court in its discretion shall fix. The statute of limitations shall not apply to proceedings brought by such owners of property as above provided for and during the time that any court having jurisdiction of such proceedings shall be prevented from holding its usual and stated sessions due to conditions resulting from emergencies as herein referred to.

(6) To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population. (Amended 1959, No. 23, § 3, eff. March 6, 1959; 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974; 1985, No. 4, eff. March 9, 1985; 2005, No. 209 (Adj. Sess.), § 12.)

**§ 12. Repealed. 2005, No. 209 (Adj. Sess.), § 35.**

### **§ 13. Termination of emergencies**

The governor:

(1) May terminate by proclamation the emergencies provided for in sections 9 and 11 of this title; provided, however, that no emergencies shall be terminated prior to the termination of such emergency as provided in federal law.

(2) May declare the state of emergency terminated in any area affected by an all-hazards event.

(3) Upon receiving notice that a majority of the legislative body of a municipality affected by a natural disaster no longer desires that the state of emergency continue within its municipality, shall declare the state of emergency terminated within that particular municipality. Upon the termination of the state of emergency, the functions as set forth in section 9 of this title shall cease, and the local authorities shall resume control. (Amended 2005, No. 209 (Adj. Sess.), § 13.)

**§ 14. Repealed. 2005, No. 209 (Adj. Sess.), § 35.**

### **§ 15. Return of property**

Whenever the need for the purposes of this chapter of any real or personal property acquired under this chapter shall terminate, the governor may dispose of such property on such terms and conditions as he shall deem appropriate, but to the extent feasible and practicable he shall give to the former owner of any property so disposed of an opportunity to reacquire it:

(1) at its then fair value as determined by the governor or

(2) if it is to be disposed of (otherwise than at public sale of which he shall give reasonable notice) at less than such value, at the highest price any other person is willing to pay therefor:

Provided, that this opportunity to reacquire need not be given in the case of items which lose their identity in use or to property having a fair value of less than \$500.00.

## **§ 16. Orders, rules and regulations**

The towns and cities of the state and other agencies designated or appointed by the governor are authorized and empowered to make, amend and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of the provisions of this chapter, but not inconsistent with any orders, rules or regulations promulgated by the governor or by any state agency exercising a power delegated to it by him or her. (Amended 1989, No. 252 (Adj. Sess.), § 14.)

## **§ 17. Gift, grant or loan**

(a) Federal. Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any town or city thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management the state, acting through the governor in coordination with the department of public safety, or such town or city acting with the consent of the governor and through its executive officer or legislative branch, may accept such offer and upon such acceptance the governor of the state or the executive officer or legislative branch of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivisions, and subject to the terms of the offer and rules and regulations, if any, of the agency making the offer. Whenever such federal grant is contingent upon a state or local contribution, or both, the department of public safety and the political subdivision shall determine whether the grant shall be accepted and if accepted the respective shares to be contributed by the state and town or city concerned.

(b) Private. Whenever any person, firm or corporation shall offer to the state or to any town or city thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management, the state, acting through the governor, or such political subdivision, acting through its executive officer or legislative branch, may accept such offer and upon such acceptance the governor of the state or executive officer or legislative branch of such political subdivision may authorize any officer of the state or the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer. (Amended 1985, No. 4, eff. March 9, 1985; 1989, No. 252 (Adj. Sess.), § 15; 2005, No. 209 (Adj. Sess.), § 14.)

## **§ 18. Personnel requirements and nonsubversion**

No person shall be employed or associated in any capacity in any emergency management organization established under this chapter who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is employed by an emergency management organization established under this chapter and whose access to facilities, materials, or information requires a security clearance, as determined by the commissioner, shall be subject to a background check and a criminal history record check. (Amended 1989, No. 252 (Adj. Sess.), § 16; 2005, No. 209 (Adj. Sess.), § 15.)

## **§ 19. Powers outside of town of appointment**

Whenever the employees of any town or city are rendering outside aid pursuant to the authority contained in this chapter such employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the town or city in which they are normally employed.

## **§ 20. Immunities and defenses**

(a) Except in the case of willful misconduct or gross negligence, the state, any of its agencies, state employees as defined in 3 V.S.A. § 1101, political subdivisions, local emergency planning committees, or individual, partnership, association, or corporation involved in emergency management activities shall not be liable for the death of or any injury to persons or loss or damage to property resulting from an emergency management service or response activity, including the development of local emergency plans and the response to those plans. Nothing in this section shall exclude the state, its agencies, political subdivisions, or employees from the protections and rights provided in chapter 189 of Title 12.

(b) Any individual, partnership, association, corporation or facility that provides personnel, training or equipment through an agreement with the local emergency planning committee, the state emergency response commission or local emergency response officials is immune from civil liability to the same extent provided in subsection (a) of this section for any act performed within the scope of the agreement. (Amended 1989, No. 252 (Adj. Sess.), § 17; 2005, No. 209 (Adj. Sess.), § 16.)

## **§ 21. Compensation for injury or death**

A volunteer, as set forth in 3 V.S.A. § 1101(b)(4), shall be entitled to compensation as provided in Titles 21 and 29. (Amended 1981, No. 165 (Adj. Sess.), § 1; 1989, No. 252 (Adj. Sess.), § 18; 2005, No. 209 (Adj. Sess.), § 17.)

## **§ 22. Repealed. 2005, No. 209 (Adj. Sess.), § 35, eff. May. 31, 2006.**

## **§ 23. General powers not limited by specific powers**

The general powers provided for in this chapter shall not be limited by any specific powers granted to the governor by any of the provisions of this chapter.

## **§ 24. Penalties**

Any person violating any provision of this chapter or any rule, order or regulation made pursuant to this chapter which rule, order or regulation shall be filed with the secretary of state, shall, upon conviction thereof, be punishable by a fine not exceeding \$500.00 or imprisonment not exceeding six months or both.

## **§ 25. Matching funds**

To the extent of any appropriation available to carry out the purposes of this chapter, federal moneys for emergency management within the state may be matched therefrom. (Added 1959, No. 23, § 5, eff. March 6, 1959; amended 1989, No. 252 (Adj. Sess.), § 20; 2005, No. 209 (Adj. Sess.), § 19.)

## **§ 26. Change of venue because of enemy attack**

In the event that the place where a civil action or a criminal prosecution is required by law to be brought has become and remains unsafe because of an attack upon the United States or Canada, such action or prosecution may be brought in or, if already pending, may be transferred to the superior court in an unaffected unit and there tried in the place provided by law for such court. (Added 1959, No. 23, § 7, eff. March 6, 1959; amended 1965, No. 194, § 10; 1973, No. 118, § 23, eff. Oct. 1, 1973; 1973, No. 193 (Adj. Sess.), § 3; 2009, No. 154 (Adj. Sess.), § 156.)

## **§ 27. Auxiliary state police**

For the purposes of emergency management, as the term is defined in section 2 of this title, the commissioner of public safety may recruit and train for police duty citizens, including sheriffs, deputy sheriffs, constables and police officers, from whom he may augment the state police, in emergency functions, by employing such number of them, for such period and at such compensation as the governor may fix, as auxiliary state police, who shall take the oath prescribed for sheriffs and, while so employed, shall each wear a distinctive arm badge marked with the words "AUXILIARY STATE POLICE" and shall have the powers and immunities of the state police as defined in section 1914 of this title. (1959, No. 23, § 8, eff. March 6, 1959; amended 1989, No. 252 (Adj. Sess.), § 21.)

## **§ 28. Emergency management medical program**

The department of health is hereby directed, within the limits of appropriations and grants made to it, and in coordination with local, state, and federal emergency management officials, to plan, develop, and implement a comprehensive emergency management medical program to protect and assist the people of the state in an all-hazards event. (Added 1961, No. 151; amended 1989, No. 252 (Adj. Sess.), § 22; 2005, No. 209 (Adj. Sess.), § 20.)

## **§ 29. Emergency shelters; no private liability**

Any person owning or controlling premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part of such land and premises for the purpose of sheltering persons or animals or providing health-related services during a declared emergency or practice drill in cooperation with a federal, state, or political subdivision shall together with successors in interest not be civilly liable for negligence causing the death of or injury to any person on or about the land and premises or for loss of or damage to the property of the person during a declared emergency or practice drill. (Added 1963, No. 67, eff. May 2, 1963; amended 2005, No. 209 (Adj. Sess.), § 21.)

## **§ 30. State emergency response commission; creation**

(a) A state emergency response commission is created within the department of public safety. The commission shall consist of 15 members, six ex officio members, including the commissioner of public safety, the secretary of natural resources, the secretary of transportation, the commissioner of health, the secretary of agriculture, food and markets, and the commissioner of labor, or their designees; and nine public members, including a representative from each of the following: local government, a local emergency planning committee, a regional planning commission, the fire service, law enforcement, emergency medical service, a hospital, a transportation entity required under EPCRA to report chemicals to the state emergency response commission, and another entity required to report extremely hazardous substances under EPCRA. The director of emergency management shall be the secretary of the commission without a vote.

(b) The nine public members shall be appointed by the governor for staggered three year terms. The governor shall appoint the chair of the commission.

(c) Members of the commission, except state employees who are not otherwise compensated as part of their employment and who attend meetings, shall be entitled to a per diem and expenses as provided in 32 V.S.A. § 1010. (Added 1989, No. 252 (Adj. Sess.), § 23; amended 1993, No. 194 (Adj. Sess.), § 3, eff. June 14, 1994; 2003, No. 42, § 2, eff. May 27, 2003; 2005, No. 209 (Adj. Sess.), § 22; 2007, No. 47, § 16.)

## **§ 31. State emergency response commission; duties**

The commission shall have authority to:

(1) Carry out all the requirements of a commission under the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § § 11000-11050 (1986) (EPCRA), and all-hazards mitigation, response, recovery, and preparedness, as hereafter amended and other applicable federal initiatives.

(2) Adopt rules necessary for the implementation of EPCRA and for the reporting of hazardous chemicals or substances, including setting minimum limits on the level of hazardous chemicals to be reported.

(3) Designate and appoint local emergency planning committees.

(4) Review and comment on the development and implementation of local emergency response plans by local emergency planning committees and provide assistance to those committees in executing their duties.

(5) Review and comment on the comprehensive state emergency operations plan and local emergency planning committee response plans.

(6) Meet with interested parties, which may include representatives of the carrier industry shippers, and state and local agencies, having an interest, responsibility, or expertise concerning hazardous materials.

(7) Ensure that a state plan will go into effect when an accident occurs involving the transportation of hazardous materials. The plan shall be field tested at least once annually.

(8) Jointly adopt rules concerning reportable quantities of economic poison as defined in 6 V.S.A. § 911(5) with the agency of agriculture, food and markets. The commission may enter into contracts with governmental agencies or private organizations to carry out the duties of this section.

(9) Coordinate statewide efforts and draft policies regarding planning, mitigation, preparedness, and response to all-hazards events to be approved by the commissioner.

(10) Recommend funding for awards to be made by the commissioner for training, special studies, citizen corps councils, community emergency response teams (CERT), medical reserve corps, and hazardous materials response teams from funds that are available from federal sources or through the hazardous substances fund created in section 38 of this title. The commission may create committees as necessary for other related purposes and delegate funding recommendation powers to those committees. (Added 1989, No. 252 (Adj. Sess.), § 24; amended 1993, No. 194 (Adj. Sess.), § 4, eff. June 14, 1994; 2003, No. 42, § 2, eff. May 27, 2003; 2005, No. 209 (Adj. Sess.), § 23.)

### **§ 32. Local emergency planning committees; creation; duties**

(a) Local emergency planning committees shall be appointed by the state emergency response commission.

(b) Local emergency planning committees should include representatives from the following: fire departments; local and regional emergency medical services; local, county, and state law enforcement; media; transportation; regional planning commissions; hospitals; industry; the national guard; the department of health district office; an animal rescue organization; and may include any other interested public or private individual or organization.

(c) A local emergency planning committee shall perform all the following duties:

(1) Carry out all the requirements of a committee pursuant to EPCRA, including preparing a local emergency planning committee response plan. The plan shall be coordinated with the state emergency operations plan and may be expanded to address all hazards and all phases of emergency management. At a minimum, the local emergency planning committee response plan shall include the following:

(A) Identifies facilities and transportation routes of extremely hazardous substances.

(B) Describes emergency response procedures, including those identified in facility plans.

(C) Designates a local emergency planning committee coordinator and facility coordinators to implement the plan.

(D) Outlines emergency notification procedures.

(E) Describes how to determine the probable affected area and population by releases of hazardous substances.

(F) Describes local emergency equipment and facilities and the persons responsible for them.

(G) Outlines evacuation plans.

(H) Provides for coordinated local training to ensure integration with the state emergency operations plan.

(I) Provides methods and schedules for exercising emergency response plans.

(2) Upon receipt by the committee or the committee's designated community emergency coordinator of a notification of a release of a hazardous chemical or substance, insure that the local emergency response plan has been implemented.

(3) Consult and coordinate with the heads of local government emergency services, the emergency management director or designee, regional planning commissions, and the managers of all facilities within the district regarding the facility plan.

(4) Review and evaluate requests for funding and other resources and advise the state emergency response commission and district coordinators concerning disbursement of funds.

(5) Work to support the various emergency services, mutual aid systems, town governments, regional planning commissions, state agency district offices, and others in their area in conducting coordinated all-hazards emergency management activities. (Added 1989, No. 252 (Adj. Sess.), § 25; amended 2005, No. 209 (Adj. Sess.), § 24.)

### **§ 33. Hazmat teams; team chiefs; creation**

(a) The department of public safety is authorized to create a state hazardous materials (HAZMAT) response team. The commissioner shall appoint a HAZMAT team chief, consistent with rules adopted by the department of human resources, to carry out the duties and responsibilities of the HAZMAT response team.

(b) The HAZMAT team chief shall perform all the following duties:

(1) Organize a state HAZMAT response team to assist local emergency planning committees, fire chiefs, and other emergency management officials in response to hazardous chemical and substance (HAZMAT) incidents.

(2) Hire persons for the HAZMAT team from fire, police, and emergency organizations and persons with specialty backgrounds in hazardous materials, and, with the approval of the director of the division of fire safety, appoint crew chiefs.

(3) Negotiate with municipalities which maintain firefighting departments to secure appropriate facilities and personnel to house and maintain the response team's vehicles and equipment and to provide drivers for the response vehicles.

(4) Coordinate the acquisition and maintenance of adequate vehicles and equipment for the response teams.

(5) Ensure that response team personnel are organized, trained and exercised in accordance with the standards set by the fire service training council and the state emergency response commission.

(6) Ensure that appropriate regional mutual aid agreements are created so that all firefighting departments within the region may participate with the regional HAZMAT response team.

(c) The state shall reimburse a municipality for the actual costs expended to cover the duties of a municipality's employee who is an employee of the state HAZMAT team and who is requested to leave his or her employment at the municipality to respond to a HAZMAT incident or attend HAZMAT team training.

(d) The department of public safety may employ as many state HAZMAT team responders as the commissioner deems necessary as temporary state employees, who shall be compensated as such when authorized to respond to a HAZMAT incident or to attend HAZMAT training. State HAZMAT team responders, whenever acting as state agents in accordance with this section, shall be afforded all of the protections and immunities of state employees.

(e) The team chief and the crew chiefs, referred to in subdivision (b)(2) of this section, shall have the authority to accept the transfer of control of a hazardous material incident from the chief engineer or senior fire officer at a scene. (Added 1993, No. 194 (Adj. Sess.), § 5, eff. June 14, 1994; amended 1995, No. 115 (Adj. Sess.), §§ 2-4, eff. April 23, 1996; 1999, No. 148 (Adj. Sess.), § 78, eff. May 24, 2000; 2005, No. 209 (Adj. Sess.), § 25.)

### **§ 34. Temporary housing for disaster victims**

(a) Whenever the governor has proclaimed a disaster emergency under the laws of this state, or the president has declared an emergency or a major disaster to exist in this state, the governor is authorized:

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

(2) To assist any political subdivision of this state which is the locus of temporary housing for disaster victims to acquire sites necessary for such temporary housing and to do all things required to prepare such site to receive and utilize temporary housing units by:

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

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

(C) becoming a co-partner with the political subdivision for the execution and performance of any temporary housing for disaster victims project and for such purposes to pledge the credit of the state on such terms as he deems appropriate having due regard for current debt transactions of the state.

(b) Under such regulations as he shall prescribe, to temporarily suspend or modify for not to exceed 60 days any public health, safety, zoning, transportation (within or across the state), or other requirement of law or regulation within this state when by proclamation he deems such suspension or modification essential to provide temporary housing for disaster victims.

(c) Any political subdivision of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into whatever arrangements (including purchase of temporary housing units and payment of transportation charges) which are necessary to prepare or equip such sites to utilize the housing units.

(d) The governor is authorized to make rules and regulations necessary to carry out the purposes of this chapter.

(e) Nothing contained in this chapter shall be construed to limit the governor's authority to apply for, administer, and expend any grants, gifts, or payments in aid of disaster prevention, preparedness, response, or recovery.

(f) "Major disaster," "emergency," and "temporary housing" as used in this chapter shall have the same meaning as the terms are defined, or used, in the Disaster Relief Act of 1974 (P.L. 93-288, 88 Stat. 143). (Added 1975, No. 97, § 1, eff. April 30, 1975.)

### **§ 35. Community disaster loans**

Whenever, at the request of the governor, the president has declared a "major disaster" to exist in this state, the governor is authorized:

(1) Upon his determination that a local government of the state will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the local government, for a loan; and to receive and disburse the proceeds of any approved loan to any applicant local government.

(2) To determine the amount needed by any applicant local government to restore or resume its governmental functions, and to certify the same to the federal government, provided, however, that no application amount shall exceed 25 percent of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs.

(3) To recommend to the federal government, based upon his review, the cancellation of all or any part of repayment when, in the first three full fiscal year period following the major disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character. (Added 1975, No. 97, § 2, eff. April 30, 1975.)

### **§ 36. Debris and wreckage removal**

(a) Whenever the governor has declared a disaster emergency to exist under the laws of this state, or the president, at the request of the governor, has declared a major disaster or emergency to exist in this state, the governor is authorized:

(1) Notwithstanding any other provision of law, through the use of state departments or agencies, or the use of any of the state's instrumentalities, to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or public or private property, in any disaster emergency declared by the governor or major disaster as declared by the president.

(2) To accept funds from the federal government and utilize such funds to make grants to any local government for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(b) Authority under this chapter shall not be exercised unless the affected local government, corporation, organization, or individual shall first present an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the state government against any claim arising from such removal.

(c) Whenever the governor provides for clearance of debris or wreckage pursuant to subsections (a) or (b) of this section, employees of the designated state agencies or individuals appointed by the state are authorized to enter upon private land or waters and perform any tasks necessary to the removal or clearance operation.

(d) Except in cases of willful misconduct, gross negligence, or bad faith, any state employee or agent complying with orders of the governor and performing duties pursuant thereto under this chapter shall not be liable for death of or injury to persons or damage to property.

(e) The governor is authorized to make rules and regulations to carry out the purposes of this chapter. (Added 1975, No. 97, § 3, eff. April 30, 1975.)

### **§ 37. State financial participation in grants to disaster victims**

(a) Whenever the president, at the request of the governor, has declared a major disaster to exist in this state, the governor is authorized:



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

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

(b) Notwithstanding any other provision of law or regulation, the governor is authorized to make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance, which shall not exceed \$5,000.00 in the aggregate to an individual or family in any single major disaster declared by the president.

(c) The governor shall make such regulations as are necessary for carrying out the purposes of this chapter, including, but not limited to, standards of eligibility for persons applying for benefits; procedures for applying and administration; methods of investigation, filing, and approving applications; and formation of local or statewide boards to pass upon applications and procedures for appeals.

(d) Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this title shall, upon conviction of each offense, be subject to a fine of not more than \$5,000.00, or imprisonment for not more than one year, or both. (Added 1975, No. 97, § 4, eff. April 30, 1975.)

### **§ 38. Special funds**

(a)(1) There is created a radiological emergency response plan fund, into which any entity operating a nuclear reactor or storing nuclear fuel and radioactive waste in this state (referred to hereinafter as "the nuclear power plant") shall deposit the amount appropriated to support the Vermont radiological response plan for that fiscal year, adjusted by any balance in the radiological emergency response plan fund from the prior fiscal year. There shall also be deposited into the fund any monies received from any other source, public or private, that is intended to support the radiological emergency response planning process. The fund shall be managed in accordance with subchapter 5 of chapter 7 of Title 32. Any interest earned on the balance in the fund shall be retained by the fund.

(2) Expenditures from the fund shall be made by the division of emergency management, subject to an annual legislative appropriation. As part of the annual appropriations process, the division of emergency management shall present a budget for the ensuing fiscal year that anticipates the expenditures that will be made from the fund. Each fiscal year, the division of emergency management in collaboration with the state and local agencies, the management of the nuclear power plant, the selectboards of the municipalities in the emergency planning zone, the Windham regional planning commission, and any other municipality or emergency planning zone entity defined by the state as required to support the radiological emergency response plan shall develop the budget for expenditures from the radiological emergency response plan fund. State personnel with responsibility for local coordination and plan development shall be physically located in the region. The annual budget shall include only expenditures necessary to support the radiological emergency response plan.

(3) [Repealed.]

(4) [Deleted.]

(5) The state shall bill the nuclear power plant on a monthly basis based on the budget presented and approved by the legislature. The nuclear power plant shall have the right to audit the books and records of the fund.

(6) Upon the permanent cessation of operation of the nuclear reactor and final removal of all nuclear fuel and radioactive waste, and the removal of emergency response plan regulations and state responsibilities applicable to it by the Federal Nuclear Regulatory Commission and any other federal agency having regulatory jurisdiction, and after all outstanding debts have been paid, all monies remaining in the fund shall be repaid to the nuclear power plant, and the fund terminated.

(b) There is created a hazardous chemical and substance emergency response fund which shall include all moneys paid to the state pursuant to section 39 of this title. The fund shall be managed pursuant to the provisions of subchapter 5 of chapter 7 of Title 32. The fund shall be used to implement and administer this chapter, including planning, training and response activities as well as the purchase of equipment and assisting local organizations referred to in section 6 of this chapter to develop emergency response plans. Each local emergency planning committee shall receive a minimum grant of \$1,500.00, and \$4,000.00 as of July 1, 2007, annually and may petition the state emergency response commission for additional funds if needed and available. After disbursement of the minimum grant amounts and after consideration of the comments and evaluation received from the appropriate local emergency planning committee, the commissioner with the approval of the emergency response commission may make additional grants from the fund to any local emergency planning committee or regional emergency response commission as well as to any political subdivisions including any city, town, fire district, incorporated village and other incorporated entities in the state in accordance with rules adopted by the state emergency response commission. Unless waived by the state emergency response commission, grants shall be matched by local governments in the amount of 25 percent of the grant. The matching may be by contribution or by privately furnished funds or by in-kind services, space or equipment which would otherwise be purchased by a local emergency planning committee. (Added 1989, No. 252 (Adj. Sess.), § 26; amended 1993, No. 194 (Adj. Sess.), § 6, eff. June 14, 1994; 1995, No. 178 (Adj. Sess.), § 425, eff. May 22, 1996; 1997, No. 59, § 5, eff. June 30, 1997; 1999, No. 49, § 206; 2001, No. 142 (Adj. Sess.), § 114; 2003, No. 66, §§ 97a, 97b; 2005, No. 209 (Adj. Sess.), § 26; 2005, No. 215 (Adj. Sess.), § 68b; 2007, No. 65, § 71a; 2007, No. 192 (Adj. Sess.), § 5.904; 2009, No. 33, § 41.)

### **§ 39. Fees to the hazardous substances fund**

(a) Every person required to report the use or storage of hazardous chemicals or substances pursuant to EPCRA shall pay the following annual fees for each hazardous chemical or substance, as defined by the state emergency response commission, that is present at the facility:

- (1) \$35.00 for quantities between 100 and 999 pounds.
- (2) \$55.00 for quantities between 1,000 and 9,999 pounds.
- (3) \$90.00 for quantities between 10,000 and 99,999 pounds.
- (4) \$265.00 for quantities between 100,000 and 999,999 pounds.
- (5) \$800.00 for quantities exceeding 999,999 pounds.

(6) An additional fee of \$175.00 will be assessed for each extremely hazardous chemical or substance as defined in 42 U.S.C. § 11002.

(b) The fee shall be paid to the commissioner of public safety and shall be deposited into the hazardous chemical and substance emergency response fund.

(c) The following are exempted from paying the fees required by this section but shall comply with the reporting requirements of this chapter:

- (1) Municipalities and other political subdivisions.
- (2) State agencies.

(3) Persons engaged in farming as defined in 10 V.S.A. § 6001 of this title.

(4) Nonprofit corporations.

(d) No person shall be required to pay a fee for a chemical or substance which has been determined to be an economic poison as defined in 6 V.S.A. § 911 or for a fertilizer or agricultural lime as defined in 6 V.S.A. § 363 and for which a registration or tonnage fee has been paid to the agency of agriculture, food and markets pursuant to chapter 28 or 81 of Title 6.

(e) The state or any political subdivision, including any municipality, fire district, emergency medical service, or incorporated village, is authorized to recover any and all reasonable direct expenses incurred as a result of the response to and recovery of a hazardous chemical or substance incident from the person or persons responsible for the incident. All funds collected by the state under this subsection shall be deposited into the hazardous chemical and substance emergency response fund created pursuant to subsection 38(b) of this chapter. The attorney general shall act on behalf of the state to recover these expenses. The state or political subdivision shall be awarded costs and reasonable attorney fees that are incurred as a result of exercising the provisions of this subsection. (Added 1989, No. 252 (Adj. Sess.), § 27; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1990; 1993, No. 194 (Adj. Sess.), §§ 7, 8, eff. June 14, 1994; 1999, No. 49, § 158; 2003, No. 42, § 2, eff. May 27, 2003; 2003, No. 163 (Adj. Sess.), § 27; 2005, No. 72, § 14; 2005, No. 209 (Adj. Sess.), § 27; 2007, No. 153 (Adj. Sess.), § 1.)

#### **§ 40. Enforcement**

(a) The department of public safety shall have authority to inspect the premises and records of any employer to ensure compliance with the provisions of this chapter and the rules adopted under this chapter.

(b) A person who violates any provision of this chapter or any rule adopted under this chapter shall be fined not more than \$1,000.00 for each violation. Each day a violation continues shall be deemed to be a separate violation.

(c) The attorney general may bring an action for injunctive relief in the superior court of the county in which a violation occurs to compel compliance with the provisions of this chapter. (Added 1993, No. 194 (Adj. Sess.), § 9, eff. June 14, 1994.)

#### **§ 41. [Reserved for future use.]**

#### **§§ 42-44. Repealed. 1989, No. 252 (Adj. Sess.), § 28(b).**

#### **§ 45. Emergency relief and assistance**

(a) If a state of emergency due to an all hazards event is declared by the governor, the secretary of administration may expend from the emergency relief and assistance fund such funds necessary to meet match requirements for federal grants.

(b) The emergency board established by 32 V.S.A. § 131 may authorize the secretary of administration to expend from the emergency relief and assistance fund an amount not to exceed \$1,000,000.00 to avert an emergency natural or otherwise as identified by the board, and to expend from the emergency relief and assistance fund to award low interest loans and grants to municipalities that sustain damage to public infrastructure as a result of a natural disaster and to persons whose homes, farms, or businesses are damaged by a natural disaster. Assistance under this subsection may supplement assistance provided through federal and local emergency assistance programs, but eligibility for federal or local assistance shall not be required for eligibility under this subsection.

(c) There is created an emergency relief and assistance fund to be administered by the secretary of administration as a special fund under the provisions of subchapter 5 of chapter 7 of Title 32. The fund shall contain any amounts transferred or appropriated to it by the general assembly.

(d) Funds utilized under this section shall be distributed in accordance with criteria and procedures established by rule by the secretary of administration.

(e) [Repealed.] (Added 1999, No. 62, § 272a; amended 1999, No. 152 (Adj. Sess.), § 278, eff. May 29, 2000; 2005, No. 209 (Adj. Sess.), § 28; 2005, No. 215 (Adj. Sess.), § 282; 2009, No. 33, § 83(i)(1).)

#### **§ 46. Disaster relief workers fund; health care providers; reimbursement**

(a) The disaster relief workers fund is established in the state treasury, and shall be managed in accordance with the provisions of subchapter 5 of chapter 7 of Title 32. The fund is established for the purpose of providing pay reimbursement to employers of certain public or private health care providers who perform behavioral health disaster relief services.

(b) All monies received by or generated to the fund shall be used to provide wage reimbursement to any public or private Vermont employer for disaster relief services rendered by its employee. The employee shall be a certified disaster relief service volunteer of the American Red Cross. Reimbursement shall be for not more than 14 days for performing disaster relief work pursuant to a request from the American Red Cross when:

(1) the work is performed in Vermont; or

(2) the disaster is a federal or presidentially-declared disaster designated as Level III or above, according to the American Red Cross regulations and procedures; or

(3) the disaster is declared by the governor of a state or territory.

(c) The proceeds from grants, donations, contributions, and other sources of revenue, as provided by law, may be deposited in the fund. Interest earned on the fund and any balance remaining at the end of the fiscal year shall remain in the fund. The treasurer's office shall maintain records that indicate the amount of money in the fund at any given time.

(d) The commissioner of finance and management shall issue warrants for disbursement from the fund only for the purposes described in subsection (b) of this section, and shall administer the fund pursuant to an appropriation from the fund by the general assembly or authorization from the emergency board.

(e) For behavioral health care relief services, the commissioner of developmental and mental health services or a director of a regional mental health center may make timely applications to any and all appropriate federal or other grant programs that provide money for disaster relief or homeland security services, including the Crisis Counseling Training and Assistance Program. Any monies awarded from these sources for the purposes authorized in subsection (b) of this section shall be deposited into the disaster relief workers fund. The commissioner of developmental and mental health services shall supervise the administration of behavioral health care reimbursements under this act.

(f) Nothing in this section shall render an employer liable for damage, injury or harm caused or sustained by an employee who performs disaster relief services and who is eligible for reimbursement under this section, whether or not reimbursement occurs. (Added 2001, No. 100 (Adj. Sess.), § 1.)