

**TOWN OF HINESBURG LOCAL EMERGENCY OPERATIONS PLAN**

**Emergency Steps**

- 1) Establish an Incident Command Structure and make appropriate local decisions
- 2) Delegate Authorities to Incident Commander and request Declaration if appropriate
- 3) Contact State Emergency Operations Center (SEOC) if additional help or resources may be needed beyond mutual aid and local contractors (800-347-0488)
- 4) Alert the general population and evacuate as needed
- 5) Activate your Emergency Operations Center to support the Incident Commander as needed
- 6) Contact the Shelter Coordinator and American Red Cross (800-660-9130) to arrange a shelter opening if needed
- 7) Expand the ICS Structure as needed
- 8) Determine if additional operational shift staffing is needed
- 9) Conduct damage assessment. Report to SEOC
- 10) Conduct and document 'Emergency Repairs'

**Future steps**

- 11) Refer to your local codes and standards, Vermont Stream Alterations Rule, and local hazard mitigation plan before undertaking permanent repairs
- 12) If damages result in a Federal Declaration, request 406 mitigation when completing a Project Worksheet
- 13) Conduct an after-action review and develop an improvement plan

**Jurisdictions' Points of Contact: Identify by priority the top three people to be Points of Contact for your Town during an emergency (ex: EMD, Town Manager, Selectboard Chair, Fire Chief)**

Job Title: Fire Fire chief & EMC	First Name: Al	Last Name : Barber	Work 777 2240	Radio call sign 1C1
Email Address VT13202aol.com	Cell # 777 2240	Pager #	Home # 482 2687	Time Contacted
Job Title: Police Chief	First Name Frank	Last Name Koss	Work # 482 3397	Radio call sign M-21
Email Address fkoss@dps.state.vt.us	Cell # 318 1440	Pager # n/a	Home #	Time Contacted
Job Title Select board Chair	First Name John	Last Name Trefry	Work #	Radio call sign
Email Address trefryj@gmavt.net	Cell #	Pager #	Home # 482-2690	Time Contacted

County: **Chittenden**

Date LEOP adopted: \_\_\_\_\_

Name of town EMD/C:

Date NIMS adopted: \_\_\_\_\_

I, the select board chair or town manager, certify that this Local Emergency Operations Plan has been adopted (certifying individual must have taken, at minimum, ICS 402 or ICS 100 training): \_\_\_\_\_

Physical Municipal Address: **10632 rt 116 hinesburg vt**

Telephone: **482 2281**

Fax: **482 5404**

E-mail: **hinesburgtown@gmavt.net**

Alternate communication method: \_\_\_\_\_

*This Local Emergency Operations Plan must be adopted annually, after town meeting day, and submitted by May 1<sup>st</sup>.*

## Response and Recovery Guidelines

Please use this as an aid for baseline actions that should occur in an incident.

<b>1) Establish an Incident Command Structure and make appropriate local decisions</b>			<input checked="" type="checkbox"/>	Time
<b>a.</b>	<b>Identify the Incident Commander</b>		<input type="checkbox"/>	
<b>b.</b>	Identify the Incident Command Post		<input type="checkbox"/>	
<b>c.</b>	Start a log of actions taken (see Appendix A3- Activity Log (ICS Form 214))		<input type="checkbox"/>	
<b>d.</b>	Assess the situation (deploy assessment teams)		<input type="checkbox"/>	
	Determine casualties		<input type="checkbox"/>	
	Determine structure/infrastructure losses		<input type="checkbox"/>	
	Determine resource needs		<input type="checkbox"/>	
	Identify emergency access sites or isolated citizens		<input type="checkbox"/>	
<b>e.</b>	Request additional resources (Mutual Aid) if needed.		<input type="checkbox"/>	
<b>f.</b>	Secure a perimeter around affected area if needed		<input type="checkbox"/>	
<b>g.</b>	Consider potential staffing needs (extended or multiple operational periods)		<input type="checkbox"/>	

<b>2) Delegate Authorities to Incident Commander and request Declaration if appropriate</b>			<input checked="" type="checkbox"/>	Time
	Have highest ranking town official delegate authority to and meet with Incident Commander as appropriate (see Appendix D4 – Delegation of Authority)		<input type="checkbox"/>	
	If needed, the highest ranking town official should sign the Local Jurisdiction Request for Emergency Declaration, and send to DEMHS. (see Appendix A1 – Local Jurisdiction Request for Emergency Declaration)		<input type="checkbox"/>	

<b>3) Contact State Emergency Operations Center if additional help or resources may be needed beyond mutual aid and local contractors</b>			<input checked="" type="checkbox"/>	Time
Call State Emergency Operations Center and notify that additional resources may be needed.	<b>1-800-347-0488</b>		<input type="checkbox"/>	
If HAZMAT involved, contact HAZMAT Hotline	<b>1-800-641-5005</b>		<input type="checkbox"/>	

<b>4) Alert the general population and evacuate as needed</b>			<input checked="" type="checkbox"/>	Time
	Alert the Public (including special needs or vulnerable populations) of the hazards of the event at the outset and during the event (including protective actions and evacuation information). Suggested methods (siren, PA, door-to-door, town website, facebook, twitter, front porch forum)		<input type="checkbox"/>	
	Complete Planning Task #1 (see page 4)		<input type="checkbox"/>	

<b>5) Activate the Emergency Operations Center to support the Incident Commander as needed (See Planning Task #3 on page 5)</b>			<input checked="" type="checkbox"/>	Time
<b>Facility Name</b>	<b>Address</b>	<b>Phone Number</b>		
Hinesburg Fire Department	10430 Rt 116	802 482 2455	<input type="checkbox"/>	
Maintain communications with the SEOC (DisasterLAN, Phone, Fax, Email)			<input checked="" type="checkbox"/>	

<b>6) Contact the Shelter Coordinator and American Red Cross (800-660-9130) to arrange a shelter opening if needed (See Planning Task #6 on page 6)</b>				<input checked="" type="checkbox"/>	Time
<b>Notify the American Red Cross that shelters are needed</b>				<input type="checkbox"/>	
<b>Contact Shelter Manager</b>				<input type="checkbox"/>	
<b>Shelter Name</b>	<b>Physical Address/Location of the Shelter</b>	<b>Shelter Phone # and Manager Name</b>	<b># of occupants</b>		
				<input type="checkbox"/>	Opened: Closed:
				<input type="checkbox"/>	Opened: Closed:
				<input type="checkbox"/>	Opened: Closed:



## PLANNING TASKS

Please complete the white portion of these planning tasks prior to an incident occurring. During the incident, please complete the shaded portions.

Planning Task #1				
High Risk Populations List (for special attention/possible evacuation during an incident)				
Complete this information before an incident			Complete this information during an incident	
High Risk Population Type (school, daycare, nursing home, medical equipment-dependent resident, handicapped resident)	High Risk Population Location (physical location)	Point of Contact	POC Phone Number	Evacuated To (physical location)
Hinesburg Community school	10888 Rt 116			
Annettes play school	96 Pond rd			
Karens Day Care	77 Piette			
Linda Leclair's day care	2093 silver St			
Champlain Valley Union H.S	369 CVU Rd			
Kellys field	Kellys field rd			
Any Private Daycare				

Planning Task #2				
Major High Hazard and/or Vulnerable Sites List (locations to check for damage)				
Complete this information before an incident			Complete this information during an incident	
Site Type: (ex: dam, culvert, bridges, railway crossing, low-lying area)	Site Location (physical location)	Checked by	Status	Time
Sunset Lake Dam,	Behind Iroquis Manufacturing			
Canal Dam	Rt 116 @ Mechanicsville rd			
Nestec Dam	Behind Nestec 223 Commerce ST			
Lake Iroquios Dam	Wood Run			
Lewis creek rd				
Shelburne falls rd				
Swamp Rd				

\* If additional space is needed, please attach information on a separate sheet.

**Planning Task #3  
Pre-designated Local Emergency Operations Centers**

Facility Name	Facility Address (physical location)	Facility Point of Contact	Facility Phone Number
Primary: Hinesburg Fire Department	10430 Rt 116 Hinesburg	Chief Al Barber	482 2455
Secondary: Hinesburg Town Hall	10632 Rt 116 Hinesburg		482 2281
Tertiary:			

**Planning Task #4  
Functional Area/ Local Support Function**

Please identify agencies responsible for maintaining resource lists, found in Appendix B5.

Local Support Function	Agency Responsible for maintaining resource list: (see Appendix B5- Resource Lists)
<b>1. Transportation</b> - Assets in support of the movement of emergency resources, including the evacuation of people and distribution of food and supplies.	Hinesburg Fire Department
<b>2. Communications</b> - Includes emergency warning, information and guidance to the public and responders. Includes resources and back-up resources for all means of communication.	Hinesburg Fire Department
<b>3. Public Works &amp; Engineering</b> - Resources in support of debris clearance, road, highway, bridge repairs and restoration of essential public works systems and services and the safety inspection of damaged public buildings.	Hinesburg Highway Hinesburg Water Dept
<b>4. Firefighting</b> - Resources in support of structural and wildfire firefighting.	Hinesburg Fire Department
<b>5. Emergency Management, Recovery &amp; Mitigation</b> - Resources in support of the local Incident Commander through a Local Emergency Operations Center. Includes personnel resources available to provide overall coordination of the town's emergency operations. Resources may serve as a remote ICS planning section to collect, analyze and disseminate critical information on emergency operations for decision making purposes. May provide liaison with state/federal government.	Hinesburg Emergency Manager Select board
<b>6. Mass Care, Food &amp; Water</b> - Resources available to coordinate sheltering, feeding and first aid for disaster victims.	Hinesburg Fire Department
<b>7. Resource Support</b> - Assets available for coordination and documentation of personnel, equipment, supplies, facilities and services used during disaster response and initial relief operations.	VT emergency Management
<b>8. Health &amp; Medical Services</b> - Resources for care and treatment for the ill and injured. Includes lists of trained health and medical personnel and other emergency medical supplies, materials and facilities. Assets include public health and environmental sanitation services, disease and vector control guidelines and resources for the collection, identification, and protection of human remains.	Hinesburg Fire Department VT Emergency Management
<b>9. Search &amp; Rescue</b> - Resources locally available to locate, identify and remove persons from a stricken area, including those lost or trapped in buildings and other structures. Also includes resources to coordinate S&R for those lost in non-inhabited areas.	VT State Police
<b>10. Hazardous Materials</b> - Resources available for response, inspection, containment and cleanup of hazardous materials.	VT Hazmat Team
<b>11. Agriculture &amp; Natural Resources</b> - Assets available for use in coordinated response in the management and containment of communicable diseases in an animal health or plant emergency	VT Agency of natural resources
<b>12. Energy</b> - Assets available for the emergency repair and restoration of critical public energy utilities. Includes locally available back-up power resources. Coordinates the rationing and distribution of emergency power and fuel.	Green Mt Power VT Electric Co op
<b>13. Law Enforcement</b> - Assets used for the protection of life and property by enforcing laws, orders and regulations. Resources available for area security, traffic and access control.	Hinesburg Police VT State Police
<b>14. Public Information</b> - Pre-identified personnel and resources used for effective collection, control and dissemination of public information to inform the general public of emergency conditions and available assistance.	Hinesburg Fire Department Selectboard

**Planning Task #5  
Disaster Lead Agency/Coordinator**

**Who or what agency will likely be the lead for each type of disaster?**

Agency	Drought	Flood	Fire	Winter Storm	Ice Storm	Power Outage	Infectious Disease	Animal/Plant Emergency	Mass Casualty Incident	Hazardous Materials Spill	Public Gathering	Civil Unrest	Other (Please Specify)	Other (Please Specify)	Other (Please Specify)
Road Crew / Public Works	x	X		X	X										
Fire Department	x	X	x	x	x	X	x		x	x					
Town Selectboard	X										x				
Law Enforcement		x		x	x	X		x			X	X			
1 <sup>st</sup> Response / Rescue	x	x	x	x	x	x	x		x	x	X				
Shelter Coordinator											X				
Animal Control Officer								X							
Town Health Officer							X								
Town Clerk											X				
Town Treasurer															
Other (Please Specify)															
Other (Please Specify)															
Other (Please Specify)															

**Planning Task # 6  
Shelters**

**Shelter 1**

<b>Shelter Name:</b> Champlain Valley Union H.S	<b>Physical Address/Location of the Shelter:</b> 369 CVU RD	<b>Shelter Capacity:</b> 2000
<b>Shelter Manager:</b>	<b>Shelter Manager Cell #:</b> <b>Shelter Manager Pager #:</b>	<b>Other Contact:</b>
<input checked="" type="checkbox"/> <b>Warming Shelter</b>	<input checked="" type="checkbox"/> <b>Overnight Shelter</b>	<input checked="" type="checkbox"/> <b>Red Cross Agreement?</b>
<input checked="" type="checkbox"/> <b>Has a Backup Generator</b>	<input type="checkbox"/> <b>Has wiring in-place for generator hookup</b>	

**Shelter 2**

<b>Shelter Name:</b> hinesburg Community School	<b>Physical Address/Location of the Shelter:</b> 10888 Rt 116	<b>Shelter Capacity:</b> 1000
<b>Shelter Manager:</b>	<b>Shelter Manager Cell #:</b> <b>Shelter Manager Pager #:</b>	<b>Other Contact:</b>
<input checked="" type="checkbox"/> <b>Warming Shelter</b>	<input checked="" type="checkbox"/> <b>Overnight Shelter</b>	<input checked="" type="checkbox"/> <b>Red Cross Agreement?</b>
<input type="checkbox"/> <b>Has a Backup Generator</b>	<input type="checkbox"/> <b>Has wiring in-place for generator hookup</b>	

**Shelter 3**

<b>Shelter Name:</b> Hinesburg town hall	<b>Physical Address/Location of the Shelter:</b> 10632 Rt 116	<b>Shelter Capacity:</b> 100
<b>Shelter Manager:</b>	<b>Shelter Manager Cell #:</b> <b>Shelter Manager Pager #:</b>	<b>Other Contact:</b>
<input checked="" type="checkbox"/> <b>Warming Shelter</b>	<input checked="" type="checkbox"/> <b>Overnight Shelter</b>	<input checked="" type="checkbox"/> <b>Red Cross Agreement?</b>
<input type="checkbox"/> <b>Has a Backup Generator</b>	<input checked="" type="checkbox"/> <b>Has wiring in-place for generator hookup</b>	

American Red Cross – Vermont & the New Hampshire Upper Valley Region: 1-800-660-9130  
 Burlington Office – (802)660-9130    Rutland Office – (802) 773-9159    Brattleboro Office – (802) 254-2377

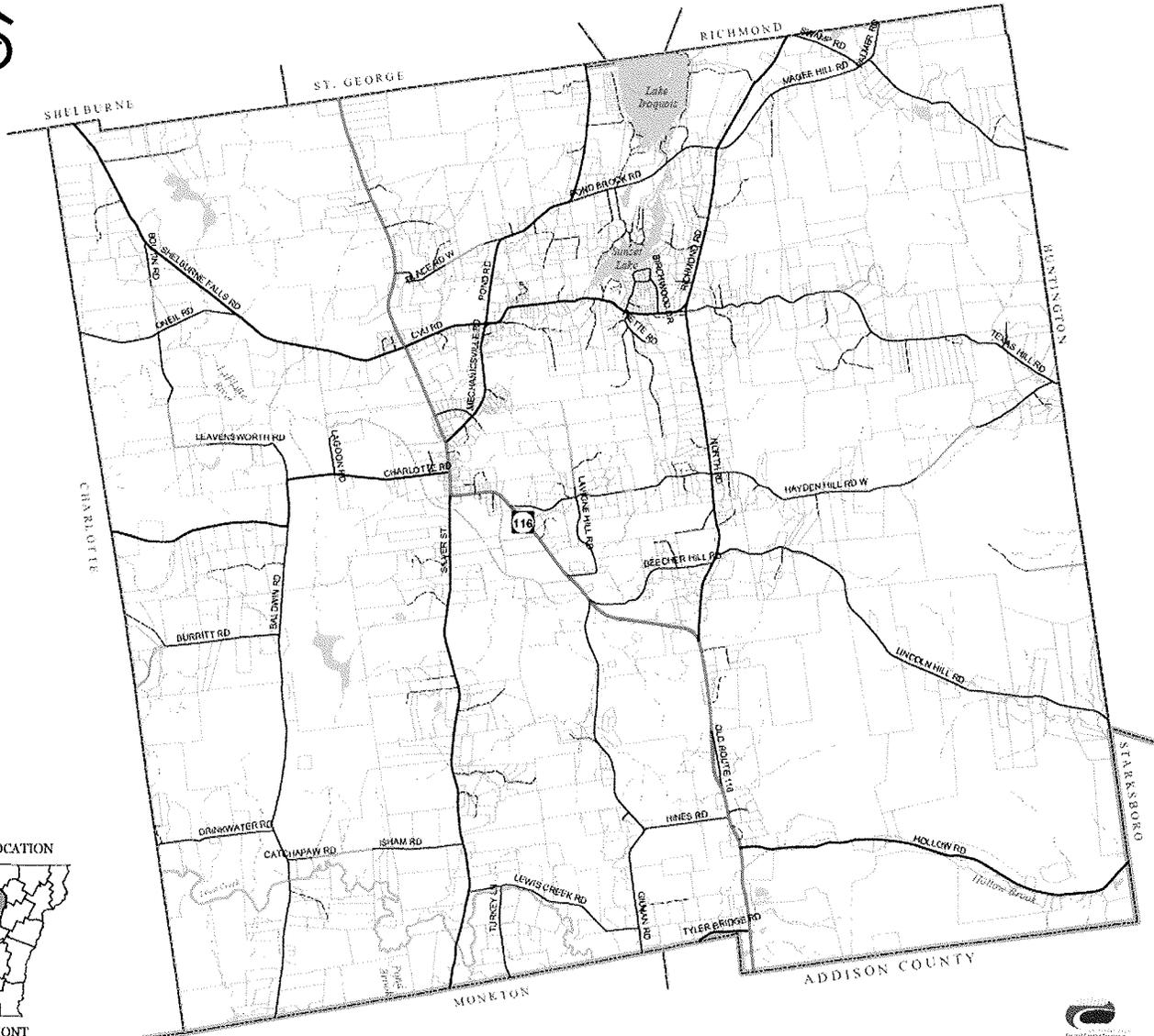
### Planning Task #7 - NIMS Typed Resources

Type	I	II	III	IV	Other	Type	I	II	III	IV	Other
Critical Incident Stress Management Team				N/A		Hydraulic Excavator, Large Mass Excavation				N/A	
Mobile Communications Center						Hydraulic Excavator, Medium Mass Excavation					
Mobile Communications Unit			N/A	N/A		Hydraulic Excavator, Compact					
All-Terrain Vehicles	N/A	N/A	N/A	N/A		Road Sweeper					
Marine Vessels	N/A	N/A	N/A	N/A		Snow Blower, Loader Mounted					
Snowmobile	N/A	N/A	N/A	N/A		Track Dozer					
Public Safety Dive Team						Track Loader					
SWAT/Tactical Team						Trailer, Equipment Tag-Trailer				N/A	
Firefighting Brush Patrol Engine	N/A	N/A	N/A			Trailer, Dump		N/A	N/A	N/A	
Fire Engine (Pumper)						Trailer, Small Equipment			N/A	N/A	
Firefighting Crew Transport				N/A		Truck, On-Road Dump					
Aerial Fire Truck			N/A	N/A		Truck, Plow					
Foam Tender			N/A	N/A		Truck, Sewer Flusher					
Hand Crew						Truck, Tractor Trailer				N/A	
HAZMAT Entry Team				N/A		Water Pumps, De-Watering					
Engine Strike Team						Water Pumps, Drinking Water Supply - Auxiliary Pump					
Water Tender (Tanker)				N/A		Water Pumps, Water Distribution					
Fire Boat				N/A		Water Pumps, Wastewater					
Aerial Lift - Articulating Boom						Water Truck		N/A	N/A	N/A	
Aerial Lift - Self Propelled, Scissor, Rough Terrain						Wheel Dozer			N/A	N/A	
Aerial Lift - Telescopic Boom						Wheel Loader Backhoe					
Aerial Lift - Truck Mounted						Wheel Loader, Large					
Air Compressor						Wheel Loader, Medium					
Concrete Cutter/Multi-Processor for Hydraulic Excavator						Wheel Loader, Small				N/A	
Electronic Boards, Arrow						Wheel Loader, Skid Steer				N/A	
Electronic Boards, Variable Message Signs						Wheel Loader, Telescopic Handler					
Floodlights				N/A		Wood Chipper		N/A	N/A	N/A	
Generator						Wood Tub Grinder					
Grader				N/A							

Information about the NIMS Typed resources can be found at: <https://rtlt.ptaccenter.org/Public/Combined>

# Town Maps

Please insert town maps here. These maps can include things such as roads, town boundaries, shelter locations, high hazard/vulnerable sites, etc.



LOCATION



VERMONT



October 26, 2004

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**RULES FOR STATE MATCHING FUNDS  
UNDER THE FEDERAL PUBLIC ASSISTANCE PROGRAM**

**1.1 PURPOSE**

The purpose of this rule is to establish the criteria and procedures by which to distribute the State share of funds to match federal disaster relief under the Federal Emergency Management Agency's Public Assistance Program. The Emergency Relief and Assistance Fund is established at 20 V.S.A. § 45, along with the requirement for the Secretary of Administration to establish by rule the criteria and procedures for distribution of money from this fund.

The intent of the fund and this Rule is to render state assistance more predictable, consistent and available, as well as to encourage hazard mitigation strategies by municipalities and individuals to reduce potential future damages from natural disasters.

**1.2 DEFINITIONS**

**1.2.1 Administration Plan:** Vermont State Administration Plan for Public Assistance produced by the Department of Public Safety, Emergency Management Division, as amended from time to time.

**1.2.2 ERAF:** Emergency Relief and Assistance Fund established at 20 V.S.A. § 45.

**1.2.3 FEMA:** Federal Emergency Management Agency.

**1.2.4 FEMA Regulations:** Title 44 of the U.S. Code of Federal Regulations (44 CFR).

**1.2.5 FEMA State Agreement:** Agreement governing the administration of a federally declared disaster, signed by the FEMA Regional Director and by the Governor.

**1.2.6 Grantee:** the State of Vermont, as recipient of funds through Federal Public Assistance Program administered by FEMA.

**1.2.7 Hazard Mitigation:** Sustained action that reduces or eliminates long-term risk to people and property from natural hazards and their effects.

**1.2.8 Subgrantee:** A town, city, village, school district, municipal utility, or volunteer fire department meeting the requirements set out at 44 CFR § 206.201(a), (k), and (l).

**1.2.9 Stafford Act:** The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Chapter 68).

**1.2.10 VANR:** The Vermont Agency of Natural Resources

**1.2.11 VEM:** Vermont Emergency Management

**1.2.12 VTRANS:** The Vermont Agency of Transportation

### **1.3 ELIGIBILITY**

Funds under these rules shall be provided to subgrantees for repair or replacement of damaged public infrastructure to match federal disaster relief provided following a Presidential declaration of a major disaster under Section 406 of the Stafford Act. The funds may be provided to assist subgrantees in matching public assistance provided by FEMA following the rules established pursuant to the Stafford Act at 44 CFR § 206.

### **1.4 ALLOCATION OF FUNDS FOR FEDERALLY DECLARED DISASTERS**

**1.4.1 Municipalities:** Twenty four months after the adoption of this rule, the State/municipal match requirements will change as follows. During this twenty four month period, the State/municipal match requirements will remain as described in the Vermont Emergency Relief and Assistance Fund Final Rule, adopted 8/16/2001.

The standard State funding match will be 30% of the non-Federal share of an approved project. The municipality will be responsible for the remaining 70% of the non-Federal share.

In order to qualify for an increased State funding match of either 50% or 70% of the non-Federal share of an approved project, a municipality must meet the requirements described in Appendix A (ERAF State-Share Match Incentives).

The subgrantee will apply to FEMA, following the process set out in the Administrative Plan. Once FEMA has approved the projects for funding, VTRANS will calculate the assistance for which the projects may be eligible and process payment for such eligible projects.

**1.4.2 Other Public Subgrantees:** Other municipal subgrantees (that are not the legislative bodies of cities, towns or villages), such as school districts, fire districts or municipal utilities, will be responsible for meeting all of the non-federal (25%) share up to \$10,000. State funds from the ERAF will be made available to cover the remainder of the non-federal share. The subgrantee will apply to FEMA, following the process set out in the Administrative Plan. Once the projects are approved for funding by FEMA,

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VTRANS will calculate the assistance for which the projects may be eligible and process payment for such eligible projects.

**1.4.3 Payment:** In any year, the funding from ERAF shall be paid to subgrantees in order of receipt of certification of project completion, until the ERAF is depleted for that year. Any subgrant that is not funded due to depletion in the ERAF shall be paid in order of receipt of certification of project completion when funding is available.

## 1.5 USE OF FUNDS FOR PUBLIC PROJECTS

**1.5.1** Funds may be used for the repair and/or replacement of public property damaged in the event of a declared disaster.

**1.5.2** Funds shall be used to match the FEMA share in conjunction with local funds for Large Projects, Small Projects and Improved Projects; as defined at 44 CFR § 206.203.

**1.5.3** Funds under these rules shall not be available for Alternative Projects as defined at 44 CFR § 206.203(d)(2).

### Appendix A State of Vermont Emergency Relief and Assistance Fund (ERAF) State Share- Match Incentives

The current State funding default rate for FEMA Public Assistance-eligible projects is **50%** of the local match requirement for approved projects. Twenty four months after adoption of this Rule, the State funding default rate shall drop to **30%** of the local match requirement. These percentages will apply to both the 75% and 90% federal cost share levels.

Twenty four months after adoption of this Rule, in order to qualify for State match funding to the **50%** level of the non-Federal cost share, a municipality must provide verification to the Department of Public Safety that it has adopted or will adopt within 30 days of a federal disaster declaration, or is actively implementing the following programs or measures:

1. Town road and bridge standards consistent with or exceeding those listed under the most current version of Town Road & Bridge Standards, *Handbook for Local Officials*, published by the Vermont Agency of Transportation;
2. A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step (24 VSA §4415), to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;

- 
3. A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community, and is approved or in the process of securing final approval by FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan; and,
  4. Adoption of a local Emergency Operations Plan (EOP) in accordance with State standards.

Twenty four months after adoption of this Rule, in order to qualify for increased State match funding to the 70% level of the non-Federal cost share, a municipality must provide verification to the Department of Public Safety that it has adopted and is actively administering either item (a) or (b) from the following list:

- a. Maintenance of an active rate classification (class #1 through 9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones.
- or
- b. Adoption of a Fluvial Erosion Hazard (FEH) or other river corridor or floodplain protection by-law that meets or exceeds the Vermont Agency of Natural Resources (ANR) FEH model regulations and scoping guidelines.

For the twenty four month period following adoption of this Rule, the provisions within the current Rule will determine the rate of state financial participation with the municipality.

If in the case of a catastrophic event, where a statewide eligibility for FEMA Public Assistance exceeds \$100 million, the Secretary of Administration through rulemaking may, at his/her discretion, adjust the level of state financial participation with any municipality, wherein the local share of the non-Federal match exceeds 300% of the municipality's current annual highway department budget. In such case, the municipality shall adopt, or commit to adopting, at least one of the two measures associated with the 70% level of the non-Federal cost share, listed above, to qualify for any such adjustment.

**ENVIRONMENTAL PROTECTION RULE**

**CHAPTER 27**

**VERMONT STREAM ALTERATION RULE**

**State of Vermont  
Agency of Natural Resources  
Department of Environmental Conservation**

**Watershed Management Division  
River Management Program  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522**

## Vermont Stream Alteration Rule

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## **Subchapter 1 - Purpose; Policy; Authority; Enforcement**

### **§27-101 Purpose**

The purpose of this Rule is to clarify how the Agency shall manage stream alterations during emergencies and otherwise.

### **§27-102 Policy**

- (a) Streams move by nature, changing in elevation, shape, and lateral location over time. Stream change occurs through natural stream processes primarily during high runoff events when deeper water has the power to erode and deposit the bed and banks of a stream. Natural changes generally do not have a damaging effect on fish life or wildlife populations. Aquatic and wildlife communities adapt and thrive in changeable streams due in part to the hydrologic and hydraulic processes that balance and evenly distribute stream bed erosion and deposition to form complex stream habitats. The unique dynamic equilibrium condition of each stream embodies both the changeability of stream location and the natural stability of general stream forms and processes.

It is the policy of the State to promote and protect the natural maintenance and natural restoration of dynamic equilibrium conditions and to minimize fluvial erosion hazards (10 V.S.A. §§ 1021 and 1022). The Agency assesses the geomorphic condition and sensitivity of streams and rivers and delineates the corridor necessary to accommodate dynamic equilibrium, naturally stable conditions, and the natural stream processes that would occur in a given location.

- (b) Properties within river corridors are highly vulnerable to fluvial erosion hazards. Stream alterations implemented to protect these properties may affect the balance of stream processes and the distribution of erosion and deposition elsewhere along the corridor (i.e., alterations to stop erosion in one place may increase erosion in another place). Stream alterations that change the course, current, or cross-section of a stream and that cause the stream to significantly depart from or further depart from its equilibrium condition, or that alter the connectivity of the stream in its vertical and horizontal dimensions, increase risks to aquatic life, riparian property, and public safety.
- (c) Many of Vermont's cities, towns, villages, highways, and other critical infrastructure have been built next to streams, and are therefore vulnerable to flooding and erosion. The State recognizes that particular stream reaches must be managed in a non-equilibrium condition to protect pre-existing improved property.

Threats to life, public health, and safety or the threat of severe damage to existing improved property are emergencies and may justify stream alterations that may impede the attainment and maintenance of equilibrium conditions and may potentially result in or significantly contribute to damage to fish life, wildlife, or the rights of riparian owners. This Rule acknowledges the tension in some circumstances between threats to life and existing property and the policy of establishing and maintaining stream equilibrium conditions and connectivity to protect fish and aquatic life.

- (d) Streams create a tremendous amount of power, sediment, and debris during floods and damaging floods may become more frequent because of climate change. It is essential that the State regulate stream alterations to attain and maintain equilibrium conditions within stream and river corridors and floodplains upstream and downstream of settled areas so streams can overtop their banks and release their flood energy and materials in these less-developed areas.

### §27-103 Authority

(a) This Rule is adopted by the Vermont Agency of Natural Resources pursuant to 10 V.S.A. § 1027 and 10 V.S.A. Chapter 165. This Rule applies to stream alterations in both emergency and non-emergency circumstances.

(b) Except as provided in subpart 27-302 of this Rule, this Rule shall apply to all activities that change, alter, or modify the course, current, or cross section of a watercourse within Vermont.

### §27-104 Enforcement

Violations of this Rule are subject to enforcement under applicable Vermont law, including 10 V.S.A. Chapter 41 and 10 V.S.A. Chapters 201 and 211. Failure to comply with the notification requirements of this Rule or to receive authorization for stream alterations and emergency protective measures under a stream alteration general permit (“general permit”) or stream alteration individual permit (“individual permit”) shall constitute a violation of this Rule.

## Subchapter 2 – Definitions

### §27-201 Definitions

For the purposes of this Rule, the following terms shall have the specified meaning:

- (1) “**Activity**” means a stream alteration.
- (2) “**Agency**” means the Vermont Agency of Natural Resources.
- (3) “**Aggrading Channel Bed**” means the deposit of instream materials and a raising of the channel bed elevation that occurs at the reach scale with a decrease in stream power, brought about by a change in channel dimensions, slope, and/or roughness characteristics.
- (4) “**Annual Flood**” means a discharge (Q) or flood flow event that occurs at a high frequency, i.e., there is a greater than a 50% chance of a flood stage ( $<Q_2$ ) of at least this level occurring in any given year.
- (5) “**Aquatic Life**” means all organisms that, as a part of their natural life cycle, live in or on waters. Aquatic life is synonymous with “Aquatic Biota” as defined in the Vermont Water Quality Standards.
- (6) “**Bank Full Width**” means the top surface width of the stream channel at a discharge corresponding to a water stage that occurs at a frequency of every one to two years ( $Q_{1.5}$  to  $Q_2$ , i.e., there is a 50 to 66% chance of this high flow occurring in a given year). Bank full widths are measured from the crest of the right streambank to the crest of the left streambank for streams in equilibrium condition, from field scour and deposition indicators of bank full stage for incised channels, or, when field measurements are not available, as calculated from reference data such as the Vermont Hydraulic Geometry Curves<sup>1</sup>.
- (7) “**Berm**” means a linear fill of earthen material on or adjacent to the bank of a watercourse that constrains waters from entering a “flood hazard area” or “river corridor,” as those terms are defined in 10 V.S.A. §§ 752(3) and (11). For the purposes of this Rule, the Secretary shall classify linear fill as a regulated berm when earthen material is pushed or excavated from a stream bed or adjacent lands into a raised barrier between a watercourse and adjacent lands.

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<sup>1</sup> [http://www.anr.state.vt.us/dec/waterq/rivers/docs/rv\\_hydraulicgeocurves.pdf](http://www.anr.state.vt.us/dec/waterq/rivers/docs/rv_hydraulicgeocurves.pdf)

- (8) **"Buffer zone"** means an undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the top of the bank of an adjacent river or stream, as determined by the Agency.
- (9) **"Channelized"** means the condition of a stream channel that has been straightened, bermed, dredged, and/or armored by human activity.
- (10) **"Channel Incision"** means an area of stream bed exhibiting vertical erosion or headcutting.
- (11) **"Channel Roughness"** means the frictional resistance, and its moderating effect on flow velocities, provided by: the sizes of instream material on stream beds and banks (i.e., channel boundaries); the undulations of stream bed forms; and the sinuous features along the channel planform.
- (12) **"Dam"** means any artificial structure on a stream or at the outlet of a pond or lake, which is utilized for holding back water by ponding or storage and may include any penstock, flume, piping, or other facility for transmitting water downstream to a point of discharge, or for diverting water from the natural watercourse to another point for utilization or storage.
- (13) **"Degrading Channel Bed"** means the erosion of instream bed materials and a lowering of the channel bed elevation that occurs at the reach scale with an increase in stream power, brought about by a change in channel dimensions, slope, and/or roughness characteristics.
- (14) **"Dredge"** means lowering the elevation of the stream bed profile or any clearing, deepening, widening, or excavating, either temporarily or permanently.
- (15) **"Emergency Protective Measure"** means an action necessary to preserve life or to prevent severe imminent damage to public or private property, or both.
- (16) **"Equilibrium Conditions"** means the width, depth, meander pattern, and longitudinal slope of a stream channel that occurs when water flow, sediment, and woody debris are transported by the stream in such a manner that it generally maintains dimensions, pattern, and slope without unnaturally aggrading or degrading the channel bed elevation.
- (17) **"Fill"** means any placed material that raises, either temporarily or permanently, the surface elevation of the stream bed, floodplain, or river corridor, or extends the limits of the streambank.
- (18) **"Flood Hazard"** means those hazards to public safety or property from inundation damages.
- (19) **"Flood Hazard Area"** means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- (20) **"Flood Flowage"** means any waters, sediment, and debris associated with a high discharge or flood flow event (Q1.5 or greater).
- (21) **"Floodplain Connectivity"** means that geomorphic condition in which flows, at or greater than the annual flood stage (Q1.5), will spill out of the stream channel and onto the floodplain.
- (22) **"Fluvial Erosion Hazards"** means those hazards to public safety or property related to the erosion or scouring of stream beds and banks during high flow conditions of a river.
- (23) **"Geomorphic Condition"** means the degree of departure, if any, from the dimensions, pattern, and profile associated with the naturally stable channel that result from the unique set of natural stream processes or dynamic equilibrium conditions of a stream or river segment.
- (24) **"Geomorphic Sensitivity"** means the potential of a river, given its inherent characteristics and present geomorphic conditions, to be subject to a high rate of fluvial erosion and other river channel adjustments, including erosion, deposit of sediment, and flooding.
- (25) **"Headcutting"** means the erosive process of stream bed particles being washed off a steepened area of a stream bed, deepening the channel and resulting in a loss in vertical and floodplain connectivity.
- (26) **"Horizontal Streambank Alignment"** means the location of the channel margins, or boundaries along right and left streambank lines from upstream to downstream, which may be altered by streambank fill and excavation activities.
- (27) **"Hydrologic Regime"** means the timing, volume, and duration of flow events throughout a defined period of time, which may be influenced by the climate, soils, geology, groundwater, water-

shed land cover, connectivity of the stream, riparian, and floodplain network, and valley and stream morphology.

- (28) ***“Instream Materials”*** means all gradations of sediment from silt to boulders; ledge rock; or large woody debris, as these materials exist in the bed of a watercourse, within the banks of a watercourse, or enter as placed-fill in the bed or on the banks of a watercourse.
- (29) ***“Imminent Threat”*** means there is a risk to life or a risk of severe property damage within the next 72 hours.
- (30) ***“Improved Property”*** means a habitable structure, the property immediately surrounding a habitable structure, public utility or transportation infrastructure, and private bridges or culverts and associated infrastructure providing primary access to a habitable structure. For the purposes of this Rule, a habitable structure means any enclosed roofed structure; residential, commercial, or industrial; public or private, that is fit for people to enter and utilize.
- (31) ***“Intermittent Stream”*** means a seasonal stream that only flows for part of the year.
- (32) ***“Large Woody Debris”*** means any piece of wood within a watercourse with a diameter of ten or more inches and a length of ten or more feet that is detached from the soil where it grew.
- (33) ***“Longitudinal Stream Bed Profile”*** means the slope or vertical drop of the stream bed from upstream to downstream in relationship to adjacent floodplain features.
- (34) ***“Next Flood Threat”*** means those risks to life or of severe damage to improved property posed by the next annual flood.
- (35) ***“Outstanding Resource Water”*** means any waters designated by the Secretary as having exceptional natural, recreational, cultural, or scenic values, pursuant to 10 V.S.A. § 1424a.
- (36) ***“Perennial Stream”*** means a watercourse or portion, segment, or reach of a watercourse, generally exceeding 0.5 square miles in watershed size, in which surface flows are not frequently or consistently interrupted during normal seasonal low flow periods. Perennial streams that begin flowing subsurface during low flow periods, due to natural geologic conditions, remain defined as perennial. All other streams, or stream segments of significant length, shall be termed intermittent. A perennial stream shall not include the standing waters in wetlands, lakes, and ponds.
- (37) ***“Q”*** means discharge, or the volume rate of water flow.
- (38) ***“River Corridor”*** means the land area adjacent to a stream or river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of dynamic equilibrium conditions, as that term is defined in 10 V.S.A. § 1422, and for minimization of fluvial erosion hazards, as delineated by the Agency in accordance with the ANR River Corridor Protection Guide<sup>2</sup>.
- (39) ***“Secretary”*** means the Secretary of the Agency of Natural Resources or the Secretary’s authorized representative.
- (40) ***“Sediment Regime”*** means the size, quantity, sorting, and distribution of sediments, which may differ between stream types due to their proximity to different sediment sources, their hydrologic regime, their stream, riparian and floodplain connectivity, and valley and stream morphology.
- (41) ***“Significant Flooding Event”*** means a flood greater than the annual flood where flood flowages may result in significant erosion and depositional processes, i.e., a flooding event that may be in the order of a five-year recurrence interval (Q5 or a 20% chance of occurring in any given year).
- (42) ***“Stream”*** means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches, which experience perennial flow. “Stream” does not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

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<sup>2</sup> Available at: [http://www.anr.state.vt.us/dec/waterq/rivers/docs/rv\\_RiverCorridorProtectionGuide.pdf](http://www.anr.state.vt.us/dec/waterq/rivers/docs/rv_RiverCorridorProtectionGuide.pdf)

- (43) ***“Stream Bed Erosion”*** means a stream process whereby stream power is sufficient to move even the largest stream bed sediments and transport the quantity of sediment flowing from upstream, leading to a deficit of sediment and a lowering of the vertical stream bed profile.
- (44) ***“Stream Bed Deposition”*** means a stream process whereby stream power is insufficient to move or transport the size and quantity of sediment flowing from upstream, leading to a buildup of sediment and a raising of the vertical stream bed profile.
- (45) ***“Stream Forms”*** means the width, depth, meander pattern, and longitudinal slope of a stream channel that vary little within a narrow range of values at the stream reach-scale, when larger-scale stream processes remain unchanged.
- (46) ***“Stream Processes”*** means the hydrologic, sediment, and large woody debris regimes of a particular stream reach and is a term used to describe stream channel hydraulics, or the erosion and deposition of instream materials by the power of flowing water, which may result in the vertical and lateral movement of stream bed and banks, and may change or be changed by stream forms and channel roughness.
- (47) ***“Vertical Stream Channel Movement”*** means changes to the vertical stream bed profile caused by reach-scale changes in stream processes.
- (48) ***“Watercourse”*** means any perennial stream. “Watercourse” shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.
- (49) ***“Width to Depth Ratio”*** means the channel width divided by the mean channel depth.
- (50) ***“Windrowing”*** means pushing and berming instream materials to the stream channel margins.

### **Subchapter 3 – Applicability; Exemptions; Prohibitions**

#### **§27-301 Applicability**

- (a) A person shall not change, alter, or modify the course, current, or cross section of any watercourse or designated outstanding resource waters, within or along the boundaries of the State either by movement, fill, or excavation of ten cubic yards or more of instream material in any year, unless authorized by the Secretary in accordance with this Rule (10 V.S.A. § 1021(a)).
- (b) For purposes of determining which activities require approval pursuant to this Rule, the Secretary will apply the following interpretations:

##### 1. Watercourses

A “watercourse” is a perennial stream with surface flows that are not frequently or consistently interrupted during normal seasonal low flow periods. Perennial streams that begin flowing subsurface during low flow periods, due to natural geologic conditions, remain defined as perennial. All other streams, or stream segments of significant length, shall be presumed as intermittent. A watercourse is contained horizontally by its cross-section; including the stream bed and banks. Human caused interruptions of flow (e.g. flow fluctuations associated with hydroelectric facility operations or water withdrawals) shall not influence the Secretary’s determination of a perennial stream. A perennial stream shall not include the standing waters in wetlands, lakes, and ponds. For purposes of this Rule, the exclusion of “ditches or other constructed channels primarily associated with land drainage or water conveyance” from the definition of “watercourse” in this Rule shall not be interpreted to include perennial streams that have been excavated and re-formed into a straightened, channelized condition.

## 2. River Corridors

A river corridor will be delineated for the purpose of identifying those riparian lands that are required to accommodate the dimensions, slope, planform, and buffer of a naturally stable channel, necessary for the natural maintenance or natural restoration of dynamic equilibrium conditions and for minimization of fluvial erosion hazards. River corridors shall be delineated by the Agency in accordance with river corridor protection procedures (10 V.S.A. § 1422(12)).

## 3. Flood Hazard Areas

Flood hazard areas will be delineated in a manner consistent with the federal definition of an “*area of special flood hazard*” (44 C.F.R § 59.1), i.e., that land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year (10 V.S.A. § 752(3)).

### **§27-302 Exemptions**

Pursuant to 10 V.S.A. § 1021, the following activities shall not require a stream alteration permit:

1. Emergency protective measures necessary to preserve life or to prevent severe imminent damage to public or private property, or both, if such measures meet the requirements of Subchapter 7 of this Rule;
2. Projects involving movement, fill, or excavation of less than ten cubic yards of instream materials in any year within the limits of the watercourse;
3. Removal of up to 50 cubic yards of gravel per year from that portion of a watercourse running through or bordering on the owner’s property, provided:
  - a) The material shall be removed only for the owner’s use on the owner’s property;
  - b) The material removed shall be above the waterline; and
  - c) At least 72 hours prior to the removal of ten cubic yards, or more, the landowner shall notify the Secretary;
  - d) However, if the portion of the watercourse in question has been designated as outstanding resource waters, then the riparian owner may so remove no more than ten cubic yards of gravel per year, and must notify the Secretary at least 72 hours prior to the removal of any gravel.
4. Dam related projects subject to 10 V.S.A. Chapter 43;
5. State transportation infrastructure projects subject to 19 V.S.A. § 10(12);
6. Accepted agricultural or silvicultural practices, as defined by the Secretary of Agriculture, Food and Markets, or the Commissioner of Forests, Parks and Recreation, respectively; and
7. Hand panning prospecting techniques.

### **§27-303 Prohibitions**

- (a) No person shall remove gravel from any watercourse primarily for construction or for sale (10 V.S.A. § 1021(c)).
- (b) A person shall not establish or construct a berm in a flood hazard area or river corridor, unless permitted by the Secretary or constructed as an emergency protective measure under this Rule (10 V.S.A. § 1021(a)).

**Subchapter 4 – Investigation; Standards for the Issuance of Stream Alteration Permits and Authorization for Stream Alterations under a General Permit that Do Not Qualify as Protective Measures Necessary to Address Next-Flood Threats or Emergencies**

**§27-401 Investigation**

- (a) Upon receipt of an application for a stream alteration permit or a report of a proposed stream alteration requiring the Secretary's authorization, the Secretary shall investigate the proposed stream alteration to determine whether it complies with this Rule and applicable statutes (10 V.S.A. § 1023(a)).
- (b) The Secretary shall issue a written decision on proposed stream alterations that addresses the effect of the proposal on the watercourse (10 V.S.A. § 1023(a)).

**§27-402 Standards for the Issuance of Stream Alteration Permits and Authorization for Stream Alterations under a General Permit that Do Not Qualify as Protective Measures Necessary to Address Next-Flood Threats or Emergencies**

- (a) As provided by 10 V.S.A. § 1023(a), an individual stream alteration permit or authorization under a stream alteration general permit shall be granted, subject to such conditions determined to be warranted by the Secretary, if the Secretary concludes that the change:
  - 1. Will not adversely affect the public safety by increasing flood or fluvial erosion hazards;
  - 2. Will not significantly damage fish life or wildlife;
  - 3. Will not significantly damage the rights of riparian owners; and
  - 4. In the case of any waters designated as outstanding resource waters under 10 V.S.A. § 1424a, will not adversely affect the values sought to be protected by the designation.
- (b) In determining whether or not a proposed activity meets the criteria for permit issuance in 10 V.S.A. § 1023(a), the Secretary shall apply the following performance standards:
  - 1. Equilibrium Standard
    - a. An activity shall not change the physical integrity of the stream in a manner that causes it to depart from, further depart from, or impedes its attainment of the channel width, depth, meander pattern, and slope associated with the stream processes and the equilibrium conditions of a given reach of stream.
    - b. The equilibrium standard is met when it can be shown that, following the stream alteration, the water flow, sediment, and woody debris produced by the watershed will be transported by the stream channel in such a manner that the stream maintains its dimension, general pattern, and slope with no unnatural aggrading (raising) or degrading (lowering) of the channel bed elevation along the longitudinal stream bed profile.
  - 2. Connectivity Standard
    - a. An activity shall not change physical stream forms or alter local channel hydraulics, natural streambank stability, or floodplain connectivity in a manner such that changes in the erosion or deposition of instream materials results in localized, abrupt changes to or disconnects within the horizontal alignment of streambanks or the vertical profile of the stream bed.

- b. A person shall not, unless authorized by the Secretary, change the course, current, or cross-section of a watercourse so as to create a physical obstruction or velocity barrier to the movement of aquatic organisms or change the vertical stream bed profile in a manner that impedes the movement of aquatic organisms.
- c. A person shall not establish, construct, or maintain a berm in a flood hazard area or river corridor, as defined in this Rule, unless authorized as an emergency protective measure as prescribed in Subchapter 7 of this Rule.

## **Subchapter 5 – General Permits; Administration**

### **§27-501 Purpose and Applicability**

This subpart sets forth a process for the development and issuance of stream alteration general permits.

### **§27-502 Types of General Permits**

- (a) The Secretary may issue general permits for discrete categories of stream alteration activities. The Secretary may issue general permits for both emergency and non-emergency stream alteration activities. Pursuant to 10 V.S.A. § 7501(a), the Secretary may issue general permits for non-emergency stream alteration activities that present a low risk to the environment and public health. For the purposes of non-emergency stream alteration general permits, low risk activities are those activities that comply with the standards set forth in subpart 27-402 of this Rule and that:
  - 1. If non-reporting, the Secretary categorically determines are very low impact, or
  - 2. If reporting, pursuant to subpart 27-506(h) of this Rule, the Secretary determines on a case-by-case basis are not high risk and not in need of an individual permit.
- (b) The Secretary may specify different types of reporting requirements in general permits, including reporting and non-reporting categories of activities. The Secretary may specify different types of reporting categories, including a reporting category for which an application shall be submitted for coverage under the general permit. Activities in a non-reporting category may proceed without the submission of an application and are considered covered by the permit if eligible as specified in the permit and if conducted in compliance with all the applicable terms and conditions of the general permit.

### **§27-503 Issuance of General Permits; Notice and Public Comment Period**

- (a) The Secretary may prepare a draft general permit and shall provide notice of the draft within each geographic area to which the permit would apply and shall include at least all of the following:
  - 1. Written notice to the clerks of the municipalities in the geographic area covered by the general permit;
  - 2. Written notice to each affected Vermont state agency and such other government agencies as the Secretary deems appropriate;
  - 3. Publication of notice of the proposed permit in a newspaper or newspapers that circulate generally within each geographic area to which the permit would apply;
  - 4. Posting of the notice and a copy of the general permit on the Agency's webpage;
  - 5. Mailing notice and a copy of the proposed general permit to any individual, group,

or organization upon request; and

6. Mailing a copy of the notice and a copy of the proposed general permit to the chairs of the House Committees on Commerce and Economic Development; Fish, Wildlife and Water Resources; and Natural Resources and Energy; and the Senate Committees on Economic Development, Housing and General Affairs and on Natural Resources and Energy. With this mailing, the Secretary shall also include a brief summary of any scientific information on which the proposed general permit is based. If the Secretary proposes to amend a general permit previously issued under this Rule, the Secretary further shall include an annotated text showing changes from the existing permit.

(b) The notice of the draft general permit shall:

1. Accurately summarize the proposed general permit, including a summary of eligible activities and its terms and conditions;
2. Indicate how and where copies of the proposed permit can be obtained and information on the procedure for submitting comments and requesting a public information meeting;
3. Contact information; and
4. The deadline for submission of comments and the request for a public information meeting.

(c) The Secretary shall provide a period of not less than 30 days following the date of publication in newspapers of general circulation during which any person may submit written comments on the proposed general permit.

(d) Any request for a public meeting shall be submitted to the Secretary in writing no later than the end of the public comment period. The Secretary shall hold a public meeting if there is a request for such a meeting or if the Secretary decides to do so. The Secretary shall publish notice of any public meeting at least 30 days prior to the meeting. Notice shall be given in the same manner as notice of the draft general permit, except that the Secretary need not set a new comment deadline or provide, with the notice of the meeting, a copy of the proposed general permit to any person or entity to which the Secretary has already provided a copy. Any person shall be permitted to submit oral or written statements and data concerning the proposed general permit at the informational meeting. All statements, comments, and data presented at the meeting shall be retained by the Secretary and considered in the formulation of the Secretary's determinations regarding the final general permit.

(e) The Secretary may adopt a final general permit following consideration of any written comments submitted on the general permit and any statements, comments, and data presented at a public information meeting on the permit. Where the Secretary decides, in adopting a final general permit, to overrule substantial arguments and considerations raised for or against the original proposal, the Secretary's final adoption of the final general permit shall include a responsiveness summary stating the reasons for the Secretary's decision.

(f) On adoption of a final general permit, the Secretary shall provide notice of the permit's final adoption and an accompanying responsiveness summary in at least the same manner as notice of the proposed general permit was issued, except that the Secretary need not set or include further deadlines for comment or requesting an informational meeting.

#### **§27-504 Duration of General Permit**

A general permit issued pursuant to this Rule shall be valid upon signing and shall remain in effect for

a period of five years from the date of signing, unless the Secretary specifies a shorter period of time. The process described in subpart 27-503 shall be used when the Secretary reissues a general permit.

### **§27-505 Modification of General Permit**

The Secretary may modify a general permit after providing an opportunity for public participation in the same manner as described in subpart 27-503 of this Rule. Grounds for modification include:

1. The statutes or rules on which the general permit is based have changed;
2. There is a change in any condition that requires redrafting or alteration of the boundaries of a designated geographic area covered by the general permit;
3. When required by the reopener conditions in the general permit;
4. To correct technical mistakes, such as errors in calculations or mistaken interpretations of law made in determining permit conditions;
5. Lessons learned from experience with the general permit; or
6. Advances in relevant fields of science.

### **§27-506 Authorizations under the General Permit**

(a) Purpose and Applicability - This section sets forth a process for the issuance of authorizations under a stream alteration general permit.

(b) Application for Coverage under a Stream Alteration General Permit

1. A person proposing to conduct an activity that is a non-reporting activity under the general permit does not need to submit an application to the Secretary if the activity is eligible as specified in the permit and if the activity is conducted in compliance with all the applicable terms and conditions of the general permit.
2. An applicant for coverage under a stream alteration general permit shall comply with all application requirements in the general permit that are applicable to the proposed activity.
3. A person proposing to conduct an activity that is listed in a reporting category that is eligible to proceed without a formal permit application shall contact the Secretary for a written authorization that the activity qualifies for coverage and will comply with all other applicable requirements in the general permit.
4. Activities that are listed in a reporting category that are required to submit an application, shall submit a completed application form with all necessary attachments and fees and all other application information required by the general permit and the Secretary.
5. The Secretary may require an applicant to submit any additional information that the Secretary considers necessary in order to make a decision on the issuance or denial of authorization. The Secretary may deny authorization under the general permit if the project proponent does not provide the requested information to the Secretary within 60 days of the Secretary's request.

(c) Public Notice of Applications under a General Permit; Issuance of Authorization

1. Once the Secretary determines that an application is complete, the applicant shall provide notice, on a form provided by the Secretary, to the clerk and select persons of the municipality in which the activity is proposed, to the local and regional planning commissions, and to the owners of property which abuts or is opposite the land where the alteration is to take place.
2. The applicant shall provide a copy of this notice to the Secretary, with such confirmation as

the Secretary deems adequate to demonstrate that the clerk and selectpersons, planning commissions, and landowners have received the notice.

3. Following receipt of the notice required in (c)2. of this subpart, the Secretary shall post the notice on the Agency's website and shall provide an opportunity of at least ten working days for written comment regarding whether the application complies with the terms and conditions of the general permit under which coverage is sought.

(d) Issuance or Denial of Authorizations under a General Permit

1. General Permit Review Standards – Proponents of activities for coverage under a stream alteration general permit shall have the burden to show that a proposed activity complies with this Rule, the standards set forth in subpart 27-402 of this Rule, and any requirements in the general permit applicable to the proposed activity. However, pursuant to subparts 27-701(c) and 27-706(b) of this Rule, the requirements of Subchapter 4 of this Rule shall not apply to those emergency and next-flood protective measures authorized under a general permit. In determining whether this burden has been met, the potential effect of any proposed activity shall be evaluated on the basis of both its direct and immediate effects as well as on the basis of any cumulative or on-going effects on the watercourse.
  2. Notwithstanding (d)1. of this subpart, an authorization under a stream alteration general permit required to repair an existing instream structure (e.g., stream crossings and dams) may allow the structure to continue to impede the attainment of equilibrium conditions provided the repaired structure will not create a further departure from equilibrium conditions or create a greater discontinuity in the vertical or horizontal dimensions than existed prior to the need for repair. The Secretary shall not authorize an activity under a stream alteration general permit for repairs that do not comply with the statutory criteria in 10 V.S.A. § 1023(a).
  3. The Secretary may issue an authorization under a general permit after determining that each of the following applies:
    - a. The filings required in subparts 27-506(b) and (c) of this Rule are complete; and
    - b. The activity is eligible for coverage under and will meet the terms and conditions of the general permit, this Rule, and applicable statutes.
  4. The Secretary may deny a request for a general permit authorization and require application for an individual permit as provided in Subchapter 6 of this Rule.
  5. Denials of an authorization under a general permit shall be issued in writing, stating the reasons for the denial.
  6. For an activity requiring an application, the Secretary shall provide notice of an authorization or a denial under a general permit to the clerk and selectpersons of the municipality in which the activity is proposed, to the local and regional planning commissions, to the owners of property which abuts or is opposite the land where the alteration is to take place, and on the Agency's website.
- (e) Transfer of Authorization - A permittee may transfer an authorization by submitting a notice of transfer on a form provided by the Secretary. The notice shall be submitted at least ten days prior to transfer and shall include, at a minimum, the name and address of the new permittee, the name and address of the former permittee, the date of transfer, and a statement signed by the new permittee stating that he/she had read and is familiar with the terms and conditions of the general permit and the authorization and agrees to comply with the general permit and authorization to discharge.
- (f) Changes to Authorized Activity - The permittee shall notify the Secretary of any planned changes to the authorized activity prior to carrying out such changes. The Secretary may require the per-

mittee to submit additional information on the proposed change. The Secretary shall determine the appropriateness of continued authorization under the general permit and may require an amendment to the authorization, including re-noticing the project for public comment, or may require that the permittee apply for an individual permit.

(g) Revocation of Authorization - The Secretary may, after notice and opportunity for a hearing, revoke or suspend, in whole or in part, an authorization under a general permit for cause, including:

1. Violation of the terms or conditions of the general permit;
2. Obtaining authorization by misrepresentation or failure to fully disclose all relevant facts;
3. A change in any condition or new information that requires either a temporary or permanent reduction or elimination of the authorized activity.

(h) Requiring Coverage under an Individual Permit - The Secretary may require any applicant for or permittee authorized under a general permit to apply for an individual permit. The Secretary may require an individual permit after consideration of the:

1. Current biological condition, geomorphic condition, and geomorphic sensitivity of the stream within which the activity would occur;
2. Size and scope of the applicant's or permittee's activities or operation;
3. Qualifications and compliance record of the applicant, permittee, and/or contractors involved with the activity;
4. Proximity and potential for damage to improved property and other riparian owners;
5. Extent and nature of the stream alteration;
6. Margins of safety incorporated into a project design;
7. Compliance of the permittee with the terms and conditions of the general permit;
8. Qualification of the project for coverage under a general permit issued by the Secretary;
9. Availability of demonstrated technology or practices for the activity; and
10. Other relevant factors.

(i) Notification - If the Secretary finds that a permittee authorized by a general permit is required to apply for an individual permit, the Secretary shall so notify the permittee. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the permittee to file the application, and a statement that on the effective date of the individual permit, if issued, the permittee's general permit authorization shall automatically terminate. The Secretary may grant additional time upon request of the applicant.

(j) Requiring Authorization under a General Permit

1. The Secretary may require any person applying for an individual permit to report the activity for coverage under a general permit provided the Secretary finds the activity complies with all terms and conditions of the general permit and the activity is more appropriately covered under the general permit.
2. Any permittee subject to an individual permit shall be authorized under the terms of a general permit upon issuance of a notice by the Secretary authorizing the activity under the general permit. The individual permit's applicability to the permittee shall be automatically terminated on the effective date of the authorization under the general permit.

## **Subchapter 6 – Individual Permits**

### **§27-601 Purpose; Application; Public Notice**

- (a) Purpose - This section sets forth a process for the issuance of individual stream alteration permits for both emergency and non-emergency stream alteration activities.
- (b) Application
1. An applicant for an individual permit shall submit a completed application form with all necessary attachments and fees.
  2. The Secretary may require an applicant to submit additional information that the Secretary considers necessary in order to make a decision on the issuance or denial of an individual permit. The Secretary may deny the individual permit if the requested information is not provided within 60 days of the Secretary's request.
- (c) Public Notice - Upon a determination by the Secretary that an application is complete, the applicant shall file a copy of the application for posting by the town clerk of the town in which the proposed alteration is located, and shall mail a copy of the application to the selectpersons of the town and to each abutting owner upstream, downstream, and across the stream from the project location. The names of these property owners shall be provided on the application.
- (d) Public Comment on Individual Permit Application - The applicant shall notify the Secretary that the applicant has provided notice to the town clerk, selectpersons, and abutting landowners as provided in (c) of this subpart. The Secretary shall post notice on the Agency's website and shall provide an opportunity for public comment on the application for no less than ten days. At the Secretary's sole discretion, the Secretary may provide additional notice of the permit application and may conduct a public meeting to receive additional public comment.
- (e) Notice of Issuance or Denial of Permit - The Secretary shall provide notice of the issuance or denial of the permit to the clerk of the town in which the project is located, to the selectpersons, to each abutting landowner, to any person who files written comments on the application, and on the Agency's website.
- (f) Individual Permit Review Standards - Applicants for an individual stream alteration permit shall have the burden to show that a proposed activity complies with this Rule and any design requirements set by the Secretary to meet the standards set forth in subpart 27-402 of this Rule. However, pursuant to subparts 27-701(c) and 27-706(b) of this Rule, the requirements of Subchapter 4 of this Rule shall not apply to those emergency and next-flood protective measures authorized under an individual permit. In determining whether this burden has been met, the potential effect of any proposed activity shall be evaluated on the basis of both its direct and immediate effects and on the basis of any cumulative or on-going effects on the watercourse.
- (g) Notwithstanding (f) above, an individual stream alteration permit required to repair an existing in-stream structure (e.g., stream crossings and dams) may allow the structure to continue to impede the attainment of equilibrium conditions provided the repaired structure will not create a further departure from equilibrium conditions or create a greater discontinuity in the vertical or horizontal dimensions than existed prior to the need for repair. The Secretary shall not issue an individual stream alteration permit for repairs that do not comply with the statutory criteria in 10 V.S.A. § 1023(a).

- (h) Transfer of Individual Permit - A permittee may transfer an individual permit by submitting a notice of transfer on a form provided by the Secretary. The notice shall be submitted at least ten days prior to transfer and shall include, at a minimum, the name and address of the new permittee, the name and address of the former permittee, the date of transfer, and a statement signed by the new permittee stating that he/she had read and is familiar with the terms and conditions of the individual permit and agrees to comply with the individual permit.
- (i) Changes to Authorized Activity - The permittee shall notify the Secretary of any planned changes to the authorized activity prior to carrying out such changes. The Secretary may require the permittee to submit additional information on the proposed change. The Secretary may require an amendment to the individual permit, which may include re-noticing the project for public comment.
- (j) Revocation of Authorization - The Secretary may, after notice and opportunity for a hearing, revoke or suspend, in whole or in part, an individual permit for cause, including:
  - 1. Violation of the terms or conditions of the individual permit;
  - 2. Obtaining authorization by misrepresentation or failure to fully disclose all relevant facts;
  - 3. A change in any condition or new information that requires either a temporary or permanent reduction or elimination of the authorized activity.

## **Subchapter 7 – Emergency and Next-Flood Protective Measures**

### **§27-701 Purpose and Applicability of Emergency Protective Measures**

- (a) This Subchapter sets forth criteria for coverage as an emergency protective measure and establishes a permitting process for such measures.
- (b) Pursuant to 10 V.S.A. § 1027(b), emergency protective measures to preserve life or to prevent severe imminent damage to public or private property, or both, may be authorized:
  - 1. During a state of emergency declared under 20 V.S.A. Chapter 1;
  - 2. During or after a non-declared flooding event; or
  - 3. As a result of other emergency conditions where a stream-related imminent threat to life or an imminent threat of severe damage to property would exist without emergency protective measures as described in subpart 27-703 of this Rule.
- (c) Pursuant to 10 V.S.A. § 1021(b), the requirements of Subchapter 4 of this Rule shall not apply to those emergency protective measures undertaken to preserve life or to prevent severe imminent damage to an improved property; except that emergency measures shall not be authorized in cases where the municipality or State has determined that the measure would pose an imminent threat to life, public health, or safety.
- (d) Stream alterations may be authorized under a general permit or with an individual permit during emergency conditions, but only those meeting the criteria for coverage as listed below in subpart 27-702 of this Rule qualify as emergency protective measures that may be authorized under this Subchapter.

### **§27-702 Criteria for Coverage as an Emergency Protective Measure**

- (a) An activity may be authorized as an emergency protective measure, when it meets the following criteria:
1. The emergency protective measure shall be necessary to preserve life or to prevent severe imminent damage to public or private property;
  2. The determination shall be made by a state or municipal governmental representative or entity that has legal authority to make a public health or safety determination;
  3. The emergency protective measure shall be limited to the minimum amount necessary to remove imminent threats to life or property. To meet this criterion, the emergency measures must be proportional to the threat and shall cease when the threat to life or threat of severe damage to a property has ended;
  4. The emergency protective measure falls within one of the categories of measures set forth in subpart 27-703 of this Rule; and
  5. The emergency protective measure is implemented in a manner consistent with the general permit adopted under this Rule regarding stream alterations during emergencies.
- (b) A member of a municipal legislative body may approve an emergency protective measure, which may proceed without prior authorization from the Agency, but which must receive preliminary and final authorization from the Agency pursuant to subpart 27-705 of this Rule, when:
1. The emergency protective measure shall be necessary to preserve life or to prevent severe imminent damage to public or private property, when such property has experienced damage or is under threat of imminent failure within the next 72 hours;
  2. The municipality shall notify the Secretary by written and verbal communications within 24 hours of approving the emergency protective measure. Notifications to the Secretary shall include:
    - a. The location (i.e., nearest street address) of the emergency measures;
    - b. A description of the emergency protective measure; and
    - c. A description of the imminent threat to life or threat of severe damage to property and how the emergency protective measure minimizes that threat.

### **§27-703 Categories of Emergency Protective Measures Covered**

Emergency protective measures necessary to preserve life or to prevent severe imminent damage to public or private property, or both, shall be limited to the following types of activities:

1. Removal of flood-related deposits of instream materials and/or creation of stream channel conveyance;
2. Stream bed or streambank fills necessary to provide access to public facilities or infrastructure or limit further vertical or lateral stream channel movement;
3. Repair of infrastructure, the loss of which would represent an imminent threat to public health and safety; and
4. Temporary berming to protect public safety by preventing stream flows (i.e., including those below flood stage) from causing severe imminent damage to an improved property.

### **§27-704 Standards for Implementing Emergency Protective Measures**

- (a) Emergency protective measures deemed necessary to prevent severe imminent damage to an un-

improved property, where threats to public safety do not exist, shall meet the stream alteration standards set forth in subpart 27-402 of this Rule.

- (b) Emergency protective measures necessary to preserve life or to prevent severe imminent damage to an improved property shall be authorized where they conform to the standards detailed in the following subparts, and when the Secretary has determined that the measure will not pose an imminent threat to life, public health, or safety.

(c) Removal of Instream Materials

1. Removal of instream material, as a next-flood or emergency protective measure, is conducted for the purpose of creating critical stream channel conveyance by means of excavating flood deposited instream materials from a watercourse, and thereby preserving life or preventing severe damage to an improved property if stream flows were to become blocked and diverted from the channel;
2. Where the stream is filled with sediment and debris, to the point where an annual flood flowage will not be carried in a river channel, sediment and debris excavation will be authorized to at least a pre-flood cross-section (i.e., the pre-flood level of safety) or excavated to a width and depth along a stable vertical profile necessary to meet the stream equilibrium standard;
3. Extending sediment and debris removal, horizontally or vertically, beyond that necessary to preserve life or to prevent severe damage to improved property is not a next-flood or emergency protective measure and must have prior authorization from the Secretary.
4. Windrowing sediment and debris to the margins of the channel may be authorized as a temporary measure where immediate access and mobilization for off-site transport of excavated materials is not possible. Channel excavation shall not result in a bed profile (elevation) lower than the pre-flood condition. The project proponent shall be responsible for the removal of any windrowed material placed on the channel banks and within the river corridor or floodplain as directed by the Secretary;
5. Where the post-disaster stream channel has the capacity to convey the annual flood flowage ( $\sim Q_{1.5}$ ), and threats to life or severe damage to improved property related to channel conveyance do not exist, excavation of instream material will only constitute a next-flood or emergency protective measure where relocation of a stream channel is necessary to address further vertical or lateral stream channel movement that would otherwise represent a threat to life or severe damage to improved property; and
6. Excavating new channels that did not exist immediately prior to the flood event is not permitted without prior approval from the Secretary and a determination that doing so would be consistent with the equilibrium standard.

(d) Stream bed and Streambank Protection

1. Placing fill material within the stream channel to align and/or armor the vertical stream bed profile or the horizontal streambank alignment may be conducted to address a next-flood or imminent threat. Bed or bank protection is a next-flood or emergency protective measure when conducted to protect a property from further damage or resist flow velocities acting on the stream bed or banks at the annual flood stage ( $\sim Q_{1.5}$ ) that would otherwise cause fluvial erosion hazards and threats to life or severe damages to public or private property.
2. Fills placed to establish or re-establish streambank armor as a next-flood or emergency protective measure shall not encroach into and narrow the bank full width of the stream channel, or create an acute horizontal streambank misalignment.
3. Where the natural bed armor has been scoured during a flood, next-flood or emergency pro-

tective measures may be necessary to reduce the risk of the stream bed continuing to down-cut (i.e., channel incision) and erode upstream through a headcutting process. Channel incision and the streambank failure that results during a flood may undermine and cause failure of immediately adjacent improved property. The Secretary shall require the construction oversight of a qualified river engineer or their designee to raise and stabilize a stream bed, in a manner that:

- a. Aligns the vertical stream bed profile with that of upstream and downstream segments;
- b. Establishes a channel width to depth ratio consistent with equilibrium conditions;
- c. Increases floodplain connectivity; and
- d. Restores or re-establishes resistance to bed scour.

(e) Temporary Stabilization / Restoration of Infrastructure

1. Where critical infrastructure, including bridges, culverts, roadways, wastewater, or water systems, and electric and telecommunications facilities, has been damaged and immediate restoration of services is necessary to address an imminent threat to life or property, and in-stream construction activities are necessary to create a temporary facility and restore service, such in-stream work is considered and may be authorized as an emergency protective measure in a post-flood context;
2. As may be necessary to temporarily establish or stabilize infrastructure, the removal of in-stream material, stream bed and streambank protection, and temporary berming shall meet the requirements set in subparts 27-704(c), (d), and (f) of this Rule respectively;
3. The final authorization of emergency measures to establish or stabilize temporary facilities shall include requirements for the permanent repair or replacement of infrastructure, including a date when any permanent repair or replacement work must be completed. A stream crossing structure is considered repairable when damages do not exceed 50 percent of the cost of replacing the crossing as it existed prior to the emergency, and it is feasible to repair the crossing so that it can perform the function for which it was being used. All stream crossings deemed by the Secretary not to be repairable shall be removed in a manner, as allowed by federal and state law or shall be replaced with a permanent structure that meets the standards set forth in subpart 27-402 of this Rule; and
4. The stabilization and restoration of infrastructure may require fills within the footprint of the infrastructure as it existed prior to the emergency. These fills shall not encroach into and narrow the bank full width of the stream channel, create an acute horizontal streambank misalignment, and/or use undersized or otherwise unsuitable materials for streambank and/or roadway embankment stabilization; except as temporary construction-related fills as necessary for infrastructure restoration. Wherever fill material is not adequately sized to effect permanent stability of the stream bed or bank, the Secretary may require undersized materials be replaced or stabilized with appropriately sized material.

(f) Construction of Berms

1. A person shall not establish, construct, or maintain a berm in a flood hazard area or river corridor unless the construction is necessary to preserve life by preventing stream flows (i.e., including those below flood stage) from impinging directly on an improved property. Berms constructed for this purpose shall be considered temporary and shall be removed coincident with the removal of threats to public safety.
2. Berms may be constructed, or, in the case of an emergency protective measure, be allowed to remain in place, only upon the issuance of an individual stream alteration permit.

## §27-705 Public Notice and Authorization of Emergency Protective Measures

### (a) Purpose

1. The time, travel, and operational constraints that often exist during emergencies necessitate a two stage process to meet the statutory requirements for Agency authorization, documentation, interagency coordination, and public notice of emergency protective measures. Municipalities shall seek both preliminary and final authorization and comply with the public notice requirements set forth in this subpart and in any applicable general or individual permit issued by the Secretary.

### (b) Preliminary authorization

1. Upon notification by a municipality pursuant to subpart 27-702 of this Rule, the Secretary shall determine whether an activity seeking authorization constitutes an emergency protective measure eligible for coverage under this Rule.
2. Upon making this determination, the Secretary shall either:
  - a. Deny authorization;
  - b. Preliminarily approve (verbally and electronically) the emergency protective measure, either as planned or with conditions deemed necessary to address an imminent threat to life or property and to comply with the categorical standards in subpart 27-704 of this Rule; or
  - c. Require that instream activities or berming cease immediately until a site visit can be made by the Secretary. The Secretary may then deny or issue preliminary authorization of an emergency protective measure, with explicit written conditions, consistent with the emergency provisions of a stream alteration general permit.
3. The Secretary may, at any time, require that emergency work cease. The Secretary may provide preliminary authorization (verbally and electronically) for the work to commence after setting conditions deemed necessary for the measures to qualify for final authorization under an individual or general permit.

### (c) Final Authorization

1. All emergency protective measures must receive final authorization from the Secretary either in an individual permit or authorization under a general permit.
2. Within 30 days of completion of the emergency protective measure, a municipality shall submit to the Secretary the following documentation:
  - a. Copies of all information provided by the municipality in its written notifications to the Secretary pursuant to subpart 27-702(b)(2) of this Rule;
  - b. Copies of any preliminary authorizations issued by the Secretary;
  - c. Written verification and photo documentation that the emergency protective measures were carried out to meet the standards established in subpart 27-704 of this Rule;
  - d. Map documentation of the location where the emergency protective measure was completed depicting the approximate beginning and ending point of the stream segment in which the measure was taken. Narrative information should accompany the map explaining the approximate length of the stream segment where the work was completed; and
  - e. Documentation of the types and quantities of instream material removed and/or the protective fills required. Narrative information describing the methods used to determine quantities should accompany the quantity calculations.
3. The Secretary may, upon request of the municipality, grant additional time for the submission

of the required documentation for a period not to exceed 30 additional calendar days.

(d) Public Notice

1. Notifications, authorizations, and documentation, as they are issued, shall be placed:
  - a. On-site where and when the emergency protective measures are being undertaken,
  - b. On file at the municipal clerk's office of the town in which the measures are being undertaken, and
  - c. On file with the Secretary, where they may be publically viewed on a website maintained by the Agency.
2. The municipal clerk shall post the initial notification and preliminary authorization for emergency protective measures at the municipal offices during the emergency and until a final authorization is provided.
3. The Secretary shall post authorizations as they are made and documentation, as received, on an Agency webpage for a period of no less than 90 days after the final authorization is issued.

**§27-706 Authorization of Next-Flood Protective Measures**

- (a) Any person or municipal entity may carry out protective measures to address next-flood threats, but only with prior written authorization from the Secretary either in an individual permit or a general permit.
- (b) Pursuant to 10 V.S.A. § 1021(b), the requirements of Subchapter 4 of this Rule shall not apply to those next-flood protective measures undertaken to preserve life or to prevent severe imminent damage to an improved property; except that next-flood protective measures shall not be authorized in cases where the State has determined that the measure would pose an imminent threat to life, public health, or safety.
- (c) Categories of next-flood protective measures include: the "removal of instream materials" (subpart 27-704(c) of this Rule) and "stream bed and streambank protections" (subpart 27-704(d) of this Rule) as necessary to preserve life or to prevent severe damage to an improved property.
- (d) Next-flood measures authorized by the Secretary shall:
  1. Not result in a threat to life, public health, or safety;
  2. Meet the standards detailed in subparts 27-704(c) and (d) of this Rule;
  3. Meet the Stream Alteration Standards to the greatest extent possible recognizing that next-flood protective measures may potentially result in or significantly contribute to ongoing damage to fish life, wildlife, and the rights of riparian owners.
- (e) The Secretary shall, upon review of a proposed next-flood protective measure, require submittal of information, which may include:
  1. The location (i.e., nearest street address) of the next-flood protective measures;
  2. A description of the next-flood protective measure;
  3. Photo documentation and a description of the threat to life or threat of severe damage to improved property and how the next-flood protective measure addresses that threat; and
  4. Any information, as determined by the Secretary, necessary to evaluate and document the

proposed activity as qualifying for coverage as a next-flood protective measure, meeting the requirements under subparts 27-704(c) and (d) of this Rule, and meeting the Stream Alteration Standards to the greatest possible as outlined in subpart 27-402 of this Rule.

- (f) An activity reported to the Secretary and deemed to be a next-flood protective measure, meeting the requirements in subpart 27-706(c) of this Rule, may proceed after the Secretary's issuance of an individual permit or written authorization under a general permit. The Secretary's authorizations, including any required project documentation, shall be posted on the Agency's website for 90 days or until the end of the calendar year in which the activity was posted, whichever is longer.

### **Subchapter 8 – Appeals**

Appeals from any act or decision of the Secretary under this Rule are governed by 10 V.S.A. § 8504.

## Minimum Grant Standards

While every Department of Public Safety grant may have different requirements (please see individual grant application for full list of requirements) there are minimum requirements for every Department of Public Safety grant. Below, please find a list of requirements, applicable to all grants issued by the Department of Public Safety.

- Federal Tax Identification number
- DUNS number & expiration date
- Vermont Business Account Number
- Registration with the System for Award Management (SAM)
- Certification of insurance coverage
- In order to meet the Code of Federal Regulations, the Vermont Department of Public Safety's grant management programs have to perform a financial risk assessment for all sub recipients. Please visit <https://www.surveymk.com/s/SFVZSTB2013> and complete this survey.

For additional information, please visit:

Vermont Department of Finance & Management

[http://finance.vermont.gov/policies\\_procedures/DUNS#Q7](http://finance.vermont.gov/policies_procedures/DUNS#Q7)

System for Award Management (SAM)

<https://www.sam.gov/portal/public/SAM/>

## 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.)

**NIMS Adoption Document for**  
<insert name of municipality/organization>

DESIGNATION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AS  
THE BASIS FOR ALL INCIDENT MANAGEMENT IN THE <insert name of  
municipality/organization>

WHEREAS, Homeland Security Directive (HSPD)-5 directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS) to provide a consistent nationwide approach for federal, state, local, and tribal governments to work together to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, Presidential Policy Directive (PPD)-8 describes the approach to national preparedness, including the National Preparedness System, as the instrument the nation will employ to build, sustain, and deliver core capabilities; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources improve the <insert name of municipality/organization> ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are integral to various incident management activities, including emergency management training programs.

NOW, THEREFORE, I, \_\_\_\_\_, of <insert name of municipality/organization>, by the virtue of the authority vested in me by the Constitution and Laws of the <insert name of the governing body>, do hereby establish the National Incident Management System (NIMS) as the <insert name of municipality/organization> standard for incident management.

GIVEN under my hand and the Privy Seal of <insert name of municipality/organization> this \_\_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand and \_\_\_\_\_.

BY <insert name of governing individual>  
/s/ \_\_\_\_\_

# YOUR COUNTY MUTUAL AID

## “A.L.E.R.T” GUIDELINE

### MUTUAL AID:

The purpose of this mutual aid guideline is to detail the method for responding to or for requesting emergency and non-emergency police mutual aid assistance. YOUR COUNTY Police Agencies will continuously strive to establish and sustain efficient liaisons and clear channels of communication and assistance for each respective agency.

Courtesy, tact, and diplomacy will be the established methods of operations and response.

### SECTION HEADINGS:

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### I. AUTHORITY

The authority to render and receive police mutual aid exists statewide via Title 24, Section 1938. Participation needs to be approved and authorized by each police department’s governmental oversight person or board to take part in the intermunicipal police services noted within this guideline.

### II. PRIOR AGREEMENT REQUIRED

- A. Police agencies who are parties to this agreement will render and receive police mutual aid in accordance with a signed agreement made by those communities.
- B. The same police agencies also agree to avoid changing the benefits normally provided to their employees who render mutual aid assistance.

### III. NOTIFICATION AND REPORT REQUIRED

- A. Whenever mutual aid is required by any of the participating communities, an incident will be generated within the requesting agency’s records management system to document such request.
- B. Documentation of the officers responding as well as the units and equipment sent will be accomplished by each agency responding.

- C. When taking law enforcement actions at the emergency site, including use of force, officers shall adhere to their agency policies and procedures. They shall use only those weapons and tactics for which they are qualified and authorized to use by the host agency (see Appendix B).
- D. Responding officers shall regularly update their communication section concerning the continued status of the emergency, line-of-duty injuries, or need for relief by phone whenever possible.
- E. Responding officers will document their action(s) in the appropriate police report.
- F. The Incident Commander will complete a report of the incident that includes detailed accounts of personnel, equipment, use of force, expenses and complete an after action review.

#### **IV. GUIDELINES FOR DISPATCHING MUTUAL AID TO OTHER COMMUNITIES**

- A. The mutual aid request can be activated whenever a situation or potential situation requires a concentration of personnel or special equipment that exceeds the normal on duty capacity of the requesting police department.
- B. The supervisor or highest-ranking officer on duty or designee must be the person making the request to activate the mutual aid "A.L.E.R.T." (Activate Law Enforcement Response Teams).
- C. The designated dispatching agency will be responsible for communicating the necessary information to the responding agencies in order to safeguard their approach to the scene of the incident.
- D. The receiving police agency will be responsible for arrests and detentions in their jurisdiction, unless circumstances dictate otherwise.

#### **V. EMERGENCY RESPONSE**

- A. An emergency response is authorized whenever a participating agency requires immediate aid for police services as outlined in the alert code system.
- B. Responding officers will use the applicable emergency equipment necessary, while exercising due care for the general public and themselves.
- C. Responding officers will notify both their agency and the agency, or designated communication center, that is requesting aid of their arrival to the area dispatched to.

#### **VI. NON-EMERGENCY RESPONSE**

- A. The Chief Executive Officer or designee will determine their agencies response based on the information available at the time of the request on a case-by-case basis.
- B. A request is authorized in anticipation of a situation that has the potential to develop into an emergency or a hazardous situation.
- C. Examples of anticipatory "Non-emergency" response may be a police agency having knowledge of a protest with intelligence pointing to violence or disruption or large celebratory event that follows a violent celebratory event or other like situations that have occurred in the past that evolved into an

emergency or hazardous situation that would normally require added police presence or resources to maintain public safety.

**VII. RECEIVING MUTUAL AID**

- A. Emergency Mutual Aid will be rendered immediately when possible and to the degree required to take immediate control of the situation.
- B. The Chief Executive Officer (CEO) or designee will coordinate non-emergency mutual aid.
- C. Responding officers will guide themselves under the leadership of the Incident Commander, or designee.

**VIII. POLICE MUTUAL AID OUTSIDE YOUR COUNTY**

- A. The Incident Commander, The Chief Executive Officer (CEO) or designee can call upon mutual aid outside YOUR COUNTY whenever county resources are getting exhausted or additional resources or specialty skills are needed.
- B. An officer from the Inter-agency commanders or designee will be assigned to coordinate the additional help being rendered by officers responding from outside the county.

**IX. FEDERAL MUTUAL AID**

- A. The Incident Commander, the Chief Executive Officer (CEO) or designee can call upon mutual aid from agencies from the Federal Government like the Office of Homeland Security, FBI, Border Patrol, Custom or Immigration without calling upon the Governor's Office for assistance.
- B. If civil unrest or emergency requires National Guard activation, the Incident Commander, The Chief Executive Officer (CEO) or designee can request their help by utilizing the appropriate state and municipal protocol for doing so.

# YOUR COUNTY

**POLICE MUTUAL AID "A.L.E.R.T." (Activate Law Enforcement Response Teams) Contact list 03-01-06**

<u>DEPARTMENT REQUESTING ASSISTANCE</u>	<u>LEVEL ONE ALERT</u>		<u>LEVEL THREE ALERT</u>							<u>Level Four ALERT</u>		
	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD		
<u>DEPARTMENT Name &amp; Phone</u>	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	<u>Mutual Aid from outside your county</u>
<u>DEPARTMENT Name &amp; Phone</u>	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	
<u>DEPARTMENT Name &amp; Phone</u>	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	
<u>DEPARTMENT Name &amp; Phone</u>	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	
<u>DEPARTMENT Name &amp; Phone</u>	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	
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Please check the appropriate box that this agreement covers:

- Local       LEPC       Public Safety District  
 State       Interstate       International

**EMERGENCY SERVICES ORGANIZATIONS, TOWNS AND MUNICIPALITIES  
OF YOUR TOWN OR COUNTY NAME, AND CONTIGUOUS COUNTIES  
MEMORANDUM OF UNDERSTANDING  
REGARDING MUTUAL AID**

**Purpose:**

To update **YOUR TOWN OR COUNTY NAME** Mutual Aid Agreement, and come into compliance with new standards established by the United States Federal Government under the National Incident Management System (NIMS), by incorporating appropriate regional Fire Department(s), Rescue Squad(s), Police Agencies, Highway and Public Works Department(s), City(s), Town(s) and Village(s) into said agreement.

**Parties:**

**By and among the Towns and Municipalities of YOUR TOWN OR COUNTY NAME, and the Emergency Response Organizations serving the Towns and Municipalities of YOUR TOWN OR COUNTY NAME, including ENTER THE PARTIES WHO ARE INVOLVED IN THIS AGREEMENT**

**Definitions:**

Emergency – Any incident, human-caused or natural, that requires responsive action to protect life, property or environment.

Emergency Response – Activities that address the short-term, direct effects of an incident of emergency. Response includes immediate actions to save lives, protect property, and meet basic human needs.

Response also includes the execution of emergency operations, plans and of mitigation activities designed to limit loss of life, personnel injury, property damage and other unfavorable outcomes.

Emergency Response Equipment – Emergency response organization's vehicles, tools and supplies as well as town and municipal vehicles and equipment which may be used in an emergency response.

Emergency Response Organization – Any organization approved by a state, county or local governmental organization to provide emergency response.

Emergency Response Personnel – Persons who are members in good standing of an emergency response organization, and who are trained and certified to provide specified emergency services, or who are under the supervision of a trained and certified person.

Fire Department – An emergency response organization with the responsibility of the protection of LIFE (First Priority), the preservation of PROPERTY (Second Priority) and the ENVIRONMENT (Third Priority). Standards in which constitutes a Fire Department set forth by the **YOUR TOWN OR COUNTY NAME** are as follows: **FILL IN STANDARDS THAT MAKE A FIRE DEPARTMENT.**

Incident Command System – A standard, on-scene, all hazards incident management system already in use by firefighters, law enforcement, hazardous material teams, rescuers and emergency medical teams. The ICS has been established by the NIMS as the standardized incident organizational structure for the management of all incidents.

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Mutual Aid Emergency – Any emergency which is beyond the capabilities of the local emergency response organizations to resolve, or which by normal protocol requires the assistance of emergency response organizations based outside the town, municipality or locale in which the emergency occurs.

National Incident Management System (NIMS) – A comprehensive national approach to incident management utilizing best practices that have been developed over the years.

Unified Command – A command structure in which the ranking members from multiple emergency response organizations and/or jurisdictions jointly determine objectives, plans and priorities, and then work together to execute them.

### **Release of Personnel and Equipment:**

**The above named towns, municipalities and emergency response organizations hereby agree to assist each other as requested in times of emergency, or in times of disaster** to the extent of sending equipment and emergency response personnel at request, or holding equipment or emergency response personnel in a standby status at request, to the extent that, in the opinion of the sending chief, chief's designate, or person in charge, such equipment or personnel can be spared when a call for assistance is received. Personnel and equipment, cooperatively maintained by **YOUR TOWN OR COUNTY NAME** towns, municipalities and emergency response organizations will be available for mutual aid outside the county under the same terms and conditions described above in this section.

### **Request for Personnel and Equipment:**

It is further agreed that such request for assistance shall be made by the incident commander at the scene of an emergency. Request for EMS mutual aid will be made in order designated by the Vermont District # **ENTER YOUR DISTRICT NUMBER** Backup Plan and the Vermont District # **ENTER YOUR DISTRICT NUMBER** Response List. Request for decontamination trailers to be used outside of a home territory must be routed through Vermont Emergency Management.

### **Operational Structure:**

It is further agreed that command will be structured in accordance with the Incident Command System (ICS) of the National Incident Management System (NIMS), and that if the emergency/disaster is multi-jurisdictional, a Unified Command will be employed when practical.

It is further agreed that when any personnel or equipment are sent under the terms of this agreement, the ranking officer of the requested organization shall report to the requesting organization's incident commander. Emergency responders will respond with full turnout gear and personal protective equipment consistent with accepted practices of their respective disciplines. Orders by the incident commander will be given to the visiting ranking officer, his designee or person in charge who will then give orders to his/her personnel and then remain in communication with the incident commander. The visiting personnel may be under the direct control of an officer of the requesting organization. The visiting ranking officer, his designee or person in charge shall have the right and responsibility to ensure that visiting personnel are asked to perform only those tasks or operations that are consistent with their training, and in accordance with their home protocols and accepted safe practices. Such personnel shall remain under the control of "command" until the organization requesting assistance releases said personnel and equipment, or until

Please check the appropriate box that this agreement covers:

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said personnel and equipment are recalled by the organization providing assistance. Such personnel and equipment shall be released as soon as is reasonably possible and returned to the sending organization.

**Operating Protocols and/or Guidelines:**

It is further agreed that each assisting emergency response organization will operate in accordance with its home district protocols and/or guidelines, and each emergency response person will operate according to the protocols and/or guidelines of his/her own organization, and within the scope of his/her own training and certification, or under the supervision of a person with the appropriate training and certification. In no event shall visiting personnel be required to perform in a way inconsistent with their home protocols and/or guidelines, or inconsistent with accepted safe practices.

**No Compensation:**

It is further agreed that there will be no compensation for providing mutual aid, unless other contractual agreements for services exist and/or become established; however, where a party or parties responsible for causing the emergency are liable for coverage of expenses, coverage of such expenses may be pursued from such parties. It is further agreed that during prolonged operations emergency response organizations receiving assistance may provide assisting organizations with fuel and lubricants or reimbursement for said items.

**Hold Harmless:**

Each of the parties hereto further agree to be responsible for their own personnel and equipment and agree to indemnify, protect, and save harmless each other, in the absence of gross negligence or willful misconduct, from any and all claims, demands, and liability for loss, damage, injury, or any other casualty to personnel and/or equipment.

**Annual Review and Revision:**

It is further agreed that **ENTER WHOMEVER WILL BE RESPONSIBLE FOR THIS DOCUMENT**, will be the holder and caretaker of this agreement, and on an annual basis will notify and request each party of this agreement to review said agreement and report in writing any recommended updates or revisions by June 30<sup>th</sup>.

**Duration of Agreement:**

This agreement shall be a continuing agreement and shall remain in effect until terminated by giving ninety (90) days of written notice of termination. Emergency response organizations electing not to participate in this agreement, or who at any time terminate their participation in this agreement, may be subject to a fee for service charge from mutual aid providers. Said fee structure, attachments A and B, will be as set by the separate disciplines/associations of **ENTER YOUR ORGANIZATION, IF NECESSARY** Emergency Response Community and/or as established under FEMA guidelines.

Attachment (A) Fee Structure set by **ENTER YOUR ORGANIZATION, IF NECESSARY**.

Attachment (B) Fee Structure set by the Federal Emergency Management Agency.

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**ATTACHMENT (A)**

YOUR TOWN OR COUNTY NAME

**Fee Schedule**

Please check the appropriate box that this agreement covers:

- Local       LEPC       Public Safety District  
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**ATTACHMENT (B)**

**Federal Emergency Management Agency**  
**Schedule of Equipment Rates**

AN UPDATED SCHEDULE OF EQUIPMENT RATES CAN BE OBTAINED AT  
<http://www.fema.gov/government/grant/pa/eqrates.shtm>

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**MASTER LIST**

**Represented Organization**

**Name**

**Title**

**Date**

ALL ORGANIZATIONS SHOULD BE LISTED HERE, WITH SIGNATURES OF ADOPTION UNDER THE NAME SLOT.

Please check the appropriate box that this agreement covers:

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State       Interstate       International

**ANNUAL REVISION/SIGNATURE PAGE**

**FOR**

**EMERGENCY SERVICES ORGANIZATIONS, TOWNS AND MUNICIPALITIES  
OF YOUR TOWN OR COUNTY NAME, AND CONTIGUOUS COUNTIES**

**MEMORANDUM OF UNDERSTANDING  
REGARDING MUTUAL AID**

In witness whereof, parties to this agreement have **SIGNED AND DATED:**

**Agency/Department/Organization Name:** \_\_\_\_\_.

**Authorized Representative's Signature:** \_\_\_\_\_.

**Dated:** \_\_\_\_\_.

**Authorized Witness's Signature:** \_\_\_\_\_.

**Dated:** \_\_\_\_\_.

**Recommended Revisions:**

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**Please complete, copy for your records, and mail back the original document with a copy of the Governing Board's minutes authorizing participation in this agreement, by INSERT DATE DUE to:**

**INSERT ADDRESS**

# **Vermont Emergency Management Director Manual**

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## **CITY/TOWN OF \_\_\_\_\_ EMERGENCY MANAGEMENT ORDINANCE**

The Selectmen of the City/Town of \_\_\_\_\_ hereby ordain:

### **ARTICLE I - OFFICE OF EMERGENCY MANAGEMENT**

#### **Section 1. Short Title.**

This Ordinance shall be known and may be cited and referred to as Emergency Management Ordinance of the Town of \_\_\_\_\_.

#### **Section 2. Intent and Purpose.**

- (1) It is the intent and purpose of this Ordinance to establish a local organization that will ensure the complete and efficient utilization of all the Town's facilities to combat attacks or other disasters as defined herein.
- (2) The Town of \_\_\_\_\_ Office of Emergency Management will be the coordinating agency for all activity in connection with emergency management; it will be the instrument through which the Town Selectmen may exercise the authority and discharge the responsibilities vested in them in VSA Title 20, Part 1, Chapter 1, Section 6, and as amended in this Ordinance.

**This Ordinance will not relieve any Town Department of the moral responsibilities or authority given to it in the Town Charter or by local Ordinance, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.**

#### **Section 3. Definitions.**

- (1) The following definitions shall apply in the interpretation of this Article:
  - (a) "Emergency Management" 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 and repair injury and damage resulting from disasters caused by enemy attack, sabotage, or other hostile action or from flood, fire, storm, or other natural causes, or from radiological incidents or hazardous chemical or substance incidents and the preparation and planning designed to insure that this town is prepared to deal with such disaster or emergencies and includes civil defense activities.
  - (b) "Attacks" shall mean a direct or indirect assault against the Town of its environs, or of the nation, by the forces of a hostile nation or the agents thereof, including assault by bombing, radiological, chemical or biological warfare, or sabotage.
  - (c) "Disaster" includes natural and man-made disaster but is not limited to actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic or other impending or actual emergency or calamity endangering or threatening to endanger health, life or property or constituted government.
  - (d) "Emergency Management Forces" shall mean the employees, equipment and facilities of all Town departments, boards, institutions and commissions; in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.
  - (e) "Volunteer" shall mean contributing a service, equipment or facilities to the emergency management organization without remuneration.

## **Vermont Emergency Management Director Manual**

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- (f) “Emergency Management Volunteer” shall mean any person duly registered, identified and appointed by the Town of \_\_\_\_\_, Local Emergency Management Director, appointed as prescribed in this Ordinance.
- (g) “Local Emergency Management Director (LEMD)” shall mean the Town Chairman of The Board of Selectmen or his or her designated alternate duly appointed in accordance with the Town Charter.
- (h) “Regulations” shall include plans, programs and other emergency procedures deemed essential to emergency management.

### **Section 4. Organization and Appointments.**

- (1) The Town Selectmen are hereby authorized and directed to create an organization for emergency management utilizing to the fullest extent the existing agencies within this Town. The Town of \_\_\_\_\_ shall declare [either Chairman of the Board of Selectmen or another duly appointed person], as the of the Local Emergency Management Director to oversee the organization, administration and operation of a local Office of Emergency Management.
- (2) The Organization shall consist of the following:
  - (a) An Office of Emergency Management within the executive department of the Town government and under the direction of the Town Selectmen. There shall be an executive head of the Office of Emergency Management, who shall be known as the Local Emergency Management Director and such assistants and other employees as are deemed necessary for the proper functioning of the organization.
  - (b) The employees, equipment and facilities of all Town departments, boards, institutions and commissions, will participate in the emergency management activity. Duties assigned to the Town department shall be the same or similar to the normal duties of the department.
  - (c) Volunteer persons and agencies offering service to, and accepted by, the Town.
- (3) The Local Emergency Management Director (Chairman of the Board of Selectmen or duly appointed person) shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy action or disaster as defined in this Ordinance.
- (4) The Local Emergency Management Director shall designate and appoint a Coordinator and/or Deputy Directors (with consent of board of selectmen) to assume the emergency duties of the Director in the event of his/her absence or inability to act. (This designation to be compatible with the provisions of Town Charter. The intent being that at all times there be a Local Emergency Management Director in charge of the Town.)

### **Section 5. Emergency Powers and Duties.**

- (1) The Chairman of the Board of Selectmen.
  - (a) The Emergency Management Director may exercise the emergency power and authority necessary to fulfill his general powers and duties as defined in the Town Charter. The judgment of the Local Emergency Management Director shall be the sole criteria necessary to invoke emergency powers provided in the Town Charter, the Ordinance Code and other appropriate authorities. The Town Selectmen may convene to perform its legislative and administrative powers as the situation demands, and shall receive reports, relative to emergency management

## Vermont Emergency Management Director Manual

activities. Nothing in this Ordinance shall be construed as abridging or curtailing the powers or restrictions of the Town Selectmen as defined in the Town Charter.

(b) During any period when disaster threatens or when the Town has been struck by disaster, within the definition of this Ordinance, The Town Chairman of the Board of Selectmen may promulgate such regulations as he/she deems necessary to protect life and property and preserve critical resources. Such regulations may include, but shall not be limited to, the following:

1. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces, or to facilitate the mass movement of persons from critical areas within or without the Town.
2. Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.
3. Such other regulations necessary to preserve public peace, health and safety.
4. Regulations promulgated in accordance with the authority above will be given widespread circulation by proclamations published and uttered by newspaper and radio. These regulations will have the force of Ordinance when duly filed with the Town Clerk and violations will be subject to the penalties provided in the Town Charter.

(c) The Local Emergency Management Director shall order emergency management forces to the aid of other communities when required in accordance with statutes of the state, and he/she may request the state, or a political sub-division of the state, to send aid to the Town of \_\_\_\_\_ in case of disaster when conditions in the Town are beyond the control of the local emergency management forces.

(d) Local Emergency Management Director may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the Town for the fair value thereof.

(e) Local Emergency Management Director may require emergency services of any Town officer or employees. If regular Town forces are determined inadequate, the Director may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities as provided by state law, The Town Charter, and Ordinances for regular Town employees and other registered and identified emergency management and disaster workers.

(f) The Emergency Management Director will exercise his/her ordinary powers [either chairman of the Board of Selectmen or with consent of the Board of Selectmen] and all of the special powers conferred upon him/her by the Town Charter and the Ordinance Code of the Town of \_\_\_\_\_ all powers conferred upon him/her by any statute, or any other lawful authority.

[Optional: Duties normally fall to the Local Emergency Management Director]

(2) Town Emergency Management Coordinator.

(a) The Town Emergency Management Coordinator shall be responsible to the Local Emergency Management Director in regard to all phases of the emergency management activity. Under the supervision of the Director, he/she shall be responsible for the planning, coordination and operation of the emergency management activity in the Town. Under the supervision of the